

ENROLLED ACT NO. 50, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
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AN ACT relating to state institutions; amending provisions related to the Wyoming state training school by removing archaic language; changing the name of the Wyoming state training school; authorizing placements for temporary services; amending admission and screening criteria; prohibiting isolation of residents; amending resident rights; providing for payment of employed residents, as specified; providing definitions; repealing duplicative provisions; providing for a report; requiring rulemaking; and providing for effective dates.

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

Section 1. W.S. 3-3-501(a), 3-3-504, 9-2-106(d), 9-2-2005(c)(iv)(B), 14-6-219(b) through (d), 23-2-207(a)(ii), 25-1-201(a)(iv), 25-5-101, 25-5-102 by creating a new subsection (b), 25-5-103, 25-5-104, 25-5-105(a)(intro), (i) through (iv), by creating a new paragraph (vi) and by creating a new subsection (b), 25-5-106 through 25-5-108, 25-5-109(c) and (d), 25-5-110(c), 25-5-114(a), 25-5-115, 25-5-116, 25-5-117(a) and (c), 25-5-118, 25-5-119, 25-5-120(b)(ii) through (iv) and (d), 25-5-121, 25-5-124, 25-5-125, 25-5-126(a)(i), (ii) and (b), 25-5-129, 25-5-130(a)(intro) and (i), 25-5-131(a), (b)(intro), (i) through (iii), (v) and by creating a new paragraph (vi), 25-5-132(a), (b), (c)(intro), (i), (ii), (v), (vii) and by creating new paragraphs (ix) through (xv), (d)(intro), (ii) and (iii) and 25-5-133 through 25-5-135 are amended to read:

3-3-501. Designation of conservators; exception.

(a) The ~~superintendent~~administrator of the Wyoming ~~state training school~~life resource center is appointed conservator of the estate of:

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

(ii) Each minor with an estate of more than five thousand dollars (\$5,000.00) admitted to the ~~institution center~~ unless a conservator has already been appointed for the minor.

3-3-504. Transfer of funds to court appointed conservator.

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

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

(d) The director may authorize the Wyoming ~~state training school~~ life resource center, the Wyoming state hospital, the Wyoming pioneer home, the veterans' home of Wyoming and the Wyoming retirement center to provide services to persons with conditions other than those specified in the provisions governing those state institutions in title 25 of the Wyoming statutes when the director determines that there is a need for such services, that the services can be provided effectively by the

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institution, that the services ~~will~~shall be delivered in a manner that assures the safety of all individuals served by the institution and the services provided are statutorily authorized for any of these institutions, the service needs are similar to those authorized for any of these institutions or the services are necessary to protect the public health and safety. The director ~~may~~shall promulgate rules and regulations and policies and procedures necessary to implement this subsection. Nothing in this subsection shall be construed to authorize the director to eliminate services that are otherwise required by statute. The director shall report to the joint labor, health and social services interim committee no later than October 1 of odd numbered years with respect to the status of any actions taken under this subsection and the results of those actions.

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

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

(iv) The following state institutions:

(B) Wyoming ~~state training school~~life resource center;

14-6-219. Physical and mental examinations; involuntary commitment of incompetents; subsequent proceedings.

(b) If a child has been committed to a medical facility or institution for mental examination prior to adjudication of the petition and if it appears to the court from the mental examination that the child is competent to

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participate in further proceedings and is not suffering from mental illness or mental retardation to a degree rendering the child subject to involuntary commitment to the Wyoming state hospital or the Wyoming ~~state training school~~ life resource center, the court shall order the child returned to the court without delay.

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

(d) The juvenile court shall retain jurisdiction of the child on the petition pending final determination of the commitment proceedings in the district court. If proceedings in the district court commit the child to the Wyoming state hospital, the Wyoming ~~state training school~~ life resource center or any other facility or institution for treatment and care of ~~the mentally ill or the mentally retarded~~ people with mental illness or intellectual disability, the petition shall be dismissed and further proceedings under this act terminate. If proceedings in the district court determine the child ~~is not mentally ill or mentally retarded~~ does not have a mental illness or an intellectual disability to a degree rendering him subject to involuntary commitment, the court shall proceed to a final adjudication of the petition and disposition of the child under the provisions of this act.

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

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

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

25-1-201. Establishment of state institutions.

(a) The following state institutions are established:

(iv) The Wyoming ~~state training school~~ life resource center at Lander, Wyoming;

25-5-101. Short title.

This act may be cited as the "~~Training School Act of 1981~~ Life Resource Center Act".

25-5-102. Definitions.

(b) As used in this act:

(i) "Acquired brain injury" means any combination of focal and diffuse central nervous system

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dysfunction, at the brain stem level and above, acquired after birth through the interaction of any external forces and the body, oxygen deprivation, infection, toxicity, surgery or vascular disorders not associated with aging;

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

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

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

(iii) "Adaptive behavior" means the collection of conceptual, social and practical skills that have been learned by people in order to function in their everyday lives;

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

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

(vi) "Center" means the Wyoming life resource center at Lander, Wyoming;

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

(viii) "Client" means a person who has a disability and has been determined eligible, pursuant to

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department rules and regulation, and is receiving services from one (1) of the center's programs;

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

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

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

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

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

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

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

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

(xvii) "Incompetent person" means adjudicated as meeting the definition in W.S. 3-1-101(a) (ix);

(xviii) "Individual program plan" means a written statement of long-term and short-term goals and strategies for providing specially designed services to

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meet each client's individual educational, physical, emotional and training needs;

(xix) "Informed choice" means making a decision based on adequate information. As appropriate, such information may include consideration regarding providers, methods, costs, duration, accessibility, customer satisfaction, probabilities, sources and consequences;

(xx) "Intellectual disability" means significantly subaverage general intellectual functioning with concurrent deficits in adaptive behavior manifested during the developmental period. "Intellectually disabled" means a person with an intellectual disability;

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

(xxii) "Intermediate care facility for people with intellectual disability" means an intermediate care facility for the mentally retarded or intermediate care facility for people with mental retardation (ICFMR or ICF/MR), as those phrases are used in applicable federal statutes, rules and regulations;

(xxiii) "Least restrictive environment" means the program, service and location which least inhibits a person's freedom of movement, informed decision making and participation in community life while achieving the purposes of habilitation and treatment which best meet the needs of the person. The determination of least

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restrictive environment shall be individualized, based on a person's need for medical, therapeutic, rehabilitative and developmental services and as a result of informed choice of the person or, if the person is a minor or a ward, his parent or guardian;

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

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

(xxvi) "Program manager" means the on-site supervisor and manager of the center;

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

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

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(xxix) "This act" means W.S. 25-5-101 through 25-5-135.

25-5-103. Wyoming life resource center established; purpose.

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

(i) Intermediate care facilities for people with intellectual disability in accordance with federal Medicare and Medicaid regulations;

(ii) Services to persons with acquired brain injuries;

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

(iv) Training for state employees, other service providers and caregivers on disability, medical, developmental and therapy services;

(v) Care provided under authority of the director pursuant to W.S. 9-2-106(d).

25-5-104. Administration and management of center.

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

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25-5-105. Rules and regulations; reports.

(a) ~~Within two (2) years after the effective date of this act~~ The department shall adopt rules and regulations which are in compliance with federal regulations for intermediate care facilities for persons with intellectual disability, and which:

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

(ii) Establish standards for resident-client services; ~~and temporary services;~~

(iii) Provide for the administration of the training school-center under the management of the division;

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

(vi) Establish data reporting processes and report monthly to the director the number of persons served by the center, identified by service category, and the services provided to those persons.

(b) By October 1 of each year, the director shall report to the joint labor, health and social services interim committee and the joint appropriations interim committee regarding the number of clients served by the center, the reason for provision of services to each client at the center rather than in a community program, the staff to client ratio and the total state and federal cost of all

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services provided to clients, including the current Medicaid reimbursement rate for intermediate care facilities for people with intellectual disabilities.

25-5-106. Donations for benefit of center; control and disposition thereof.

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

25-5-107. Disposition of monies received from sale of products or as compensation.

Except as provided by W.S. 25-5-106, all monies received by the department for the ~~residents~~clients in the ~~training school~~center from the sale of products produced or grown by the ~~training school~~center or as compensation from any source shall be deposited in the state treasury and credited to the general fund.

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

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

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

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

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

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

(d) Clients of the center who are not eligible under the Wyoming Medical Assistance and Services Act shall be responsible for the cost of services and treatment as provided in title 25, chapter 11, article 1. However, no person who was a client of the center as of June 30, 2008 shall be denied admission to or services by the ~~training school center~~ because of the refusal of the ~~resident's client's~~ parent or guardian to pay the cost of the services received.

25-5-110. Special education for minors and costs thereof.

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

25-5-114. Eligibility for admission; appropriateness of services.

(a) Except as otherwise authorized by rules and regulations promulgated in accordance with W.S. 9-2-106(d), a person shall not be admitted to the ~~training school center~~ if his preadmission evaluation ~~indicates and~~

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screening indicate that he would be more appropriately served by the Wyoming state hospital, a community program or a public school program.

25-5-115. Preadmission screening for residential services; preparation and supervision thereof; disposition of findings.

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

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

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

(iii) No person shall be admitted unless an interdisciplinary team has determined that ~~a less restrictive alternative environment is inappropriate or unavailable to meet the proposed resident's diagnosed needs.~~ the center offers the recommended and most appropriate services in a least restrictive and most integrated environment consistent with informed choice;

(iv) As part of the application process, division staff shall provide prospective clients and their

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families or guardians information about center services and similar services available in the client's community or elsewhere in the state.

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

25-5-116. Individual program plan; preparation and supervision thereof; review.

Each ~~resident~~client admitted to the ~~training school after July 1, 1981,~~center shall have on file at the ~~training school~~center an individual program plan. ~~Each resident admitted prior to July 1, 1981, shall have an individual program plan on file within two (2) years of the effective date of this act.~~ The individual program plans shall be prepared by an interdisciplinary team within thirty (30) days of admission for residential services under the supervision of the ~~superintendent~~program manager. The plan shall be reviewed ~~at least annually~~ by the interdisciplinary team for appropriateness and feasibility of discharge or transition to another level of service thirty (30) days after implementation of the plan, at the end of each quarter for the first year and annually thereafter.

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

(a) A person determined by the preadmission ~~evaluation~~screening and assessment to be eligible for admission to the ~~training school~~center for residential

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services may be admitted as a ~~voluntary resident~~ client under one (1) of the following procedures:

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

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

(c) At the time of admission for residential services, the ~~superintendent~~ program manager shall give a written copy of the rights provided in W.S. ~~25-5-133~~ 25-5-132 to the ~~resident~~ client, his parent or guardian.

25-5-118. Release of voluntary client upon request; exceptions.

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

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

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

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

25-5-119. Involuntary admissions; application to district court; representation of proposed client; preadmission screening; notice; hearing; independent screening; admissibility.

(a) A person may be an involuntary ~~resident-client~~ of the ~~training school-center~~ if admitted pursuant to this section. Application for involuntary admission may be made by a parent, a guardian, the ~~superintendent~~administrator or a social service agency. The application shall be filed with the district court in the county where the proposed ~~resident-client~~, his parent or his guardian resides.

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

(c) The court shall order the ~~training school-center~~ to conduct a preadmission ~~evaluation-screening and assessment~~ of the proposed ~~resident-client~~. Notice of the order shall be served on the proposed ~~resident-client~~, his

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attorney and his parent or guardian. The order and the application for admission shall be served on the ~~training school-center~~ and the department. If the preadmission ~~evaluation-screening and assessment~~ report finds the ~~training school-center~~ would be an appropriate placement, the court shall order a hearing. The proposed ~~resident-client~~ shall have a right to seek an independent ~~evaluation-screening and assessment~~ of his eligibility for admission at the state's expense. The ~~evaluation-screening and assessment~~ shall be admissible as evidence at the hearing as provided by W.S. 25-5-121(d).

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

(b) The order setting the hearing shall contain:

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

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

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

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

25-5-121. Rights of proposed client and notified persons; confidentiality of hearing; admissibility of

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screening reports; findings by court or jury; amendment of admission order.

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

(b) The proposed ~~resident~~-client is entitled, upon request, to a jury trial on the issue of his admission. The jury shall be selected pursuant to W.S. 1-11-101 through ~~1-11-128~~-1-11-129.

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

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

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(e) If the court or jury finds that specific care, treatment and service alternatives are available which are more appropriate than the ~~training school center~~ for the proposed ~~resident client~~, the application shall be denied. If the court or jury finds by clear and convincing evidence that admission to the ~~training school center~~ would provide the most appropriate services for the proposed ~~resident client~~, the court shall order the admission. In case of a nonjury hearing, the court shall enter findings of fact with the order of admission.

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

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

(a) An interdisciplinary team may recommend to the ~~superintendent administrator~~ discharge of a ~~resident client~~ with an appropriate transition plan from the ~~training school center~~ when placement ~~in a less restrictive and more therapeutic environment at home, with another service provider or another program~~ is appropriate for the ~~resident's client's~~ needs and abilities. The transition plan shall identify any recommended discharge conditions in the client's best interest, including type of residence facility, supervision and any continuing medical, therapeutic, rehabilitative or developmental services. Based on the recommendations of the team, and with the

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consent of the ~~resident-client~~, or his parent or guardian if he is a minor or ~~incompetent-ward~~, the ~~superintendent administrator~~ shall place the ~~resident in the least restrictive alternative environment~~ client in the alternative setting. The ~~superintendent may administrator~~ shall discharge the ~~resident-client~~ when the ~~resident-client~~ has been appropriately placed in an alternative program. If the ~~resident-client~~ was admitted under a court order, the ~~superintendent-administrator~~ shall petition the court, pursuant to W.S. 25-5-121(f).

(b) If the ~~resident-client~~, or his parent or guardian if he is a minor or incompetent, disagrees with the decision of the ~~superintendent-administrator~~ and the interdisciplinary team, the ~~resident-client~~, parent or guardian may appeal the decision to the ~~department-director~~ in writing. The department shall provide the ~~resident-client~~, parent or guardian with a decision in writing within thirty (30) days.

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

If the ~~superintendent-program manager~~ determines it is appropriate for the welfare of a ~~resident-client~~, the ~~resident-client~~ may be placed for temporary care and treatment in any public or private hospital, institution or residence in the state which provides services which will benefit the ~~resident-client~~. The transfer shall not be made without the consent of the ~~resident-client~~ and his parents or guardian, or in the case of an involuntary ~~resident-client~~, without leave of the court, except in cases of medical emergency. During and after the transfer, the ~~resident-client~~ remains a ~~resident-client~~ of the ~~training school-center~~. The cost of the transfer and of the

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temporary treatment, care and training provided shall be borne by the ~~training school center~~. This section does not limit the responsibility of third parties to pay for medical and other expenses incurred by contract or law.

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

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

(i) The admission to ~~institutions~~ facilities, schools or hospitals in other states of persons admitted to or entitled to admission for residential services in the ~~training school center~~, when it can be shown that admission to a facility in another state is in the best interests of the person and the state of Wyoming;

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

(b) The expense of transferring persons from the ~~training school center~~ to other states shall be paid by the ~~training school center~~. The expense of transferring persons from other states to the ~~training school center~~ shall be paid by the state making the transfer to the ~~training school center~~.

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

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The ~~superintendent~~ administrator may admit individuals for ~~temporary~~ temporarily services pursuant to rules promulgated under W.S. 25-5-105(a) if the administrator determines a less restrictive environment is appropriate but unavailable. A ~~resident-client~~ admitted for ~~temporary~~ temporarily services is not subject to W.S. 25-5-114, 25-5-115, ~~25-5-117(b)~~, and 25-5-121(e) and ~~25-5-127~~. No individual shall be admitted ~~temporarily~~ temporarily for ~~temporary~~ temporarily services for more than ~~ninety (90) consecutive days nor more than one hundred twenty (120) days~~ seventy-five (75) days in a calendar year.

25-5-130. Consent and notice required before major surgery; exceptions.

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

(i) Obtains the prior consent of the ~~resident-client~~ resident client, or if his consent cannot be given knowingly, he shall obtain the prior consent of the resident's parent or guardian; and

25-5-131. Confidentiality of records; exceptions; penalties for violations.

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

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

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

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

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

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

(vi) A person as required by law, including the Wyoming Hospital Records and Information Act, the Health Insurance Portability and Accountability Act and the Medicaid program.

25-5-132. No determination of incompetency; notification of rights; deniable rights and conditions therefor; undeniable rights.

(a) The determination that a person is eligible for admission to the ~~training-school~~center is not a determination or adjudication that the person is incompetent.

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(b) Upon admission to the ~~training school center for residential services~~, a ~~resident client~~ shall be informed orally and in writing of his rights under this section. If the ~~resident client~~ is a minor, or ~~incompetent ward~~, his parents, guardian or guardian ad litem shall be informed orally and in writing of his rights under this section.

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

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

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

(v) The right to be free from physical restraints and ~~isolation~~ chemical restraints that substitute for active treatment or behavior modification programs, except in emergency situations as necessary to protect the ~~resident client~~ or others;

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

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

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(x) The right to be free from abuse;

(xi) The right to vote;

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

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

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

(xv) The right to the least restrictive environment.

(d) A resident-client may not be denied the following rights unless the denial is authorized by a court, or his guardian, parent or guardian ad litem the client or, if the client is a minor or ward, his parent or guardian:

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

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

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

(a) Isolation or seclusion procedures in which a person is placed alone in a locked room or in an area from which the person is physically prevented from leaving are prohibited. Restraint of a ~~resident-client~~ shall be used only when less restrictive measures are ineffective for the welfare of the ~~resident or other residents-client or others~~ and only when necessary to ensure the immediate physical safety of the client or others. Restraint ~~or isolation~~ shall be used in a manner which ensures that the dignity and safety of the ~~individual-person restrained~~ are protected and shall be regularly monitored by trained staff. The reason for restrictive measures shall be reported in the ~~resident's-client's~~ records and shall be reviewed by the interdisciplinary team and program manager. In addition, the client's individual program plan shall address active treatment or less restrictive measures to manage or eliminate the behaviors for which restraint was used.

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

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

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~~Residents—Clients~~ who are employed within the ~~institution center~~ shall be paid a reasonable wage based upon ~~the nature of the employment and the productivity of the resident~~ commensurate wages under special certificate as authorized by the federal Fair Labor Standards Act at 21 U.S.C. 214(c). The ~~superintendent—program manager~~ shall prescribe ~~the duties and assignment of the resident employee and may discharge the resident from employment for cause~~ for each position a written job description with wages, benefits and job duties clearly defined. The employment relationship pursuant to this section shall be at will.

25-5-135. Medications aides.

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

Section 2. W.S. 25-5-102(a), 25-5-114(b), 25-5-117(b), 25-5-123, 25-5-127, 25-5-128, 25-5-131(c) and 25-5-132(d)(iv) and (v) are repealed.

Section 3. The department of health may commence rulemaking to implement the provisions of this act immediately upon the effective date of this section. No

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appropriation for the fiscal year commencing July 1, 2009 shall be effective until the promulgation of final rules implementing this act.

Section 4.

(a) Section 3 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, 2008.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk