

WORKING DRAFT

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 temporary placements; amending
 5 admission and screening criteria; prohibiting isolation of
 6 residents; amending resident rights; providing for payment
 7 of employed residents, as specified; providing definitions;
 8 repealing duplicative provisions; providing for a report;
 9 and providing for an effective date.

10

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

12

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

14

15 (b) As used in this act:

16

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

5

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

9

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

12

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

17

18 (iii) "Administrator", formerly known as
19 superintendent, means the manager of the center and its
20 programs;

21

22 (iv) "Assistive technology device" and
23 "assistive technology service" mean as defined in 42 U.S.C.
24 15002.

1

2 (v) "Center" means the Wyoming therapeutic
3 resource center at Lander, Wyoming and any branches
4 established by the department;

5

6 (vi) "Client" means a person who has been
7 determined eligible, pursuant to department rules and
8 regulation, and is receiving services from one of the
9 center's programs;

10

11 (vii) "Client services" means diagnosis,
12 education, training, custody and care of persons who have
13 been admitted to the center;

14

15 (viii) "Conservator" means as defined in W.S.
16 3-1-101(a)(iii);

17

18 (ix) "Department" means the state department of
19 health;

20

21 (x) "Developmental disability" means as defined
22 in 42 U.S.C. 15002;

23

1 (xi) "Director" means the director of the
2 department of health;

3

4 (xii) "Guardian" means as defined in W.S.
5 3-1-101(a)(v);

6

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

9

10 (xiv) "Incompetent" means as defined in W.S.
11 3-1-101(a)(ix);

12

13 (xv) "Individual program plan" means a written
14 statement of long-term and short-term goals and strategies
15 for providing specially designed services to meet each
16 client's individual educational, physical, emotional and
17 training needs;

18

19 (xvi) "Interdisciplinary team" means a group
20 that represents the professions, disciplines or service
21 areas that are relevant to identifying the client's needs,
22 as described the comprehensive functional assessments and
23 designing programs that meet the client's needs. The team
24 shall be composed of:

1

2

(A) One (1) or more professional persons;

3

4

5

(B) The client or proposed client, or if that person is a minor or ward, his parent, guardian or guardian ad litem;

7

8

(C) An employee of the center who is or will be involved in the provision of services to the client or proposed client;

11

12

13

14

(D) A representative of the school district in which the client normally resides if he is of school age; and

15

16

17

(E) A representative of the department of health.

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24

(xvii) "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

1 restrictive environment shall be individualized and based
2 on a person's need for medical, therapeutic and
3 rehabilitative services;

4

5 (xviii) "Mentally retarded" means significantly
6 subaverage general intellectual functioning existing
7 concurrently with deficits in adaptive behavior and
8 manifested during the developmental period;

9

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

15

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

1

2 (xxix) "Professional person" means a person who
3 is licensed to practice medicine in this state, is licensed
4 to practice psychology in this state, or is professionally
5 trained and experienced in evaluating, treating and
6 training mentally retarded persons;

7

8 (xxii) "Respite care" means short term care of a
9 person who is unable to care for himself without assistance
10 and whose primary caregiver is absent or in need of short
11 term assistance in providing care to the person;

12

13 (xxiii) "Screening team" means a group of
14 professional persons from the center, a representative of
15 the department and a representative of a federally
16 authorized corporation for the advocacy of persons with
17 disabilities, who are assigned to determine the eligibility
18 of a prospective client for residential services;

19

20 (xxiv) "Temporary services" means diagnosis,
21 training, parent training or respite care provided to a
22 person who is a client of the training school pursuant to
23 W.S. 25-5-129;

24

1 (xxv) "This act" means W.S. 25-5-101 through 25-
2 5-135;

3

4 (xxvi) "Ward" means as defined in W.S. 3-1-
5 101(a)(xv).

6

7 **Section 2.** W.S. 3-3-501(a), 3-3-504, 9-2-106(d),
8 9-2-2005(c)(iv)(B), 14-6-219(b) through (d),
9 23-2-207(a)(ii), 25-1-201(a)(iv), 25-5-101, 22-5-103,
10 25-5-104, 25-5-105(a)(i) through (iv), 25-5-106 through
11 25-5-108, 25-5-109(c) and (d), 25-5-110(c), 25-5-114
12 through 25-5-119, 25-5-120(b)(ii) through (iv) and (d),
13 25-5-121, 25-5-123 through 25-5-125, 25-5-126(a)(i), (ii)
14 and (b), 25-5-128 through 25-5-130, 25-5-131(a),
15 (b)(intro), (i) through (iii), (iv) and (c), 25-5-132(a),
16 (b), (c)(intro), (i), (ii), (v), (vii), (viii) and by
17 creating new paragraphs (ix) through (xiv), (d)(intro),
18 (ii) and (iii), 25-5-133 through 25-5-135 are amended to
19 read:

20

21 **3-3-501. Designation of conservators; exception.**
22

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

4
5 (i) Each adult admitted to the Wyoming ~~state~~
6 ~~training school~~therapeutic resource center unless a
7 conservator or other duly authorized agent has already been
8 appointed for the person; and

9
10 (ii) Each minor with an estate of more than five
11 thousand dollars (\$5,000.00) admitted to the ~~institution~~
12 center unless a conservator has already been appointed for
13 the minor.

14
15 **3-3-504. Transfer of funds to court appointed**
16 **conservator.**

17
18 If a conservator for a minor or incompetent person is
19 appointed by a court of this state after the person has
20 been admitted to the Wyoming ~~state training school~~
21 therapeutic resource center or the Wyoming state hospital,
22 the conservatorship created for the ward under this article
23 shall terminate and all money and property of the ward in
24 the possession of the conservator appointed under this
25 article shall be delivered to the court appointed

1 conservator upon proof of his appointment and
2 qualification.

3

4 **9-2-106. Duties and powers of director of department.**
5

6 (d) The director may authorize the Wyoming ~~state~~
7 ~~training school~~ therapeutic resource center, the Wyoming
8 state hospital, the Wyoming pioneer home, the veterans'
9 home of Wyoming and the Wyoming retirement center to
10 provide services to persons with conditions other than
11 those specified in the provisions governing those state
12 institutions in title 25 of the Wyoming statutes when the
13 director determines that there is a need for such services,
14 that the services can be provided effectively by the
15 institution, that the services will be delivered in a
16 manner that assures the safety of all individuals served by
17 the institution and the services provided are statutorily
18 authorized for any of these institutions, the service needs
19 are similar to those authorized for any of these
20 institutions or the services are necessary to protect the
21 public health and safety. The director may promulgate rules
22 and regulations and policies and procedures necessary to
23 implement this subsection. Nothing in this subsection shall
24 be construed to authorize the director to eliminate

1 services that are otherwise required by statute. The
2 director shall report to the joint labor, health and social
3 services interim committee no later than October 1 of odd
4 numbered years with respect to the status of any actions
5 taken under this subsection and the results of those
6 actions.

7

8 **9-2-2005. Department of health created; director**
9 **appointed; structure.**

10

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

13

14 (iv) The following state institutions:

15

16 (B) Wyoming ~~state training school~~
17 therapeutic resource center;

18

19 **14-6-219. Physical and mental examinations;**
20 **involuntary commitment of incompetents; subsequent**
21 **proceedings.**

22

23 (b) If a child has been committed to a medical
24 facility or institution for mental examination prior to
25 adjudication of the petition and if it appears to the court
26 from the mental examination that the child is competent to
27 participate in further proceedings and is not suffering

1 from mental illness or mental retardation to a degree
2 rendering the child subject to involuntary commitment to
3 the Wyoming state hospital or the Wyoming ~~state training~~
4 ~~school~~ therapeutic resource center, the court shall order
5 the child returned to the court without delay.

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

18
19 (d) The juvenile court shall retain jurisdiction of
20 the child on the petition pending final determination of
21 the commitment proceedings in the district court. If
22 proceedings in the district court commit the child to the
23 Wyoming state hospital, the Wyoming ~~state training school~~
24 therapeutic resource center or any other facility or

1 institution for treatment and care of the mentally ill or
2 the mentally retarded, the petition shall be dismissed and
3 further proceedings under this act terminate. If
4 proceedings in the district court determine the child is
5 not mentally ill or mentally retarded to a degree rendering
6 him subject to involuntary commitment, the court shall
7 proceed to a final adjudication of the petition and
8 disposition of the child under the provisions of this act.

9

10 **23-2-207. Special limited fishing permit for**
11 **hospitalized veterans, residents of state institutions,**
12 **court placed children and residents of licensed nursing**
13 **care facilities.**

14

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

19

20 (ii) The department of health or the department
21 of family services to any resident in the veterans' home of
22 Wyoming, Wyoming state hospital, Wyoming ~~state training~~
23 ~~school~~ therapeutic resources center, Wyoming boys' school
24 and the Wyoming girls' school, which entitles the
25 institutionalized resident to fish while under the direct
26 control of the appropriate institution;

1

2

25-1-201. Establishment of state institutions.

3

4

(a) The following state institutions are established:

5

6

(iv) The Wyoming ~~state training school~~
therapeutic resources center at Lander, Wyoming;

8

9

25-5-101. Short title.

10

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

13

14

25-5-102. Definitions.

15

16

17

25-5-103. Wyoming therapeutic resource center

18

established; purpose.

19

20

(a) Except as otherwise authorized by rules and
regulations promulgated in accordance with W.S. 9-2-106(d),
the Wyoming ~~state training school~~ therapeutic resource
center is established ~~for the diagnosis, evaluation,~~
~~education, training, custody and care of mentally retarded~~

24

1 ~~persons~~ as a multiple service campus to provide residential
2 and outreach services, active treatment and medical and
3 therapy services to individuals with a variety of
4 disabilities and health conditions. Programs may include
5 but are not limited to:

6
7 (i) Intermediate care facilities for people with
8 mental retardation;

9
10 (ii) Services to persons with acquired brain
11 injuries;

12
13 (iii) Skilled nursing services for persons
14 requiring extraordinary care which is not acute care or
15 long-term care;

16
17 (iv) Therapeutic and assistive technology
18 services for persons with physical or developmental
19 disabilities;

20
21 (v) Medical and therapy services training for
22 state employees and other service providers and caregivers.

23
24 **25-5-104. Administration and management of center.**

1

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

4

5 **25-5-105. Rules and regulations.**

6

7 (a) Within two (2) years after the effective date of
8 this act the department shall adopt rules and regulations
9 which:

10

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

15

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

18

19 (iii) Provide for the administration of the
20 ~~training school~~ center;

21

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

24

1 **25-5-106. Donations for benefit of center; control**
2 **and disposition thereof.**

3

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

10

11 **25-5-107. Disposition of monies received from sale of**
12 **products or as compensation.**

13

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

20

21 **25-5-108. Appointment of administrator; duties;**
22 **removal.**

23

1 (a) The director shall appoint ~~a superintendent~~ an
2 administrator of the ~~training school~~ center.

3

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

6

7 (c) The director may remove the ~~superintendent~~
8 administrator in his discretion.

9

10 **25-5-109. Inability or refusal to pay for services.**

11

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

16

17 (d) Clients residing at center facilities who are not
18 eligible under the Wyoming Medical Assistance and Services
19 Act shall be responsible for the cost of services and
20 treatment as provided in title 25, chapter 11, article 1.

21 However, no person shall be denied admission to or services
22 by the training school because of the refusal of the
23 resident's parent or guardian to pay the cost of the
24 services received.

1

2 **25-5-110. Special education for minors and costs**
3 **thereof.**

4

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

12

13 **25-5-114. Eligibility for admission; appropriateness**
14 **of services; effect of criminal conviction or charge.**

15

16 (a) ~~Except as otherwise authorized by~~ Eligibility for
17 admission to the center shall be determined in accordance
18 with the criteria of the applicable program and rules and
19 regulations promulgated in accordance with W.S. 9-2-106(d)~~;~~
20 ~~a person shall not be admitted to the training school if~~
21 ~~his preadmission evaluation indicates that he would be more~~
22 ~~appropriately served by the Wyoming state hospital, a~~
23 ~~community program or a public school program.~~

24

1 (b) A person convicted of a criminal act shall not be
2 admitted to the ~~training school~~ center unless the
3 preadmission ~~evaluation~~ screening indicates that the act
4 was due directly to mental retardation or other
5 developmental disability, or that the person can benefit
6 from resident services without penal restrictions. A person
7 charged with a criminal act shall not be admitted to the
8 ~~training school~~ center pending disposition of the charge.

9
10 **25-5-115. Preadmission screening for residential**
11 **services; preparation and supervision thereof; disposition**
12 **of findings.**

13
14 (a) Admission to the ~~training school~~ center shall be
15 upon written application pursuant to W.S. 25-5-117(b) and
16 shall be based upon the preadmission ~~evaluation~~ screening:

17
18 (i) The preadmission ~~evaluation~~ screening shall
19 be made by ~~an interdisciplinary~~ a screening team under the
20 supervision of the ~~superintendent~~ administrator or his
21 designee, using appropriate screening methods as provided
22 in department rules and regulations;

23

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

5
6 (iii) No person shall be admitted unless an
7 interdisciplinary team has determined that ~~a less~~
8 ~~restrictive alternative environment is inappropriate or~~
9 ~~unavailable to meet the proposed resident's diagnosed~~
10 ~~needs.~~ the recommended services are the least restrictive,
11 most integrated and most appropriate services and location
12 of services for the client;

13
14 (iv) As part of the screening process, center
15 staff shall assist prospective clients and their families
16 or guardians in obtaining information about center services
17 and similar services available in the client's community or
18 elsewhere in the state.

19
20 (b) Within ten (10) days of completion of the
21 preadmission ~~evaluation~~screening, the findings shall be
22 given to the applicant. If ordered by the court, the
23 preadmission ~~evaluation~~screening shall also be filed with
24 the court.

1

2 (c) A person with developmental disabilities may be
3 admitted to the center for thirty (30) days if the
4 screening team determines a less restrictive environment is
5 appropriate but unavailable, and for one (1) additional
6 thirty (30) day period if a less restrictive environment
7 remains unavailable. Within ten (10) days of initial
8 admission, the screening team, including a representative
9 from the developmental disabilities division, shall submit
10 a written transition recommendation to the division.
11 Within fifteen (15) days of the receipt of the transition
12 recommendation, the division shall submit a transition plan
13 to the departments of health and family services.

14

15 (d) The developmental disabilities division shall
16 include in the report required by W.S. 9-2-103(a)(ii) the
17 number of persons placed at the center for emergency
18 services, the duration of each placement and the estimated
19 cost of providing community based services for those
20 persons.

21

22 **25-5-116. Individual program plan; preparation and**
23 **supervision thereof; review.**

24

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

16
17 **25-5-117. Admission for residential services;**
18 **application and contents thereof; written copy of rights;**
19 **appeal of denied admissions.**

20
21 (a) A person determined by the preadmission
22 ~~evaluation~~screening to be eligible for admission to the
23 ~~training school~~center for residential services may be

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

3

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

8

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

11

12 (b) An application for admission for residential
13 services shall contain the nature and degree of the
14 proposed ~~resident's~~ client's disability and the
15 circumstances showing that the ~~training school~~ center is
16 the most therapeutic available facility appropriate for the
17 proposed ~~resident~~ client.

18

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

23

1 (d) A person who is denied admission for residential
2 services may appeal the decision to the department, in
3 writing.

4
5 (e) An application for admission for residential
6 services shall include pertinent health information,
7 including recent immunization records, communicable disease
8 history and such additional information as the department
9 prescribes by rule and regulation.

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

13
14 (a) A voluntary ~~resident~~-client may be released
15 within twenty (20) days of receipt by the ~~superintendent~~
16 administrator of a written request for the release by the
17 ~~resident~~-client, his parent or guardian except:

18
19 (i) If the ~~resident~~-client was admitted on his
20 own application and the request for release is made by a
21 person other than the ~~resident~~-client, release shall be
22 conditioned upon the ~~resident's~~-client's consent;

23

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

4
5 (iii) If the ~~superintendent~~administrator has
6 probable cause to believe release of the ~~resident~~client
7 will endanger the life, health or safety of the ~~resident~~
8 client or others and he incorporates a written statement of
9 the facts supporting his belief in the ~~resident's~~client's
10 file, he may apply for involuntary admission pursuant to
11 W.S. 25-5-119. Release shall be postponed pending the
12 court's decision.

13
14 **25-5-119. Involuntary admissions; application to**
15 **district court; representation of proposed resident;**
16 **preadmission screening; notice; hearing; independent**
17 **screening; admissibility.**

18
19 (a) A person may be an involuntary ~~resident~~client of
20 the ~~training school~~center if admitted pursuant to this
21 section. Application for involuntary admission may be made
22 by a parent, a guardian, the ~~superintendent~~administrator
23 or a social service agency. The application shall be filed

1 with the district court in the county where the proposed
2 ~~resident~~ client, his parent or his guardian resides.

3

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

11

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

1 shall be admissible as evidence at the hearing as provided
2 by W.S. 25-5-121(d).

3

4 **25-5-120. Court order setting hearing on involuntary**
5 **application; service of notice; waiver.**

6

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

8

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

13

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

16

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

20

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

24

1 **25-5-121. Rights of proposed resident and notified**
2 **persons; confidentiality of hearing; admissibility of**
3 **screening reports; findings by court or jury; amendment of**
4 **admission order.**

5
6 (a) The proposed ~~resident~~client has the right to
7 appear, to be heard and to participate in every stage of
8 the hearing unless the court finds that it would not be in
9 the best interests of the proposed ~~resident~~client. The
10 court shall not exclude the proposed ~~resident~~client from
11 the hearing unless the application is accompanied by a
12 written statement from a licensed physician and a court
13 designated examiner, appointed at the time of the
14 application, who is in no other manner involved in the
15 proceedings, that attendance at the hearing would injure
16 the proposed ~~resident's~~client's health and well-being and
17 describing his medical condition.

18
19 (b) The proposed ~~resident~~client is entitled, upon
20 request, to a jury trial on the issue of his admission. The
21 jury shall be selected pursuant to W.S. 1-11-101 through
22 1-11-128.

23

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

6
7 (d) Any person to whom notice is required to be given
8 by W.S. 25-5-120 may testify and may present and
9 cross-examine witnesses. The court may receive the
10 testimony of other persons in its discretion. The
11 ~~evaluation~~screening report required by W.S. 25-5-115, and
12 any independent ~~evaluation~~screening made under W.S.
13 25-5-119, may be admitted as evidence and shall not be
14 excluded on the ground of hearsay alone.

15
16 (e) If the court or jury finds that specific care,
17 treatment and service alternatives are available which are
18 more appropriate than the ~~training school~~center for the
19 proposed ~~resident~~client, the application shall be denied.
20 If the court or jury finds by clear and convincing evidence
21 that admission to the ~~training school~~center would provide
22 the most appropriate services for the proposed ~~resident~~
23 client, the court shall order the admission. In case of a

1 nonjury hearing, the court shall enter findings of fact
2 with the order of admission.

3

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

12

13 **25-5-123. Preadmission medical examination;**
14 **physician's report as to communicable disease.**

15

16 Every ~~resident~~client shall be examined by a licensed
17 physician not more than four (4) days prior to the date of
18 admission to the ~~training school~~center. Every ~~resident~~
19 client shall present to the ~~training school~~center a
20 physician's report stating when and where the ~~resident~~
21 client was examined, that the ~~resident~~client is free from
22 any communicable disease in its infectious or contagious
23 stage and that the ~~resident~~client is not known to have
24 been recently exposed to a communicable disease.

1

2

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

3

4

5

(a) An interdisciplinary team may recommend to the ~~superintendent~~ administrator discharge of a ~~resident~~ client 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

9

for the ~~resident's~~ client's needs and abilities. Based on the recommendations of the team, and with the 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.

15

The ~~superintendent~~ 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).

21

22

23

(b) If the ~~resident~~ client, or his parent or guardian if he is a minor or ~~incompetent~~ ward, disagrees with the

24

1 decision of the ~~superintendent~~administrator and the
2 interdisciplinary team, the ~~resident~~client, parent or
3 guardian may appeal the decision to the department in
4 writing. The department shall provide the ~~resident~~client,
5 parent or guardian with a decision in writing within thirty
6 (30) days.

7
8 (c) A recommendation of an interdisciplinary team
9 pursuant to subsection (a) of this section shall be
10 accompanied by a written transition individualized program
11 plan, which shall identify the rehabilitative, medical and
12 other services to be provided, the service location and the
13 party who shall have physical custody of the client. A
14 copy of the plan shall be provided to the client, or his
15 parent or guardian if he is a minor or ward, when submitted
16 to the administrator.

17
18 (d) The state and its agents are not liable for the
19 torts of a client or service provider following discharge
20 from the center.

21
22 **25-5-125. Transfer of clients for temporary care and**
23 **treatment; consent; costs to be paid by school; third-party**
24 **obligations not limited.**

1

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

18

19 **25-5-126. Contracts with other states for interstate**
20 **transfer of clients ; payment of expenses therefor.**

21

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

24

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

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

14
15 (b) The expense of transferring persons from the
16 ~~training school~~center to other states shall be paid by the
17 ~~training school~~center. The expense of transferring persons
18 from other states to the ~~training school~~center shall be
19 paid by the state making the transfer to the ~~training~~
20 ~~school~~center.

21
22 ~~[REPEAL] 25-5-127. Community leave; recordation~~
23 ~~thereof; governmental immunity.~~

24

1 ~~(a) The superintendent may release a resident on~~
2 ~~community leave upon the recommendation of the~~
3 ~~interdisciplinary team.~~

4
5 ~~(b) When community leave is granted, the training~~
6 ~~school shall place in the resident's record:~~

7
8 ~~(i) The date, name and address of the person to~~
9 ~~whom physical custody is given;~~

10
11 ~~(ii) The rehabilitative and other services to be~~
12 ~~given to the resident; and~~

13
14 ~~(iii) The conditions imposed and specified in~~
15 ~~the resident's individual program plan to serve the best~~
16 ~~interests of the resident.~~

17
18 ~~(c) The state and its agents are not liable for the~~
19 ~~torts of a resident on community leave.~~

20
21 **25-5-128. Location and return of clients absent**
22 **without leave.**

23

1 If a ~~resident~~client leaves the ~~training school~~center
2 without the knowledge and written consent of the
3 ~~superintendent~~administrator, the ~~superintendent~~
4 administrator shall locate the ~~resident~~client and arrange
5 for his return to the ~~training school~~center.

6

7 **25-5-129. Admittance for temporary services; excepted**
8 **provisions; limited duration.**

9

10 The ~~superintendent~~administrator may admit individuals for
11 temporary services pursuant to rules promulgated under W.S.
12 25-5-105(a). A ~~resident~~client admitted for temporary
13 services is not subject to W.S. 25-5-114, 25-5-115,
14 25-5-117(b), 25-5-121(e) and 25-5-127. No individual shall
15 be admitted for temporary services for more than ~~ninety~~
16 ~~(90)~~seven (7) consecutive days nor more than ~~one hundred~~
17 ~~twenty (120)~~forty-five (45) days in a calendar year. In
18 addition, the center pursuant to department rules and
19 regulations may provide outreach and outpatient services
20 including, but not limited to, evaluation, respite and
21 emergency services.

22

23 **25-5-130. Consent and notice required before major**
24 **surgery; exceptions.**

1

2 (a) Except as provided in subsection (b) of this
3 section, no ~~resident~~ person receiving services at the
4 center shall undergo major surgery or medical treatment
5 until the ~~superintendent~~ administrator:

6

7 (i) Obtains the prior consent of the ~~resident~~
8 person, or if ~~his consent cannot be given knowingly~~ the
9 person is a minor or a ward, ~~he shall obtain the prior~~
10 ~~consent of the resident's~~ the person's parent or guardian;
11 and

12

13 (ii) If the person is a minor or ward, notifies
14 the parent or guardian of the nature, date and place of the
15 surgery or medical treatment and the name of the surgeon or
16 health care provider. A copy of the notice shall be placed
17 in the patient's records.

18

19 (b) Prior consent need not be obtained nor prior
20 notice given when the parent or guardian cannot be located
21 or when an emergency requires immediate surgery or medical
22 treatment to prevent serious consequences or death. The
23 parent or guardian shall be notified as soon as possible
24 after emergency surgery or medical treatment.

1

2 **25-5-131. Confidentiality of records; exceptions;**
3 **penalties for violations.**

4

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

12

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

16

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

19

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

22

23 (iii) A person authorized by the person who is
24 the subject of the records, or by his parent or guardian if

1 he is a minor or ~~incompetent~~ward, to evaluate the
2 ~~subject's~~person's eligibility for admission to the
3 ~~training school~~center for residential services or to
4 determine whether his residence is the most appropriate and
5 ~~least restrictive,~~ therapeutic environment for the ~~subject~~
6 person;

7

8 (v) Qualified employees of the department and
9 the ~~state training school~~center and professional persons
10 while in the performance of their official duties.

11

12 (c) Any person who willfully releases or permits,
13 assists or encourages the release of information in records
14 of ~~residents~~clients, former ~~residents~~clients or proposed
15 ~~residents~~clients to persons other than those listed in
16 subsection (b) of this section is guilty of a misdemeanor
17 punishable by a fine of not more than five hundred dollars
18 (\$500.00), imprisonment for not more than six (6) months,
19 or both.

20

21 **25-5-132. No determination of incompetency;**
22 **notification of rights; deniable rights and conditions**
23 **therefor; undeniable rights.**

24

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

5
6 (b) Upon admission to the ~~training school~~ center for
7 residential services, a ~~resident~~ client shall be informed
8 orally and in writing of his rights under this section. If
9 the ~~resident~~ client is a minor, or ~~incompetent~~ ward, his
10 parents, guardian or guardian ad litem shall be informed
11 orally and in writing of his rights under this section.

12
13 (c) ~~A resident may be denied~~ The following rights of
14 a client may be denied or limited only as a part of his
15 individual program plan for purposes of safety and health.
16 The ~~resident~~ client or if the ~~resident~~ client is a minor or
17 ~~incompetent~~ ward, his parents, guardian or guardian ad
18 litem shall be informed in writing and orally of the
19 grounds for the denial or limitation. The grounds for
20 denial or limitation shall be entered in the individual
21 program plan:

22
23 (i) The right to send and receive unopened mail;
24 ~~except as provided in paragraph (d) (v) of this section;~~

1

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

4

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

10

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

13

14 (viii) The right to receive visitors daily; ~~:-~~

15

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

18

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

20

21 (xi) The right to vote;

22

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

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(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.

(d) A ~~resident~~client may not be denied the following rights unless authorized by a court or his guardian, parent or guardian ad litem:

(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

1 consent of the ~~resident~~client and his parent or guardian
2 if he is a minor or ~~adjudicated incompetent;~~ ward.

3

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

7

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

11

12 **25-5-133. Restraint; conditions for use; strict**
13 **administration of medication; prohibited uses.**

14

15 (a) Isolation or seclusion procedures in which a
16 person is placed alone in a locked room are prohibited.

17 Restraint of a ~~resident~~client shall be used only when less
18 restrictive measures are ineffective for the welfare of the
19 ~~resident or other residents~~ client or others and only when

20 necessary to ensure the immediate physical safety of the
21 client or others. Restraint ~~or isolation~~ shall be used in a

22 manner which ensures that the dignity and safety of the
23 ~~individual~~ person restrained are protected and shall be

24 regularly monitored by trained staff. The reason for

1 restrictive measures shall be reported in the ~~resident's~~
2 client's records and shall be reviewed by the
3 interdisciplinary team and administrator. In addition, the
4 client's individual program plan shall address active
5 treatment or less restrictive measures to manage or
6 eliminate the behaviors for which restraint was used.

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

23

