

CHAPTER 5

Rules and Regulations of the Behavioral Health Division Mental Health and Substance Abuse Services

Complaints

Section 1. Authority. This Chapter is promulgated by the Wyoming Department of Health pursuant to W.S. §§ 7-13-1601 through 1615; W.S. § 9-2-102; W.S. § 9-2-2701; W.S. §§ 35-1-611 through 627; and the Wyoming Administrative Procedure Act at W.S. § 16-3-101 through 115.

Section 2. Purpose and Applicability. These rules have been adopted to provide complaint and investigation processes of providers of mental health and substance abuse services certified by the Division.

Section 3. Filing Complaints.

(a) A complaint regarding a provider of behavioral health services under contract with the Division may be presented by the complainant to the provider through the provider's formal grievance procedure, which shall be made available upon request.

(i) A provider receiving a complaint shall document the complaint including action steps the provider has taken in an effort to resolve the complaint. This information shall be shared with the complainant in written form, unless doing so would violate 42 CFR Part 2 (Confidentiality of Alcohol and Drug Abuse Patient Records) and/or 45 CFR Parts 160 and 164 (HIPAA). **Confidentiality of personnel records**

(ii) If the complainant is not satisfied with the resolution of the complaint by the provider, a complaint may be filed with the Division. If the nature of the complaint is not under the jurisdiction of the Division, the Division shall refer the complainant to the appropriate authority such as Medicaid or the Wyoming Mental Health Professions Licensing Board.

(b) A complaint regarding a provider of behavioral health services under contract with the Division may be presented by the complainant to the substance abuse and mental health ombudsman office and/or the Division.

Section 4. Complaints Filed with the Division.

(a) Complaints filed with the Division shall be in writing. The complaint shall be filed within one year of the alleged violation and shall provide the following information:

(i) The name, address and telephone number of the complaining party;

(ii) The party, person, or agency the complaint is against; and

(iii) A clear and complete statement of the alleged violation of the law, order, rule or standard, together with the facts which give the Division a clear and full understanding of the nature of the alleged violation.

(b) The Division shall establish policies and procedures to ensure that complaints are properly evaluated, documented, acknowledged and handled in a timely and appropriate manner.

(i) The Division shall notify the complainant and the provider in writing within ten (10) business days that the complaint has been received. Upon receipt of the notification, the provider shall submit to the Division the documented action steps taken by the provider towards resolution of the complaint as required in Section 3(b).

(ii) The allegations of the complaint shall determine the tasks required and the nature and scope of any investigation that may occur. The order and manner in which information is gathered depends upon the type of complaint that is filed.

Section 5. Investigations.

(a) The purpose of an investigation is to resolve a complaint and/or alleged violation. The Administrator, upon receipt of a complaint or substantive information alleging detriment to the health, safety or welfare of clients, fraud, and/or ethical misconduct may conduct an investigation of a provider certified by the Division.

(b) Upon initiation of an investigation, the Division shall provide the executive director of the program against whom the complaint or violation is lodged, a copy and/or summary of the complaint and supporting materials.

(c) The executive director of the provider against whom the complaint is lodged, shall file a response to the complaint or alleged violation with the Division no later than twenty (20) business days after receipt of the notice from the Division of the alleged complaint or violation. For good cause shown, the Division may extend the time to respond to the complaint.

(d) If the Division determines the response to the complaint or alleged violation provided by the provider does not resolve the complaint, the Division may continue the investigation to include on-site inspection, collection of all available pertinent information concerning the operation of the program as it relates to the complaint or alleged violation being investigated, consultation with the executive director, governing board, if applicable, and staff of the program, client's parents or legal guardians of the client if applicable, and other pertinent and reliable sources of information about a provider.

(e) Within forty-five (45) business days of the initiation of an investigation, a preliminary report of the status of the investigation shall be issued by the Division to the

complainant and agency. For good cause shown, the Division may extend the time of the investigation if a status summary report is provided to the complainant, executive director and chair of the governing board every thirty (30) days.

(f) A final written report and disposition of the investigation shall be issued within one hundred twenty (120) business days of the closure of the investigation. The report shall be sent to the executive director and chair of the governing board, if applicable, and shall include findings, corrective actions, if any, and time frames for completion of corrective actions.

(g) The Division will provide a summary of the results and disposition of the investigation to the complainant within one hundred twenty (120) business days of the closure of the investigation.

(h) Providers not completing corrective actions as required in the final investigation report may be subject to revocation of certification as stipulated in Chapter 2, Section 7(b) and may be subject to contract termination, if applicable.

Section 6. Quality Improvement Plans.

(a) The provider shall submit to the Division a quality improvement plan for each corrective action required in the final written report of an investigation.

(i) The quality improvement plan shall include action steps, responsible parties, and dates of completion for each corrective action.

(A) If corrective actions relate to health, safety, welfare or rights of clients served, the provider shall submit the quality improvement plan to the Division within fifteen (15) business days of receipt of the written report from the Division.

(B) For all other corrective actions, the provider shall submit the quality improvement plan to the Division within thirty (30) business days of receipt of the written report from the Division.

(ii) If the quality improvement plan is not received by the Division within the required time frame, the Division shall notify the provider in writing that the Division may revoke the provider's certification pursuant to Chapter 2, Section 7(b) of these Rules.

(b) The Division shall notify the provider in writing within thirty (30) business days after receipt of the provider's quality improvement plan regarding the approval of the plan.

(i) If the quality improvement plan is not approved, the provider shall receive notification in writing of the reasons for the disapproval and will be required to submit a revised plan within ten (10) business days of receipt of the written disapproval from the Division.

(ii) If the revised quality improvement plan is not approved, the provider shall have fifteen (15) business days from notification of the disapproval to submit an acceptable plan or the Division may revoke the provider's certification pursuant to Chapter 2 Section 7 (b).

(c) The Division shall complete appropriate follow up monitoring to assure that the actions identified in the provider's quality improvement plan have been completed within the specified time frame.

(d) In the event of a chronic failure to provide services or services that fail to meet the applicable standard of care for the profession involved, or a continuing condition creating serious detriment to the health, safety, or welfare of clients, the Division may revoke the provider's certification pursuant to Chapter 2 Section 7 (b) of these Rules.

(i) When the Division determines there is sufficient evidence to revoke a provider's certification, the Division shall notify the provider in writing within five (5) business days of the actions taken.

(e) The Division may grant up to sixty (60) days for the provider to correct the conditions leading to the revocation of certification and may reinstate certification if the conditions are corrected to the satisfaction of the Division.

Section 7. Hearing. In the event the provider contests the actions of the Division in revoking certification, the provider may request a hearing pursuant to the Wyoming Administrative Procedure Act.

Section 8. Severability. If any portion of this Chapter is found to be invalid or unenforceable, the remainder shall continue in full force and effect.