



Notice of Intent to Adopt Rules

Revised July 2013

1. General Information

a. Agency/Board Name		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Contact Person	f. Contact Telephone Number	
g. Contact Email Address		
h. Date of Public Notice	i. Comment Period Ends	
j. Program		

2. Rule Type and Information: For each chapter listed, indicate if the rule is New, Amended, or Repealed.

If "New," provide the Enrolled Act numbers and years enacted:

a. Provide the Chapter Number, Short Title, and Rule Type of Each Chapter being Created/Amended/Repealed
Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification.

Chapter Number:	Short Title:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
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c. The Statement of Reasons is attached to this certification.

d. N/A In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Section 5 of the Rules on Rules).

e. A copy of the proposed rules* may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.
 At the following URL: _____

* If Item "d" above is not checked, the proposed rules shall be in strike and underscore format.

3. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. Yes No

If "Yes:"	Date:	Time:	City:	Location:

b. What is the manner in which interested persons may present their views on the rulemaking action?
 By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.
 At the following URL: _____

	<p>A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:</p> <input type="checkbox"/> To the Agency at the physical and/or email address listed in Section 1 above. <input type="checkbox"/> At the following URL: _____
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c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Contact Person listed in Section 1 above.

4. Federal Law Requirements

a. These rules are created/amended/revoked to comply with federal law or regulatory requirements. Yes No

If "Yes:"	Applicable Federal Law or Regulation Citation:

	<p>Indicate one (1):</p> <input type="checkbox"/> The proposed rules meet, but do not exceed, minimum federal requirements. <input type="checkbox"/> The proposed rules exceed minimum federal requirements.
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	<p>Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:</p> <input type="checkbox"/> To the Agency at the physical and/or email address listed in Section 1 above. <input type="checkbox"/> At the following URL: _____
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5. State Statutory Requirements

a. Indicate one (1):
 The proposed rule change *MEETS* minimum substantive statutory requirements.
 The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. Indicate one (1):
 The Agency has complied with the requirements of W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:
 By contacting the Agency at the physical and/or email address listed in Section 1 above.
 At the following URL: _____
 Not Applicable.

6. Authorization

a. I certify that the foregoing information is correct.

Printed Name of Authorized Individual	
Title of Authorized Individual	
Date of Authorization	

Distribution List:

- Attorney General and LSO: Hard copy of Notice of Intent; Statement of Reasons; clean copy of the rules; and strike-through and underline version of rules (if applicable). *Optional:* electronic copies of all items noted (in addition to hard copies) may be emailed to LSO at Criss.Carlson@wyoleg.gov.
- Secretary of State: Electronic version of Notice of Intent sent to Rules@wyo.gov.

STATEMENT OF PRINCIPAL REASONS

FOR

Creation of Chapter 65 of Wyoming Insurance Department Regulation

Regulation Governing the Sale of Out-of-State Health Insurance Policies

Wyoming Statute § 26-18-301, et seq., HEA0030, was signed into law by Governor Mead on February 15, 2013. This statute became effective July 1, 2013. Wyo. Stat. § 28-18-305 directs the Wyoming Insurance Commissioner to adopt rules and regulations necessary for filing, approval, and sale of health insurance policies that have been approved for sale in other states. This rule establishes standards for the sale of out-of-state health insurance policies, develops a method of overseeing insurers selling out-of-state health insurance policies in Wyoming, and to protect the interest of Wyoming consumers who purchase out-of-state health insurance policies.

CHAPTER 65
REGULATION GOVERNING THE SALE OF
OUT-OF-STATE HEALTH INSURANCE POLICIES

Section 1. Authority

This regulation governing the sale of out-of-state health insurance policies in the state of Wyoming supplements the provisions of W.S. 26-18-301, et seq. This regulation is promulgated by authority of and pursuant to the provisions in W.S. 26-18-305 directing the Wyoming Insurance Commissioner to adopt rules and regulations necessary for filing, approval, and sale of health insurance policies that have been approved for sale in other states, the Wyoming Administrative Procedure Act (W.S. 16-3-101 through W.S. 16-3-115) and the Wyoming Insurance Code (W.S. 26-2-110 and W.S. 26-2-125).

Section 2. Purpose

The purpose of this Regulation is:

(a) To establish standards for the sale of out-of-state health insurance policies, to develop a method of overseeing insurers selling out-of-state health insurance policies in Wyoming, and to protect the interests of Wyoming consumers who purchases out-of-state health insurance policies.

(b) To declare that failure to comply with the provisions of this regulation will be deemed an unfair method of competition and an unfair trade practice.

Section 3. Scope

This regulation shall apply the sale of health insurance policies including individual disability policies, small group disability policies, or high deductible health policies approved for sale in other states pursuant to W.S. 26-18-301, et seq.

Section 4. Definitions

(a) As used in this regulation:

(i) “Domicile state” means the state that originally approved for sale the health insurance policies that the insurer intends to sell in Wyoming pursuant to W.S. 26-18-301, et seq.

(ii) “Essential community provider” means a provider that serves predominantly low-income or medically underserved individuals.

(iii) “Health Insurance” means private health plans as defined by W.S. 26-1-102(a)(xxxiii), small employer health insurance policies as defined by W.S. 26-19-303(a), and high deductible health plans as defined by W.S. 26-18-301(a)(ii).”

(iv) “Out-of-state health insurance policy” means a plan sold pursuant to W.S. § 26-18-301, et seq. by a Wyoming licensed insurer that has been approved for sale in another state.

(v) “Provider network” means the facilities, providers, and supplier the insurer has contracted with to provide health care services.

(vi) “SERFF” means the system for electronic rate and form filing as developed and implemented by the National Association of Insurance Commissioners.

(vii) “Wyoming mandated benefits” means benefits required for individual and group plans including adult wellness benefits pursuant to W.S. § 26-18-103(b) and W.S. § 26-19-107(h); mandated coverage pursuant to W.S. § 26-20-101, W.S. §26-20-201, W.S. § 26-20-301, and W.S. § 26-20-401; for group plans only, public health screenings pursuant to W.S. § 26-19-107(j); and any other benefits mandated in Wyoming by statute after the date of adoption of this regulation.

Section 5. **Application**

(a) **Application Contents.** Prior to the sale of out-of-state health insurance policies in Wyoming, the insurer must file an application as prescribed by the Wyoming Insurance Commissioner and are subject to the applicable SERFF filing fees. The application must include at a minimum the following:

(i) Proof of current approval and product line authority in domicile state including health policy form number and date approved in the domicile state;

(ii) The price of the health policy as sold in the domicile state and whether the health policy will be at the same price or at a Wyoming specific price;

(iii) A network provider directory that must, at a minimum, include providers’ specialties, locations of providers, acceptance of new patient status, the total unduplicated providers, and the total number of essential community providers in the provider network; and

(iv) A description of the relationship between the insurer making the filing and the affiliate insurer, if any, which currently has approval for the issuance of health insurance policies in another state, the original state where the proposed product was approved, and the date of such approval.

(b) Policy Filing Requirements

(i) All health insurance policies offered or intended to be sold pursuant to W.S. 26-18-301, et seq. shall be filed for prior review and approval and are subject to the applicable SERFF filing and policy form filing fees.

(ii) For each out-of-state health insurance policy sold or intended to be sold in Wyoming, the insurer must file an outline of coverage with the health policy form filings and are subject to the applicable SERFF filing fees. The outline of coverage must have a section defining the benefits the health insurance policy provides. The outline of coverage must state whether the policy offers any Wyoming mandated benefits, and, if so, what Wyoming mandated benefits the policy offers. The Wyoming Insurance Commissioner can require additional information be disclosed in the outline of coverage.

(c) Agreement Between Insurer and Commissioner

(i) Pursuant to W.S. 26-18-302(a)(iv) the insurer seeking to offer out-of-state health insurance policies in Wyoming must agree that the Wyoming Insurance Commissioner may enforce the provisions of the insurance policy and resolve disputes between the insurer and the policyholder.

(ii) The agreement will be a written agreement signed by the insurer. The agreement shall be on a form as prescribed by the Wyoming Insurance Commissioner.

(d) Should the insurer fail to comply with the application and filing procedures as prescribed by this regulation and as prescribed by the Wyoming Insurance Commissioner, the insurer's application may be rejected and the insurer may be denied the authority to issue out-of-state health insurance policies.

(e) The Wyoming Insurance Commissioner has the authority to require additional application and filing requirements not specifically mentioned in this regulation.

Section 6. Policy Requirements

(a) Network Adequacy

(i) Pursuant to W.S. 26-18-302(a)(vii), the Wyoming Insurance Commissioner shall review any provider network requirements in the out-of-state health insurance policy and may require modification of those requirements if the policy lacks sufficient network providers in Wyoming.

(ii) Provider networks are sufficient so long as:

(A) The insurer maintains a network that is sufficient in number and types of providers in Wyoming so as to assure that all services will be accessible without unreasonable delay as proven by submitting a network provider list to the Wyoming Department of Insurance; and

(B) The network has at least thirty percent (30%) of available essential community providers in the policy's service area. A network that has at least five percent (5%) of available essential community providers in the policy's service area may be considered sufficient so long as the insurer includes as part of its application a satisfactory narrative describing how the insurer's provider network(s), as currently designed provides an adequate level of service for low-income and medically underserved enrollees.

(iii) If the insurer has insufficient number or type of participating providers to provide a covered benefit, the insurer shall ensure that the covered person obtains the covered benefit at no greater cost to the covered person than if the benefit were obtained from participating providers, or shall make arrangements acceptable to the Wyoming Insurance Commissioner.

(iv) The insurer shall include a provider directory with the application form. The directory must at a minimum list providers' specialties, locations of providers, acceptance of new patient status, the total unduplicated providers, and the total number of essential community providers in the provider network. The Wyoming Insurance Commissioner can require that more categories of disclosure be included in the provider directory. The Wyoming Insurance Commissioner may terminate the insurer's ability to issue out-of-state health insurance policies in Wyoming should the network fail to meet the network adequacy standards set forth in this regulation.

(v) The insurer shall give the Wyoming Insurance Commissioner prompt notice of a potential loss of a material provider. Upon such notice the Wyoming Insurance Commissioner has the authority to initiate an interim network adequacy review.

(vi) Should the state of Wyoming adopt statutory standards for network adequacy for health insurance policies sold in Wyoming, those statutory provisions will preempt this regulatory guidance on network adequacy. Policies sold pursuant to W.S. 26-18-301, et seq. will then be required to meet the statutory standards for network adequacy.

Section 7. **Reporting Requirements.**

(a) All reporting requirements shall be submitted annually by March 1 every year through SERFF, and are subject to the applicable SERFF filing fees.

(b) Annual Network Report.

(i) An insurer shall file with the Wyoming Department of Insurance an updated network provider directory on an annual basis.

(ii) The directory at a minimum must list providers' specialties, locations of providers, acceptance of new patient status, the total unduplicated providers, and the total number of essential community providers. If the network has between five percent (5%) and thirty percent (30%) of the essential community providers available in Wyoming, the insurer must give a narrative justification describing how the provider network(s) provides an adequate level of service for low-income and medically underserved enrollees.

(iii) The Wyoming Insurance Commissioner may terminate an insurer's ability to issue out-of-state health insurance policies in Wyoming should the network not meet the network adequacy standards set forth in this regulation. The Wyoming Insurance Commissioner may terminate an insurer's ability to issue out-of-state health insurance policies in Wyoming should the insurer fail to file an annual network report.

(c) Annual Rating Report

(i) An insurer shall file with the Wyoming Department Insurance a rating report on an annual basis.

(ii) The rating report at a minimum must list every product sold in Wyoming pursuant to W.S. 26-18-301, et seq., the rates of each product sold in Wyoming, the rates of each product sold in the domicile state. Should the rate of any products sold in Wyoming exceed ten percent (10%) of the cost of the same product sold in the domicile state, the insurer must attach a narrative explaining the difference in rate.

(iii) The Wyoming Insurance Commissioner may terminate an insurer's ability to issue out-of-state health insurance policies in Wyoming should the issuer fail to file an annual rating report.

(d) The Wyoming Insurance Commissioner has the authority to require additional reporting requirements not specifically listed in this regulation.

Section 8. Non-Compliant Policies

Should any out-of-state health insurance policies sold pursuant to W.S. 26-18-301, et seq. fail to comply with this regulation or the Wyoming Insurance Code, the Wyoming Insurance Commissioner has the authority deny the insurer the ability to issue the product in Wyoming.