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## Administrative Adjudication in Wyoming

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# ADMINISTRATIVE ADJUDICATION IN WYOMING

## INTRODUCTION

In preparation for a hearing before an administrative agency, inquiry must be made into the duties and powers of the agency, its procedural requirements, and the rights and duties of the individual. Wyoming statutes do not define a hearing, nor do they prescribe procedural rules. This is typically left to the discretion of the agency under the legislative directive to "make such rules and regulations as are necessary for the carrying out of the purpose of this Act."<sup>1</sup> Whether the agency has such rules of practice is often never determined unless contested in separate proceedings.<sup>2</sup> Quite often changes in agency membership result in procedural changes. In the absence of published rules or practice, each group operates on an *ad hoc* basis, leaving the parties to manage procedural problems as best they can.

In 1946 Congress passed the Administrative Procedure Act<sup>3</sup> (hereafter referred to as APA), providing a framework of uniform general procedures applicable to most federal agencies. Since that time the National Conference of Commissioners on Uniform State Laws has proposed a model act for consideration by the states' legislatures<sup>4</sup> (hereafter referred to as Model Act). Provisions in the APA are broad and general, dealing with fundamental matters common to federal agencies. The Model Act is more detailed and precise, codifying certain minimum procedural rules which many state agencies may not be equipped or disposed to prepare on their own initiative.

## RULES OF PRACTICE OF AGENCIES

Aside from statutory matters, the importance of rules of practice cannot be overemphasized. In the interests of uniformity and the protection of parties, Oregon<sup>5</sup> has directed its Attorney General to "prepare model rules of procedure for use by as many agencies as possible." The use of such rules is permissive in some cases, and a complaint is made that a few of the major licensing agencies are exempt.<sup>6</sup> Since the Model Act codifies minimum procedural requirements, its adoption by Wyoming would lay a broad uniform foundation for all administrative action, which could be filled out according to the particular requirements of the agency. Adoption by Wyoming of the Oregon plan would seem to be a satisfactory supplement to the Model Act, since the office of the Attorney General could draft rules of practice satisfactory for most of the licensing agencies, and

1. Standard phraseology of enabling acts for most Wyoming Agencies which are given the rule making and adjudicatory powers.
2. Discretion of the agency is relative to the scope of such rules, not whether rules are necessary. See Application of Hagood, Wyo., 356 P.2d 135, 140 (1960).
3. Administrative Procedure Act, 60 Stat. 237 (1946), 5 U.S.C. § 1001-1011 (1958).
4. Revised Model State Administrative Procedure Act (fourth draft), 9C U.L.A. 174.
5. ORS § 183.340 (1959).
6. 1 Willamett L.J. 242 (1959-1961).

could coordinate with other agencies to tailor rules to their particular need.

In response to a questionnaire prepared by students taking part in this symposium, twenty-seven agencies responded. While many of the agencies answering the questionnaires set out practices which would conform to judicial requirements of due process (notice of hearing), only six had actually promulgated and published detailed rules of practice.<sup>7</sup> Of these six, five required notice and service of process, four maintained a record of the proceedings, and all had requirements of pleadings. One agency (Employment Security Commission) has a fairly detailed set of rules of practice incorporated in the enabling statute. The remainder of those responding have no rules of practice.

#### NOTICE AND PLEADINGS

The Model Act avoids the ramifications of the word "hearing" as used in the constitutional sense. The criterion under the Model Act is whether the proceedings is a "contested case." By definition, a contested case is "... a proceeding . . . in which the legal rights, duties or privileges of a specific party are required by law to be determined . . . after an opportunity for a hearing."<sup>8</sup> If required by law to be conducted by a hearing, license and rate-making proceedings are contested cases.<sup>9</sup> The constitutional question of the right to a hearing is left open on the merits of each case.

Typical of administrative proceedings is the informality with which they are conducted. However informal procedurally, the parties must have some communication in order to know the subject matter of the hearing. In *Morgan v. United States*,<sup>10</sup> the Supreme Court said "The right to a hearing embraces . . . a reasonable opportunity to know the claims of the opposing party and to meet them." In the judicial system the requirement is met by the pleadings plus discovery, but the relative unimportance of pleadings in administrative proceedings is indicated in *NLRB v. Remington Rand*,<sup>11</sup> where the court found the pleadings deficient and that the agency had improperly denied a request for a bill of particulars. Nonetheless, the court upheld the Board because a bill of particulars "is important only when a party must meet his adversary's case without opportunity to prepare; it is of slight value in a trial by hearing at intervals." The Wyoming Supreme Court has taken substantially the same position in the matter of pleadings. However, in *Application of Hagood*<sup>12</sup> the court

7. Board of Land Commissioners; Wyoming Oil and Gas Commission; Public Service Commission; Employment Security Commission; State Board of Mines; State Board of Control.

8. Model Act § 1 (2)

9. The Model Act definition of "contested case" is broad enough to encompass most proceedings generally characterized as administrative adjudication or quasijudicial.

10. 304 U.S. 1 (1938).

11. 94 F.2d 862, 873 (2nd Cir.), cert. denied, 304 U.S. 576 (1938).

12. Supra note 2 at 140. In a footnote to the decision, the Court quoted a previous ruling admitting the relaxation of technical rules of pleading in administrative proceedings, but qualified the statement by saying "We think this is particularly

criticized the Board of Land Commissioners, saying "the board required no pleadings by those appearing before it as intended by statute."

Of fifteen Wyoming Statutes tabulated at random (Table I), each creates an agency with adjudicatory or quasi-judicial powers. Eleven of these agencies are required by statute to conduct a hearing before final action, yet only ten are required to give some formal notice. In no case is notice defined. When Wyoming statutes do not require notice before hearing, the Supreme Court has not regarded its absence as a violation of due process. "If, taking all facts and circumstances into consideration, the relator was given a fair hearing or hearings however informal, and opportunity to defend himself, that should be held sufficient."<sup>13</sup> It should be noted that both the Wyoming and the federal courts have merely refused to find the insufficient pleadings or want of notice prejudicial, but in each instance criticized the agency for failure to observe the standards of good practice.

Section 9 (b) of the Model Act has set out certain minimum elements of notice, dealing particularly with notice in contested cases. While short and concise, notice under the Model Act will give a party some idea of the charge which he called upon to meet or disprove.

Notice shall include a statement of:

- (1) the time, place, and nature of the hearing;
- (2) the legal authority and jurisdiction under which the hearing is to be held;
- (3) the particular sections of the statutes and rules involved;
- (4) a short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved, and thereafter upon application a more definite and detailed statement shall be furnished.

#### DISCOVERY AND SUBPOENA PROVISIONS

The opportunity to prepare may be afforded by many procedural devices, but in the absence of statutory direction, the devices available to the individual may depend a great deal upon the agency, its experience and knowledge of proceedings. In the absence of definitive pleadings, discovery methods are the principle source of information. The subpoena is a basic discovery tool, and several agencies have statutory authority to use it (Table I). When the agency has the power to subpoena witnesses and require the production of books and records, this should not be withheld from other parties to the proceedings. No one should be denied the right to require the presence of a reluctant witness, or to prepare and present depositions in support of his case, when a witness is personally unavailable.<sup>14</sup>

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true when a litigant acts without counsel." As a matter of fact, the Board of Land Commissioners had adopted rules requiring pleadings in 1925. Whether the pleadings were waived, or not sent up on appeal is not known.

13. Cowan v. State ex rel. Scherck, 57 Wyo. 309, 116 P.2d 854 (1941).

14. See Investigatory Powers of Administrative Agencies in Wyoming, supra p. 241.

In a rate-hearing by the Public Service Commission,<sup>15</sup> a party moved to have the records of the carrier introduced into the hearing for inspection. Statutory authority<sup>16</sup> was given the agency to "issue subpoenas, compel the attendance of witnesses and the production of books and records." The Commission took oral evidence concerning the financial condition of the carrier, and refused to order the records available for inspection. On review the court said "Failure to issue a subpoena for the production of books and records, on request of a party, was error in view of the statute specifically providing that authority," but refused to reverse the ruling for that reason. It is apparent that the legislature should specifically grant the use of the subpoena power to all parties, since a denial may not be prejudicial error.

Section 7(b) of the APA authorizes presiding officers to issue subpoenas "provided by law." If the agency does not have the power specifically granted in its enabling legislation, the subpoena is not available. The Model Act has avoided any provision for the subpoena, probably with a view to the selective federal attitude. Since Wyoming has granted the power in most cases, but often has failed to provide for any enforcement or penalty for failure to obey the writ, a special provision should be incorporated in the Model Act in order to bring uniformity to this area. The Administrative Procedure Acts of Colorado<sup>17</sup> and Massachusetts<sup>18</sup> have solved the problem by providing that the hearing officer in any contested case has the power to request any court of competent jurisdiction to issue a subpoena, and that any party may apply for and the agency must issue a subpoena.

#### PRESIDING OFFICERS AND CONDUCT OF HEARINGS

Of the Wyoming statutes tabulated (See Table I), eleven make some provision for a presiding officer; either that such officer shall be the agency, a quorum thereof, or a staff member. In at least one case<sup>19</sup> the Wyoming Supreme Court criticized the agency for allowing a staff member to conduct the hearing and in fact make rulings, without authority. "We do not find any statute which authorizes anyone else to conduct such a hearing." In the same case<sup>20</sup> the Board was criticized for allowing a staff member to act as the Board in certifying the record for appeal. The Model Act is silent on the matter of the presiding officer, and a section clearly setting out the office and duties would assure parties that their hearing is being conducted by one in whom the legislature has placed that authority. The Colorado Administrative Procedure Act makes the following provision:<sup>21</sup>

15. *Gore v. John*, 61 Wyo. 246, 157 P.2d 552 (1945).

16. Wyo. Stat. § 37-32 (1957).

17. Colo. Rev. Stat. § 3-16-4(5), 1960 Cum. Supp.

18. Mass. Ann. Laws, ch. C 30A, § 12 (1959).

19. *Gore v. John*, 61 Wyo. 246, at 262, 157 P.2d at 556. Cf., *State ex rel. Crow v. Copenhaver*, 64 Wyo. 1, 36, 184 P.2d 594, 608.

20. *Gore v. John*, id. at 259.

21. Colo. Rev. Stat. § 3-16-4(3), 1960 Cum. Supp.

Presiding officers: At the taking of evidence only one of the following may preside: the agency; or if otherwise authorized by law, a member or members of the body which comprises the agency or a hearing commissioner.

In order to properly conduct a proceeding, there must be statutory authority for the presiding officer to act in all ways as the agency. Other than the general powers given by statute to the agency, no Wyoming statute mentions specific powers of the presiding officer. Many statutes are deficient even in specifying the powers of the agency in conducting hearings, and the Model Act fails to set out such powers. Section 7 (b) of the APA deals particularly with the presiding officer, and grants enumerated powers designed to give him complete control over all phases of the proceedings. Provisions of the APA which would be particularly applicable in supplementing the Model Act include the power to (1) administer oaths and affirmations, (2) issue subpoenas authorized by law, (3) rule upon offers of proof and receive relevant evidence, (4) take or cause depositions to be taken, (5) regulate the course of the hearing, (6) hold conferences for the settlement or simplification of the issues by consent of the parties, (7) dispose of procedural requests or similar matters, (8) make decisions or recommended decisions according to the law or rules of the agency, (9) take any other action authorized by agency rule consistent with this Act.<sup>22</sup>

#### THE DECISION-MAKING PROCESS

##### (1) *Initial or Recommended Decisions: Institutional Decisions.*

Section 11 of the Model Act deals particularly with those agencies who either have a hearing officer or which allow less than all the commissioners to act as the presiding officer. Where a majority of the officials who are to decide the case have not heard the evidence or read the record, a proposal for decision must be served on the parties, with opportunity for exceptions and briefs to those officials. The proposal for decision must include findings of fact and conclusion of law necessary for the proposed decision.<sup>23</sup>

Under present Wyoming law, only two agencies require that the hearing officer serve the parties with the initial or recommended decision, together with the reason therefore.<sup>24</sup> By requiring that all such pertinent information be included in the proposal for decision in every applicable case, the parties will be assured of an opportunity to examine every matter which is placed before the Board in its review, and an opportunity to meet and rebut conclusions of law or fact.

Admittedly one of the evils of the administrative system is the tendency of a board to rubber stamp the findings and conclusions of its investigating staff or preliminary hearing officer. So long as the Board must rely on

22. See *Constitutional Limitations on Administrative Agencies*, supra p. 266.

23. See *Evidence and Findings in Administrative Agencies*, infra p. 280.

24. Employment Security Commission; Commissioner of Public Lands.

the experience and knowledge of others, it is reasonable to expect that such findings and conclusions will have great weight. Nevertheless, it is the sole duty of the Board to make the final decision, based on their independent findings and conclusions. That Wyoming agencies have not in fact made the final decision where the Board did not conduct the hearing is evidenced in *Application of Hagood*,<sup>25</sup> where the hearing was conducted by the Land Commissioner, and final decision rested in the Board of Land Commissioners. On appeal from an adverse decision, the court said "the Board made no findings of fact and conclusions of law in its own right, but by inference adopted the findings of the Commissioner. We think the Board should make such findings and conclusions, thereby providing an opportunity for an orderly appeal to the courts consistent with the existing statutes as they have been interpreted."

The Model Act would preclude the practice criticized in the *Hagood* case, by requiring first the proposal for decision noted above, and further requiring that the officers who are to render the final decision must "personally consider the whole record or any portions cited by the parties."<sup>26</sup>

Even if the deciding officers have in fact considered the record as required, the parties are not assured that the opinion and decision is that of the agency unless the agency itself undertakes to write the opinion. In federal practice it is common to have an opinion writing staff, and the larger state agencies may also succumb to this practice. The Employment Security Commission of Wyoming reports that opinions are written by "the Appeals Examiner and Commission"; the Oil and Gas Commission reports all opinions written by staff members. As the case load for such agencies increases, it becomes more unlikely that the deciding officers will be able to give adequate attention to reviewing of opinions, in addition to their other work load.

(2) *Separation of Functions.*

Many state and federal agencies are given the duty of enforcing laws relative to the past conduct of the individual. In order to perform this function, the agency often finds itself acting in the capacity of investigator and judge. If the investigator is a member of the hearing body, predisposition is a natural result. An additional evil is the fact that the defendant has no knowledge of extra-record matters which may have a substantial effect on the final decision. The problem is accentuated on the state level because of the relatively small size of the agency, and more often by the fact that it has no staff to perform the investigative function. This burden is placed on individual members who must rely on their sense of fair-play to not pre-judge the case. In larger agencies which have field specialists, the problem is not so acute provided that the investigator is

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25. *Supra* note 2 at 140.

26. Model Act § 11.

prevented from discussion of the facts or circumstances of the alleged violation outside of the hearing.<sup>27</sup>

The Model Act makes no requirement of separation of the investigative, prosecutive or judging functions, but specifically allows consultation between decision making members and other members of the agency.<sup>28</sup> On the other hand, Colorado expressly forbids any presiding or deciding officer from being under the direct supervision or direction of any officer who has taken part in the action pending, or to be engaged in the performance of investigatory or prosecuting functions for the agency. On the federal level, Section 5 (c) of the APA requires in certain contested cases but not otherwise separation of the functions of investigation or prosecution from that of decision making, and further prohibits consultation by the presiding officer "with any person or party except on notice and opportunity for all parties to participate." Since in all cases the APA refers to "parties" in one sense, and "agency" in another, it must be presumed that communication with the agency members (Commission or Board members) is not prohibited.

An additional problem is the matter of presentation of the state's case before the agency. In the absence of provision for a separate prosecuting officer, some member or employee of the agency must fill this function. A combination of the elements of investigator, prosecutor and judge embodied in the same person must present a forbidding outlook to the average respondent.

A few Wyoming agencies are given the power to investigate and make recommendations only, leaving the prosecution and judging to the county attorney and district court. This is most applicable in cases in which criminal sanctions are involved. Granted that the investigative powers of the county attorney may be greater than that of the agency, the primary purpose of such agency is the accumulation of experience and "feel" for the particular problem. The prosecution of criminal actions should remain in the county attorney, but under no circumstances should a county office become an investigatory arm for state administrative matters.

A better alternative to effect a more complete separation of prosecuting and judging functions would be to allow the office of the Attorney General to conduct field investigations and present the state's case before a hearing officer appointed by the state for that sole function. After hearing, the record, with a recommended decision by the hearing officer, would be forwarded to the agency for final determination. The record would have been skillfully developed by persons accustomed to working with evidentiary matters, and the recommended decision would be by one who has had the opportunity to weigh the credibility of each witness. Since the standards of conduct are comparable for many agencies, i.e., ethical con-

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27. *Infra* note 35.

28. Model Act § 13(1).



duct; public safety; public health and welfare; a single hearing officer could perform this duty for many agencies who have like functions. That such a solution is practical is seen by noting the case load of twenty two representative agencies (Table II). Excluding the Wyoming Military Board, only the Employment Security Commission, Oil and Gas Conservation Commission and Department of Agriculture report a case load in excess of twenty investigations and/or hearings annually, and these agencies should retain their present staff proceedings. In addition, the other agencies with large caseloads, such as the Public Service Commission and Board of Control should remain separate.

(3) *Final Decision and Notice.*

Final decisions are controlled by Section 12 of the Model Act, which requires that any final decision adverse to a party shall be in writing or stated in the record. Parties must be notified of the decision and on request be furnished with a copy of the decision. The requirement of the Model Act would codify Wyoming's judicial position as reported in *Rayburne v. Queen*.<sup>29</sup> There, the question before the court was whether an appeal was timely after an adverse decision by the Board of Land Commissioners. Under the applicable statutes, no requirement of publication of proceedings was found, and the want of notice to the appellant delayed his appeal. On remanding the case to district court, the Supreme Court said, "We think that any decision of the Board of Land Commissioners, in order to be binding on a party, must be made either (a) unequivocally in the parties' presence or (b) by a written record of the Board's decision which is actually available to the public."

THE RECORD IN CONTESTED CASES<sup>30</sup>

Most of the agencies in Wyoming granted hearing powers are subject to appeal directly to the district court. For many of these agencies there is no statutory requirement of maintaining a record of the proceedings. Whether review by the judiciary is *de novo* or by appellate procedure is discussed in other notes.<sup>31</sup> In any event where a record is required, there should be minimum elements of preservation. Between states these minimums vary considerably. Wisconsin<sup>32</sup> requires that "Each agency shall keep an official record of all proceedings in contested cases. Exhibits and testimony shall be a part of the official record." Massachusetts<sup>33</sup> requires no more, and in addition allows the record to be in narrative form. Colorado<sup>34</sup> makes no requirements of a record, but where one is made, it must include pleadings, evidence and rulings of the agency.

29. 76 Wyo. 393, 407, 303 P.2d 486, 491 (1956).

30. See Reviewability and Forms of Proceedings for Review at p.\_\_\_\_, of this article.

31. Scope of Review of Decision of an Administrative Agency in Wyoming, 9 Wyo. L.J. 65; De Novo Judicial Review of Wyoming Administrative Findings, 15 Wyo. L.J. 67; Scope of Judicial Review, 16 Wyo. L.J. 326.

32. Wyo. Stat. § 227.11.

33. Mass. Ann. Laws, ch. C 30A, § 11 (6).

34. Colo. Rev. Stat. § 3-16-5 (6), 1960 Cum. Supp.

Section 9 (e) of the Model Act requires that pleadings, motions, rulings, evidence offered and matters officially noticed be a part of the record. In addition, the record must contain proposed findings and exceptions; recommended or initial decision by the presiding officer, and all staff memoranda submitted to the agency in connection with the case.<sup>35</sup> The Model Act is deficient in not spelling out a requirement that the actual proceedings, including testimony be a part of the record.<sup>36</sup> Whether by mechanical recorder, or in shorthand, the proceedings should be preserved. A review of the record is difficult unless complete in every detail. The agency can easily provide adequate facilities for preservation of the proceedings, subject to transcription if desired by a party. Of those agencies responding to the questionnaires, only the Oil and Gas Commission reports the transcription of hearings as a matter of course, and the Employment Security Commission allows a transcript only in case of appeal, but preserves the record by means of tape recording. No other responding agency has reported taking the whole proceedings down in permanent form. The Supreme Court of Wyoming has severely criticized this lack when Chief Justice Blume, in *Howard v. Lindmier*<sup>37</sup> said:

We think we should say incidentally that we know of no tribunal of the importance of the State Land Board of this state which ordinarily keeps in contested cases, such fragmentary records as does that Board. That is due doubtless to the custom established long ago so that no blame can be laid at the door of the present officials. . . . But it is not a good custom. In view of the fact that the legislature has provided for an appeal . . . to the courts, we suggest . . . it keep records in accordance with its dignity and importance.

This criticism has been reiterated by Mr. Justice Parker in *Rayburne v. Queen*<sup>38</sup> when he said:

If the Board is to be accorded the full discretion to which we think it is entitled, the district court should have before it for consideration a true transcript of the evidence which was taken before the Board, thus assuring all concerned that the same criteria was applicable in all determinations. . . . The testimony before the Board in contested cases should be preserved verbatim and be available to the court in the trial de novo as one of the bases for its judgment.

35. While attention is called to this important requirement under the heading of "Records," its application to a more complete separation of functions is clear. Material prejudice may result from an undisclosed report to the hearing officer. If such an event occurs, its appearance in the record will give an opportunity to rebut or defend against the report before a final hearing.

36. Rule 9 (e) (2) says the record shall include evidence received or considered. Rule 9 (f) says "The record of the oral proceedings need not be transcribed unless requested for purposes of rehearing or court review." The use of the term "evidence" in conjunction with Rule 9 (f) raises a clear inference that the proceedings be preserved verbatim. Nevertheless, a statute when adopted should clearly set out such a fundamental procedural requirement.

37. 67 Wyo. 82, 24 P.2d 737 (1950).

38. 78 Wyo. 359, 370, 326 P.2d 1108, 1111 (1958).

## CONCLUSION

The administrative process for adjudication has grown in Wyoming without coordination or organization. Rules of practice are lacking for most agency proceedings, and where available frequently do not supply the procedural safeguards necessary for full and adequate hearing. Notice of pending action is subject to indefinite agency practice, usually without scope or content. Discovery methods are unsatisfactory in that no party is assured of his ability to require the attendance of witnesses, and at least in the case of the Board of Land Commissioners the agency itself does not have such powers.

In the absence of legislative authority to delegate duties to a single member of the commission or staff accompanied with the necessary powers to act, agencies will either continue to abuse their administrative powers or cases must be remanded and retried in order to correct fundamental procedural deficiencies. The Supreme Court of Wyoming has repeatedly made substantial criticism of the lack of adherence to the minimal statutory requirements and good practice.

The proposed Model Act does not pretend to be the final answer to all problem. It does however lay down minimum rules and practices intended to give a certain stability and uniformity to the administrative process. Legislative adoption will undoubtedly create problems, particularly to those agencies which either find the requirements strict or which have in the past overlooked even less stringent requirements. Good law is not for the convenience of the administrator, but rather for the protection of all parties concerned, who are entitled to adjudication procedures which meet the requirements of fairness and decency.

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TABLE I\*

AGENCY	Adjudicatory Powers	Hearing Required	Rules of Practice	Notice Required	Record of Proceedings	Pleadings Required	Subpoena Power	Presiding Officer (staff)	Presiding Officer (agency)	Proposal for Decision
Retirement Bd. § 39-35	S	S		S						
Civil Service § 15-382	S	S		S	S	S				
Blue Sky Com. § 17-102	S									
State Bd. Control § 41-48	S	S/R	R	S/R	S	R		S		
Bd. Education § 21-6	S								S	
Insurance Com. (license) § 26-57	S	S		S					S	
Insurance Com. (Fair trade) § 26-155	S	S			S	S	S	S	S	
Employment Sec. Commission § 27-22	S	S/R	S/R	S/R	R	R	S	S/R		R
Mines Examining Board § 30-119	S	S/R	R	S/R		S	S			
Boxing Com. § 33-100	S							S		
Real Estate Board § 33-352	S	S		S	S	S	S	S	S	
Bd. Land Com. § 36-15	S		S/R		S/R	R			S	

\*All sections are referred from Wyo. Stat. 1957.

S—Statutory.

R—Rules of the agency.

TABLE I\*

AGENCY	Adjudicatory Powers	Hearing Required	Rules of Practice	Notice Required	Record of Proceedings	Pleadings Required	Subpoena Power	Presiding Officer (staff)	Presiding Officer (agency)	Proposal for Decision
Public Service Commission § 37-1	S	S/R	R	S/R	S/R	R	S	S		
State Bd. of Equalization § 39-26	S		S/R			R	S			
Director of Revenue § 39-35	S	S	S	S			S	S		
Oil and Gas Commission § 30-218	S	S/R	R	S/R		R	S		S	

\*All sections are referred from Wyo. Stat. 1957.

S—Statutory.

R—Rules of the agency.

TABLE II\*

Agency	Adjudicative Powers	Investigations Annually	Hearings Annually
Bd. Chiropractors	yes		1-2
Real Estate Board	yes		19
Employ. Sec. Comm.	yes	daily	no record
Oil & Gas Comm.	yes	daily	23
Dept. Agriculture	yes	daily	25
Parks Commission	no**		
Board of Cosmotology	yes		1
Game and Fish Dept.	yes	daily	(ex parte)
Military Board	yes	100	1-2
Board of Pharmacy	yes	1	1
Board of Nursing	yes		
Livestock and Sanitary	no** (but has power of quarantine)		
Veterinary Board	no** (but controls licensing)		
Wyo. Aeronautics Comm.	no**	15	CAB
Coal Mines Ex. Bd.	no** (but controls licensing)		
Board of Architects	no** (but controls licensing)		
Board of Chiropody	yes		
Liquor Commission	no		
Dental Examiners	yes		
Retirement Board	yes		
Collection Agency	yes	6	2-3
Blue Sky	yes		

\*Responses to questionnaires sent to Wyoming administrative agencies.

\*\*Negative answers to the question of whether the agency has adjudicative powers indicates a basic defect in the administrative process, in that agencies do not understand the ramifications of adjudication, nor that such proceedings have basic requirements or due process. The proposed Model Act would clarify this by specifically placing licensing agencies within the procedural requirements of section 4 procedures.