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## Report No. 1 by the Joint Committee of Physicians and Attorneys

Wyoming State Bar

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REPORT NO. 1 BY THE JOINT COMMITTEE OF  
PHYSICIANS AND ATTORNEYS

Allen A. Pearson, District Judge, J. F. Mahoney, Byron Hirst, Dr. Norman R. Black, Dr. W. H. Pennoyer and Dr. George Knapp, having been appointed by President Charles M. Crowell of the Wyoming State Bar and by President Benjamin Gitlitz, M.D., of the Wyoming State Medical Society to serve as a joint committee to consider the subject of witness fees to be allowed physicians in Workmen's Compensation cases and other court cases, make their report according to the provisions of the Interprofessional Code for Physicians and Attorneys adopted by the Wyoming State Medical Society and the Wyoming State Bar at their annual meetings in 1959, as follows:

1. Recently the Workmen's Compensation Department established a regulation for payment of fees to doctors for expert testimony in Workmen's Compensation cases of \$50.00 for the first hour and \$25.00 for each additional hour or part thereof. By a Memorandum Opinion dated February 16, 1960, the Office of the Attorney General of the State of Wyoming stated that such regulation is not authorized by law and that witness fees in Workmen's Compensation cases generally are as fixed by law in civil actions. The Joint Committee reports that the attorney general's opinion apparently states the law correctly.
2. The Joint Committee reports that existing statutes of the State of Wyoming do not provide for payment of adequate witness fees to physicians or other expert witnesses, and believes that the statute should be amended so that adequate witness fees may be allowed in proper cases to expert witnesses in all fields. Therefore, the Joint Committee has prepared a bill to amend the existing witness fee statute allowing any real expert witness whose testimony is necessary in any case a fee of \$25.00 or such less or greater amount as the Court may fix in its discretion, and permitting the Court in its discretion to tax such fees as costs against any one or more of the parties. The bill is attached hereto.
3. The Joint Committee recommends that the Committee on Rules of Civil Procedure of the Wyoming State Bar consider submitting to the Supreme Court of the State of Wyoming a rule providing for appointment of expert witnesses by the Court in any case to assist it in its deliberations, such as those laws discussed in RUTGERS LAW REVIEW, Volume 12, No. 2, Page 375. (See also: Model Expert Testimony Act, 9A of Uniform Laws Annotated at Page 353; McCORMICK, EVIDENCE, Chapter 3, Section 17; and Rule 28 of Federal Rules of Criminal Procedure).

Allen A. Pearson  
Byron Hirst  
W. H. Pennoyer, M.D.

J. F. Mahoney  
Norman R. Black, M.D.  
George Knapp, M.D.

No. ....

Introduced by.....  
.....**A B I L L****FOR**

AN ACT amending and re-enacting Section 1-195, Wyoming Statutes 1957, relating to witness fees and especially fees for expert witnesses.

BE IT ENACTED BY THE LEGISLATURE  
OF THE STATE OF WYOMING:

Section 1. That Section 1-195, Wyoming Statutes 1957, be amended and re-enacted to read as follows:

1-195. Witnesses shall be entitled to receive the following fees: For attending before any court or grand jury, or before any judge, referee or commissioner, two dollars (\$2.00) per day, and one dollar and fifty cents (\$1.50) for half a day; for attending before a justice of the peace, one dollar and fifty cents (\$1.50) per day, and one dollar (\$1.00) for half a day; for each mile actually and necessarily traveled in going to and returning from place of attendance ( ten cents (10¢) . . . IN ANY CIVIL OR CRIMINAL CASE, ANY PARTY MAY CALL EXPERT WITNESSES TO TESTIFY; AND, IF THE COURT SHALL FIND ANY SUCH WITNESS TO BE A QUALIFIED EXPERT AND SUCH EXPERT SHALL GIVE EXPERT TESTIMONY WHICH SHALL BE ADMITTED AS EVIDENCE IN THE CASE, SUCH EXPERT WITNESS SHALL BE ALLOWED WITNESS FEES IN THE AMOUNT OF TWENTY-FIVE DOLLARS (\$25.00) PER DAY OR IN SUCH OTHER AMOUNT AS THE COURT SHALL ALLOW ACCORDING TO THE CIRCUMSTANCES OF THE CASE, AND THE EXPERT WITNESS FEE OF SUCH WITNESS SHALL BE CHARGED BY THE COURT AS COSTS AGAINST ANY PARTY OR BE APPORTIONED AMONG SOME OR ALL PARTIES IN THE DISCRETION OF THE COURT. No witness shall receive fees or mileage in more than one case covering the same period of time, or the same travel; and each witness shall be required to make affidavit that the fees and mileage claimed, have not been claimed or received in any other case; and no juror shall receive pay as a witness while serving as such juror.