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**Matt Blunt**  
**Secretary of State**

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**Secretary of State**

**Matt Blunt**

Administrative Rules Division  
James C. Kirkpatrick State Information Center  
600 W. Main  
Jefferson City, MO 65101  
(573) 751-4015

DIRECTOR

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•

EDITORS

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•

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•

PUBLISHING STAFF

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule.

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**RULES**—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

The rules are cited in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

**RSMo**—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

**R**ules filed as emergency rules may be effective not less than ten days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

**A**ll emergency rules must state the period during which they are in effect, and in no case can they be in effect more than 180 calendar days or 30 legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 1—OFFICE OF ADMINISTRATION  
Division 10—Commissioner of Administration  
Chapter 15—Cafeteria Plan**

**EMERGENCY AMENDMENT**

**1 CSR 10-15.010 Cafeteria Plan.** The Office of Administration is amending the rule on the cafeteria plan by amending section (1), Appendix A, section 2.01, section 3.01, section 3.02, section 3.04, section 3.06, section 3.07, section 4.01, section 6.01, section 8.01 and by adding a new section 3.08; and changing Appendix B, section 4.01; Appendix C, section 3.02, section 3.03, section 4.05, section 6.03, section 7.02 and by adding section 6.04 and section 6.05.

*PURPOSE: This rule is being amended for the following reasons: (1) to comply with new federal rules regarding changes in family-status and employment-status for health and life insurance benefits, (2) to provide for changes in the cost of health plan coverage (3) to provide for changes in the election of Dependent Care, (4) to amend the eligibility of a returning employee after separation of service and (5) to delete all references to group-term life insurance benefits and their eligibility under the provisions of the Cafeteria Plan.*

*EMERGENCY STATEMENT: This emergency amendment is necessary to preserve a compelling government interest that requires an early effective date. Without this amendment, the Missouri State*

*Employees' Cafeteria Plan would not be in compliance with the Internal Revenue Code. Therefore, this employee benefit plan, with \$54,600,000 in contributions (CY 2000), would be at risk of being retroactively eliminated. Any disruption in the application of this plan would create serious tax implications for the plan's 27,800 participants, since taxes would be owed on the amount contributed to the plan while authorization was suspended. Therefore, it is of considerable compelling government interest that the Missouri Cafeteria Plan not be put in jeopardy of being eliminated and thus depriving the 27,800 employees and their families of this benefit. This amendment also follows procedures best calculated to assure fairness to all interested parties under the circumstances. This emergency amendment is limited in scope to the circumstances creating this emergency and complies with the protection extended by the Missouri and United States Constitutions. Emergency amendment filed December 11, 2000; effective January 1, 2001; expires June 29, 2001.*

(1) The cafeteria plan for state employees, authorized by section 33.103, RSMo shall contain the following items:

(D) A provision authorizing the payment through the cafeteria plan of a participating employee's share of the cost or premium for coverage under any plan or program [of group term life insurance covering the employee's life, which plan or program is available to the employee by reason of his/her status as an employee;

(E) A provision authorizing the payment through the cafeteria plan of a participating employee's share of the cost or premium for coverage under any plan or program] which provides dental benefits or dental insurance to or on behalf of any employee or spouse or dependent, which plan or program is available to the employee by reason of his/her status as an employee;

[(F)](E) A provision authorizing the payment through the cafeteria plan of a participating employee's share of the cost or premium for coverage under any plan or program which provides vision care benefits or vision care insurance to or on behalf of any employee or spouse or dependent, which plan or program is available to the employee by reason of his/her status as an employee; and

[(G)](F) A provision authorizing a participating employee to reduce his/her future compensation for purposes of participation in the cafeteria plan.

*AUTHORITY: section 33.103, RSMo [Supp. 1999] 2000. Original rule filed March 15, 1988, effective June 1, 1988. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Dec. 11, 2000, effective Jan. 1, 2001, expires June 29, 2001.*

**APPENDIX A  
MISSOURI STATE EMPLOYEES' CAFETERIA PLAN**

The State of Missouri through the Office of Administration hereby amends and restates the Missouri State Employees' Cafeteria Plan (hereinafter called the MSEC) effective January 1, [2000] 2001. [The MSEC shall be in the form of a trust established by the State of Missouri for public employees of the state who participate in the MSEC.] The provisions of the MSEC, as set forth in this document and the attendant documents for the Missouri State Employees' Dependent Care Assistance Plan (Appendix B, hereinafter called the MSECAP) and the Missouri State Employees' Flexible Medical Benefits Plan (Appendix C, hereinafter called the MSECMBP), shall be applicable to each employee of the State of Missouri who elects to participate in the MSEC beginning with Plan Year [2000] 2001.

**ARTICLE TWO  
STATEMENT OF PURPOSE**

2.01 This Plan is intended to qualify as a "cafeteria plan" under Section 125 of the *Internal Revenue Code of 1986*, as amended, and is to be interpreted in a manner consistent with the requirements of Section 125. The purpose of the MSEC is to provide to participants the tax savings opportunities permissible under Section 125 of the *Internal Revenue Code*.

**ARTICLE THREE  
ELIGIBILITY AND PARTICIPATION**

3.01 The MSEC does not apply to any individual who terminated employment with the employer prior to the effective date of this amended and restated MSEC (January 1, [2000] 2001) unless such individual becomes reemployed by the employer on or after such effective date.

3.02 Any employee who is on the payroll of the employer as of the effective date is eligible to become a participant at the beginning of each Plan Year. Any eligible employee, except any employee subject to the provisions of the MSEC, section 3.03, who chooses not to become a participant at the beginning of each Plan Year will not again become eligible for participation in the MSEC until the beginning of the next Plan Year, [unless the employee experiences a change in family status] except as provided under the MSEC, section 3.07, whereby the employee may enroll within sixty (60) days of the occurrence of the allowable change in family status.

3.04 Subject to the provisions of the MSEC, section 3.05, an eligible employee shall become a participant for any Plan Year by specifying on the appropriate election form or in an alternate prescribed manner, agreement to and authorization for the reduction of the participant's compensation by a permissible amount for credit to the participant's account as maintained by the Plan Administrator. For purposes of the first sentence of this paragraph, the term "permissible amount" (unless and until subsequently changed by appropriate action of the Office of Administration and notice of such change is provided to all participants) means an amount(s) determined by the participant which is (are):

(a) not more than the expected total cost or premium during the Plan Year in the case of the State-Sponsored Medical Insurance benefit described in the MSEC, section 4.01(a);

(b) not more than five thousand dollars (\$5,000) in the case of the Flexible Medical Benefits benefit described in the MSEC, section 4.01(b);

(c) not more than five thousand dollars (\$5,000) in the case of the Dependent Care Assistance benefit described in the MSEC, section 4.01(c);

(d) not more than the expected total cost or premium during the Plan Year [for coverage not to exceed applicable Internal Revenue Service limits in the case of the State-Sponsored Group Term Life Insurance benefit described in the MSEC, section 4.01(d)];

(e) not more than the expected total cost or premium during the Plan Year in the case of the State-Sponsored Dental Insurance benefit described in the MSEC, section 4.01(e);

(f) not more than the expected total cost or premium during the Plan Year in the case of the State-Sponsored Vision Care Insurance benefit described in the MSEC, section 4.01(f); and

(g) not more than the total of maximum amounts set forth previously in the case of the benefit described in the MSEC, section 4.01(g). In the event of any change in the permissible amount, the resulting new permissible amount must be nondiscriminatory (as defined in Section 125 of the *Internal Revenue Code*) in its application to participants. In the case of the insurance benefits described in the MSEC, sections 4.01(a), 4.01(d), and 4.01(e) [and 4.01(f)], the permissible amount elected by the employee must be consistent with or will automatically be changed to reflect the actual rate in effect at the start of the coverage period.

3.06 [Beginning with Plan Year 1999, a] Any employee duly enrolled and participating in one or more of the insurance benefits described in the MSEC, sections 4.01(a), 4.01(d), or 4.01(e) [or 4.01(f)], shall be considered to have re-enrolled and to have submitted the required authorization to continue participation in the same benefit(s) for the subsequent Plan Year at an amount equal to the total expected annual cost or premium based on the rate in effect as of January 1 of that subsequent Plan Year. A participant who does not wish to continue an insurance benefit under the Cafeteria Plan for a subsequent Plan Year must so specify on the appropriate election form or in an alternate prescribed manner prior to the start of the subsequent Plan Year.

3.07 Permitted Election Changes.

(a) Following the commencement of any Plan Year for which an employee elects to participate in the MSEC, the authorization filed with the Plan Administrator for such Plan Year may neither be changed nor revoked except as provided in this section. An employee may

revoke an election during a period of coverage and make a new election for the remainder of the relevant coverage period only as provided in paragraphs (b) through [(i)] (h) of this section.

(b) Special enrollment rights. An employee may revoke an election for a benefit described under Article Four, section 4.01(a), [4.01(b),] **4.01(d), or 4.01(e), or 4.01(f)** and make a new election that corresponds with the special enrollment rights provided in *Internal Revenue Code* Section 9801(f) (HIPPA), whether or not the change in election is permitted under paragraph (c) of this section.

(c) Changes in status [for benefits described under sections 4.01(a), 4.01(b), 4.01(d), 4.01(e), and 4.01(f)].

1. An employee may revoke an election [for a benefit described under Article Four, section 4.01(a), 4.01(d), 4.01(e), or 4.01(f)] and make a new election for the remaining portion of the period if, under the facts and circumstances—

(i) [Following the commencement of any Plan Year a]A change in status occurs; and

(ii) The election change satisfies the consistency requirement in paragraph (c)(3) of this section [(consistency rule for accident or health coverage), (c)(4) of this section (consistency rule for Flexible Medical Benefits) or (c)(5) of this section (consistency rule for group-term life insurance coverage)].

2. Change in status events. The following events are changes in status for purposes of this paragraph (c)—

(i) Legal marital status. Events that change an employee's legal marital status, including marriage, death of spouse, divorce, legal separation, or annulment;

(ii) Number of dependents. Events that change an employee's number of dependents (as defined in *Internal Revenue Code* Section 152), including birth, adoption, placement for adoption (as defined in regulations under *Internal Revenue Code* Section 9801), or death of a dependent, **or in the case of Dependent Care, a change in the number of qualifying individuals as defined in *Internal Revenue Code* Section 21 (b)(1);**

(iii) Employment status. [A termination or commencement of employment by the employee, spouse, or dependent;

(iv) *Work schedule.* A reduction or increase in hours of employment by the employee, spouse, or dependent, including a switch between part-time and full-time, a strike or lockout, or commencement or return from an unpaid leave of absence;] **Any of the following events that change the employment status of the employee, spouse, or dependent is considered a change in status. A termination, commencement of employment, a strike or lockout, a commencement of or return from an unpaid leave of absence of more than thirty (30) days, change in worksite, or any other employment status change that affects eligibility under this plan or employee benefit plan of the employer of the spouse or dependent;**

[(v)](iv) Dependent satisfies or ceases to satisfy the requirements for unmarried dependents. An event that causes an employee's dependent to satisfy or cease to satisfy the requirements for coverage due to attainment of age, student status, or any similar circumstances as provided in the accident or health plan under which the employee receives coverage; and

[(vi)](v) Residence [or worksite]. A change in the place of residence [or work] of the employee, spouse, or dependent.

3. Consistency rule [for accident or health coverage]—

(i) General rule.

[(A)] An employee's revocation of a Cafeteria Plan election during a period of coverage and new election for the remaining portion of the period (referred to as an "election change") is consistent with a change in status if, and only if—

[(1)](A) The change in status results in the employee, spouse, or dependent gaining or losing eligibility for [accident or health] coverage under either the Cafeteria Plan or [an accident or health] a plan of the spouse's or dependent's employer; and

[(2)](B) The election change corresponds with that gain or loss of coverage.

(ii) **If the change in status is the employee's divorce, annulment or legal separation from a spouse, the death of a spouse or dependent, or a dependent ceasing to satisfy the eligibility requirements for coverage, an employee's election under the cafeteria plan to cancel accident or health insurance coverage for any individual other than the spouse involved in the divorce, annulment or legal separation, the deceased spouse or dependent, or the dependent that ceased to satisfy the eligibility requirements for coverage, respectively, fails to correspond with that change in status. Thus, if a dependent dies or ceases to satisfy the eligibility requirements for coverage, the employee's election to cancel accident or health coverage for any other dependent, for the employee, or for the employee's spouse fails to correspond with that change in status.**

**In addition, if an employee, spouse, or dependent gains eligibility for coverage under a plan provided by the employer of the spouse or dependent as a result of a change in marital status or a change in employment status, the employee may cease or decrease coverage for that individual only if coverage for that individual becomes applicable or is increased under that employer's plan.**

[(B)](iii) A change in status results in an employee, spouse, or dependent gaining (or losing) eligibility for coverage under a plan only if the individual becomes eligible (or ineligible) to participate in the plan. An individual is considered to gain or lose eligibility for coverage if the individual becomes eligible (or ineligible) for a particular benefit package option under a plan (e.g., a change in status results in an individual becoming eligible for a managed care option or an indemnity option). If, as a result of a change in status, the individual gains eligibility for elective coverage under a plan of the spouse's or dependent's employer, the consistency rule of this paragraph (c)(3)(i) is satisfied only if the individual elects the coverage under the spouse's or dependent's employer.

[(iii)](iv) Exception for COBRA. Notwithstanding paragraph (c)(3)(i) of this section, if the employee, spouse, or dependent becomes eligible for continuation coverage under [the employer's group health plan as provided in section 4980B] **any of the employer's health plans described in sections 4.01(a), 4.01(d), or 4.01(e) as provided under COBRA** or any similar state law, the employee may elect to increase payments under the Cafeteria Plan in order to pay for the continuation coverage.

[4. Consistency rule for flexible medical benefits.] (v) Except as provided in this paragraph the provisions of paragraph (c) apply to an election change under a benefit described under Article 4.01(b). A participant may reduce an election for a benefit described under 4.01(b) **due to a change in status** if and only if the employee's legal marital status changes due to death, divorce, annulment, or legal separation, or there is a reduction in the number of dependents of the employee (as defined in section 152 of the *Internal Revenue Code*) due to death [, or the commencement of a leave under the Family and Medical Leave Act.

5. *Consistency rule for group-term life insurance coverage.* Except as provided in this paragraph (c)(5), the provisions of paragraph (c)(3)(i) of this section apply to group-term life insurance coverage. In the case of marriage, birth, adoption, or placement for adoption, an employee may make an election change to increase (but not to reduce) the amount of the employee's life insurance coverage. In the case of divorce, legal separation, annulment, or death of a

*spouse or dependent, an employee may make an election change to reduce (but not to increase) the amount of the employee's life insurance coverage).*

(d) Judgment, decree, or order. This paragraph (d) applies to a judgment, decree, or order ("order") resulting from a divorce, legal separation, annulment, or change in legal custody (including a qualified medical child support order defined in section 609 of the Employee Retirement Income Security Act of 1974) that requires accident or health coverage for an employee's child. Notwithstanding the provisions of paragraph (c) of this section, an employee may—

1. Make an election change to a benefit described under sections 4.01(a), 4.01(b), **4.01(d)**, or 4.01(e) *[, or 4.01(f)]* to provide coverage for the child if the order requires coverage under the employee's plan; or

2. Make an election change to a benefit described under sections 4.01(a), **4.01(b)**, **4.01(d)**, or 4.01(e) *[, or 4.01(f)]* to cancel coverage for the child if the order requires the former spouse to provide coverage.

(e) Entitlement to Medicare or Medicaid. If an employee, spouse, or dependent becomes entitled to coverage (i.e., enrolled) under Part A or Part B of Title XVIII of the Social Security Act (Medicare) or Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under section 1928 of the Social Security Act (the program for distribution of pediatric vaccines), an employee may make an election change to a benefit described under sections 4.01(a), **4.01(d)**, or 4.01(e) *[, or 4.01(f)]* to cancel coverage of that employee, spouse, or dependent under the accident or health plan. **In addition, if an employee, spouse, or dependent who has been entitled to such coverage under Medicare or Medicaid loses eligibility for such coverage, an employee may make an election change to commence or increase coverage under a benefit described under sections 4.01(a), 4.01(d), or 4.01(e).**

*[(f) Election Changes for Dependent Care. An employee may revoke an election for a benefit described under Article Four, section 4.01(c) and make a new election for the remaining portion of the period if, under the facts and circumstances a change in status occurs; and the revocation and new election are consistent with and on account of the change in status. Examples of changes in status are:*

1. *Legal marital status. Events that change an employee's legal marital status, including marriage, death of spouse, divorce, legal separation, or annulment;*

2. *Number of dependents. Events that change an employee's number of dependents (as defined in section 152), including birth, adoption, placement for adoption (as defined in regulations under section 9801), or death of a dependent; or*

3. *Employment status. A termination or commencement of employment by the employee or spouse or the commencement of or a return from an unpaid leave of absence.]*

(f) Coverage or cost changes. Changes allowed under this section are not applicable to Flexible Medical Benefits as described in section 4.01(b). Therefore, no changes to an election for Flexible Medical Benefits is allowed due to events described in this section (f).

1. **Cost changes.** A participant's election for a benefit described under Article 4.01(a), 4.01(d), or 4.01(e) will automatically be changed to reflect a change in the cost of coverage. Alternatively, if the premium amount significantly increases a participant may revoke an election and, in lieu thereof, to receive on a prospective basis, coverage under another health plan with similar coverage.

2. **Coverage changes.** If the coverage under a plan is significantly curtailed or ceases during a period of coverage, affected employees may revoke their election under the plan and may make a new election on a prospective basis for coverage under another benefit package option providing similar coverage. Coverage under an accident or health plan is significantly curtailed only if there is an overall reduction in coverage provided to participants under the plan so as to constitute reduced coverage to participants generally. For example, the loss of a participant's primary care physician would not be a significant curtailment because it does not affect participants in general.

**Addition (or elimination) of benefit package option providing similar coverage.** If during a period of coverage the plan adds a new benefit package option or other coverage option (or eliminates an existing benefit package option or other coverage option) affected employees may elect the newly-added option (or elect another option if an option has been eliminated) prospectively and make corresponding election changes with respect to other benefit package options providing similar coverage.

3. **Change in coverage of spouse or dependent under other employer's plan.** An employee may make a prospective election change to a benefit described under sections 4.01(a), 4.01(d), and 4.01(e) that is on account of and corresponds with an election made under the plan of the spouse's, former spouse's or dependent's employer if the period of coverage under the cafeteria plan or qualified benefits plan of the spouse's, former spouse's, or dependent's employer only allows elections for periods of coverage different than the Plan Year for the MSECP.

*[(g) Significant coverage or cost changes.*

1. *Employer's plan. A participant's election for a benefit described under Article 4.01(a), 4.01(e), or 4.01(f) will automatically be changed to reflect a change in the cost of coverage attributable to an independent third party provider. Alternatively, if the premium amount significantly increases or coverage is significantly curtailed a participant may revoke an election and, in lieu thereof, to receive on a prospective basis, coverage under another health plan with similar coverage.*

2. *A participant may revoke an existing election for a benefit described in section 4.01(a), 4.01(e), or 4.01(f) and make a new election due to a significant change in the health coverage of the participant or the participant's spouse attributable to the spouse's employment. A participant may increase an existing election for a benefit described in section 4.01(b) due to a significant change in the health coverage of the participant or the participant's spouse attributable to the spouse's employment. Any change must be consistent with and on account of the change in health coverage attributable to the spouse's employment.]*

*[(h)] (g) Special requirements concerning the Family and Medical Leave Act.*

An employee taking FMLA leave may revoke an existing election *[of a benefit described under 4.01(a), 4.01(b), 4.01(e), or 4.01(f)]* for the remaining portion of the coverage period. Upon returning from FMLA leave, an employee may choose to be reinstated in any benefit described under this plan if such coverage was terminated during the FMLA leave (either by revocation or nonpayment of premiums). Such reinstatement will be on the same terms as prior to taking FMLA leave. However, the employee has no greater right to benefits for the remainder of the Plan Year than an employee who has been continuously working during the Plan Year. In addition to the rights granted under FMLA, such an employee has the right to revoke or change elections *[(e.g., because of changes in status or*



*significant cost or coverage changes imposed by a third-party provider]]* under the same terms and conditions as are available to employees participating in the Cafeteria Plan who are not on FMLA leave.

If an employee's coverage under a benefit described in section 4.01(b) or 4.01(c) terminates while the employee is on FMLA leave, the employee is not entitled to receive reimbursements for claims incurred during the period when the coverage is terminated. If that employee subsequently elects to be reinstated in a benefit previously terminated upon return from FMLA leave for the remainder of the Plan Year, the employee may not retroactively elect coverage for claims incurred during the period when the coverage was terminated. Further, the employee is not entitled to greater benefits relative to premiums paid than an employee who has been continuously working during the Plan Year. Therefore, if an employee elects to be reinstated in a benefit described above upon return from FMLA leave, the employee's coverage for the remainder of the Plan Year is equal to the employee's election for the 12-month period of coverage (or such shorter period as provided under section 3.03 or this section 3.07), prorated for the period during the FMLA leave for which no premiums were paid, and reduced by prior reimbursements.

*[An employee on FMLA leave has the right to revoke or change elections (e.g., because of changes in family status) under the same terms and conditions that apply to employees participating in the Cafeteria Plan who are not on FMLA leave.]*

*[(i)] (h)* Effective date of election changes.

Any increase in the election amount designated by a participant made due to a change in status may include only those expenses which the participant expects to incur at a time during the period of coverage subsequent to the effective date of the increase. Any increase or decrease to an election amount for a program described in the Plan document under Article Four, section 4.01(b) or 4.01(c) shall be effective with the first day of the month coincident with or next following the Plan Administrator's receipt and approval of written notification of the new election. Any increase or decrease to an election amount for a program described in the Plan document under Article Four, section 4.01(a), 4.01(d), or 4.01(e), or 4.01(f) shall be effective with the first required premium payment after the event. *[Any provider initiated increase in the premium for a program described in the Plan document under Article Four, section 4.01(d) may be added to the participant's election amount only during the first month that the premium increase becomes effective and only to the extent as allowed under applicable Internal Revenue Service regulations.]*

**3.08 If participation terminates due to a separation of service and the individual returns to eligible employment within thirty (30) days in the same Plan Year, then the participant's election will be reinstated as it was immediately prior to the separation of service. If participation terminates due to a separation of service and the individual returns to eligible employment after thirty (30) days in the same Plan Year, then the participant may make a new election for the remainder of the Plan Year. If salary reduction contributions were not made during the separation of service, the participant will not be able to be reimbursed for expenses incurred under benefits described under sections 4.01(b) and 4.01(c) during the separation.**

#### ARTICLE FOUR AVAILABLE SELECTION OF BENEFITS

4.01 In general, employees may choose to participate in any one or more of the following benefit categories offered under the MSECP:

(a) State-Sponsored Medical Insurance—This benefit category provides for the direct payment to the insurance provider of the participant's share of the cost or premium for coverage under any plan or program which provides medical benefits or health insurance to or on behalf of any employee or spouse or dependent in the event of illness or personal injury to the employee or spouse or dependent, which plan or program is available to the employee by reason of status as an employee. The term plan or program, for purposes of this article, shall include any group insurance or other plan which is either provided by the Missouri Consolidated Health Care Plan (MCHCP), or is obtained by competitive bid and is not duplicative of any other plan provided by the MCHCP. This article shall expressly include any Health Maintenance Organization (HMO) to which the employer makes a contribution on behalf of a participant;

(b) Flexible Medical Benefits—This benefit category provides for payment to the participant of the cost of medical care for the participant or spouse or dependents of the participant. Such expenses must be incurred pursuant to the terms of the separate but related MSEFMBP (Appendix C), established in conjunction with the MSECP;

(c) Dependent Care Assistance—This benefit category provides for payment to the participant of employment-related expenses for the care of the spouse or dependents of the participant. Such expenses must be incurred pursuant to the terms of the separate but related MSEDCAP (Appendix B) established concurrently with the MSECP;

*[(d) State-Sponsored Group Term Life Insurance— This benefit category provides for the direct payment to the insurance provider for the participant's share of the cost or premium for coverage under any plan or program which provides group term life insurance covering the participant's life, which plan or program is available to the employee by reason of status as an employee;]*

*[(e)] (d)* State-Sponsored Dental Insurance—This benefit category provides for the direct payment to the insurance provider of the participant's share of the cost or premium for coverage under any plan or program which provides dental benefits or dental insurance to or on behalf of any employee or spouse or dependent, which plan or program is available to the employee by reason of status as an employee. The term plan or program, for purposes of this article, shall include any group insurance or other plan which is either provided by the Missouri Consolidated Health Care Plan (MCHCP), or is obtained by competitive bid and is not duplicative of any other plan provided by the MCHCP;

*[(f)](e)* State-Sponsored Vision Care Insurance—This benefit category provides for the direct payment to the insurance provider of the participant's share of the cost or premium for coverage under any plan or program which provides vision care benefits or vision care insurance to or on behalf of any employee or spouse or dependent, which plan or program is available to the employee by reason of status as an employee. The term plan or program, for purposes of this article, shall include any group insurance or other plan which is either provided by the Missouri Consolidated Health Care Plan (MCHCP), or is obtained by competitive bid and is not duplicative of any other plan provided by the MCHCP; and

*[(g)](f)* Cash.

**ARTICLE SIX  
CONTRIBUTIONS TO PARTICIPANT ACCOUNTS**

6.01 Except as provided in the MSEFMBP, section /3.02, 4.04,/ 6.03 or Article VII, contributions to the account of each participant shall be made only by the employer and shall be made as follows: On the participant's regular pay date during each Plan Year, the employer shall cause to be contributed for credit to the account of said participant an amount equal to the sum of the permissible amounts elected by the participant for all benefits selected for the Plan Year divided by the number of the participant's regular pay dates in the Plan Year subsequent to the participant's effective date of participation.

**ARTICLE EIGHT  
MISCELLANEOUS**

8.01 No participant shall have any right to or interest in any assets of the MSECP upon termination or otherwise except as provided under the MSECP, and then only to the extent of the benefits payable under the MSECP to such participant. All payments of benefits provided under the MSECP shall be made solely out of the assets of the *[MSECP]* employer.

**APPENDIX B  
MISSOURI STATE EMPLOYEES' DEPENDENT CARE ASSISTANCE PLAN**

**ARTICLE FOUR  
LIMITATIONS AND RESTRICTIONS ON PAYMENTS FROM THE PLAN**

4.01 No direct payment to a participant or reimbursement to a participant for Dependent Care Assistance may be made from the MSED CAP unless the total assistance amount, including all other amounts paid to the participant for Dependent Care Assistance during the same Plan Year, does not exceed the lesser of: (a) five thousand dollars (\$5000) (twenty-five hundred dollars (\$2500) in the case of a married individual filing a separate return), or (b) the wages, salaries and other employee compensation of the participant if unmarried or if the participant is married does not exceed the lesser of such employee compensation of the participant or that of the participant's spouse. For purposes of this paragraph, employee compensation shall not include the total of the permissible amounts selected under the related MSEC P. For each month during which a spouse is a full-time student or incapable of independent self-care, said spouse shall be deemed to be gainfully employed and to have employee compensation of two hundred dollars (\$200) if there is only one (1) child or dependent and four hundred dollars (\$400) if there are two (2) or more children or dependents. A spouse is a student only if during each of five (5) calendar months during the Plan year said spouse is a full-time student at an education organization described in *Internal Revenue Code* Section 170(b)(1)(A)(ii).

APPENDIX C  
MISSOURI STATE EMPLOYEES' FLEXIBLE MEDICAL BENEFITS PLAN

ARTICLE THREE  
ELIGIBILITY

3.02 Participants who elect to participate in this MSEFMBP shall elect to participate for the full Plan Year. Participants may arrange to have contributions made to the Plan as specified in the MSECP, section 6.01/./, so long as the participant remains an employee of the employer. *[Upon termination of employment with the employer, payment of claims shall cease if required contributions are not received by the date the next required contribution is due.]* **Participation and coverage shall cease upon separation of service as of the last day of the month in which the last contribution was received.**

3.03 No participant in this MSEFMBP may modify or revoke an election with respect to the Plan Year, except under the conditions specified in MSECP, section [307]3.07. *[In addition, no participant may decrease the amount elected during a Plan Year except for a change due to the death of a spouse or dependent of the participant, divorce or legal separation, or for the participant taking a FMLA leave.]* In no case may a decrease in the amount of election result in a return of contributions to the participant.

ARTICLE FOUR  
LIMITATIONS AND RESTRICTIONS ON PAYMENTS FROM THE PLAN

4.05 Payments to participants shall be suspended whenever the designated contribution amount is not received by the time the next required payment is due. Payments will resume when the required contribution amounts are paid in full.

ARTICLE SIX  
CONTINUATION COVERAGE

6.03 A premium may be charged to the participant, spouse or dependent, as the case may be, for any period of continuation coverage equal to not more than one hundred two percent (102%) of the cost of providing coverage for the period to similarly situated participants, spouses or dependents. Any additional premium amount in excess of one hundred percent (100%) of the cost of providing coverage for the period to similarly situated participants, spouses or dependents, shall not be credited to the participant's account and shall be treated as an additional administrative charge. Continuation coverage will not extend beyond the end of the current plan year. However, coverage may terminate earlier if:

- (a) The employer ceases to provide any medical reimbursement plans to any *[employer]* employee;
- (b) The premiums described above are not paid within thirty (30) days of their due date; or
- (c) A party electing continuation coverage becomes covered under another group health plan or entitled to Medicare benefits.

**6.04 Payments for expenses incurred during any period of continuation shall not be made until the contributions for that period are received by the MSECP.**

6.05 Continuation coverage shall be provided in accordance with the requirements of Section 42 U.S.C. 300bb, all of which requirements are incorporated herein by reference.

ARTICLE SEVEN  
FAMILY AND MEDICAL LEAVE

7.02 An employee who continues coverage while on FMLA leave may choose from one or more of the following payment options. These options are referred to in this section as pre-pay, pay-as-you-go and catch-up. The catch-up option is only available while the employee is on an unpaid FMLA leave.

(a) Pre-pay.

(1) Under the pre-pay option, an employee may pay, prior to commencement of the FMLA leave period, the amounts due for the FMLA leave period.

(2) Contributions under the pre-pay option may be made on a pre-tax salary reduction basis from any taxable compensation.

(3) Contributions under the pre-pay option may also be made on an after-tax basis.

(b) Pay-as-you-go.

(1) Under the pay-as-you-go option, employees may pay their premium payments on the same schedule as payments would be made if the employee were not on leave or under any other payment schedule permitted by the Labor Regulations at 29 CFR 825.210(c) (i.e., on the same schedule as payments are made under the Consolidated Omnibus Reconciliation Act of 1985, Public Law 99-272; under the employer's existing rules for payment by employees on leave without pay; or under any other system voluntarily agreed to between the employer and the employee that is not inconsistent with this section or with 29 CFR 825.210(c)).

(2) Contributions under the pay-as-you-go option may be made on a pre-tax basis to the extent that the contributions are made from taxable compensation that is due the employee during the leave period, and provided that all cafeteria plan requirements are satisfied.

(3) Coverage under *[a benefit described in section 4.01(b)]*the MSEFMBP will be terminated for any employee who fails to make required premium payments while on FMLA leave.

(c) Catch-up.

(1) An employee on an unpaid FMLA leave may elect to use the catch-up option to pay premiums advanced on his or her behalf by the state during the FMLA leave. The state and the employee must agree in advance of the coverage period that: the employee elects to continue coverage while on unpaid FMLA leave; the state will assume responsibility for advancing payment of the premiums on the employee's behalf during the FMLA leave; and these advance amounts must be paid by the employee when the employee returns from FMLA leave.

(2) Contributions under the catch-up option may be made on a pre-tax salary reduction basis when the employee returns from FMLA leave from any available taxable compensation. These contributions will not be included in the employee's gross income, provided that all Cafeteria Plan requirements are satisfied.

(3) Contributions under the catch-up option may also be made on an after-tax basis.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 200—State Board of Nursing  
Chapter 4—General Rules**

**EMERGENCY AMENDMENT**

**4 CSR 200-4.010 Fees.** The board is amending subsection (1)(J).

*PURPOSE:* The purpose of this emergency amendment is to increase fees.

*EMERGENCY STATEMENT:* Pursuant to 335.036.2., RSMo 1994, "The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter." A compelling governmental interest exists, as this emergency amendment is necessary to cover operating costs. The board has experienced a dramatic shortfall of 1.9 million dollars in the nursing fund. This shortfall has necessitated that the board secure a loan until it can make up the shortfall by increasing revenue to cover its operating expenses which must be repaid with interest by the end of fiscal year 2001. Although the board anticipates that it will be able to repay the loan by the end of fiscal year 2001, without the immediate fee increase requested herein the board will experience another shortfall in fiscal year 2002 and beyond. This emergency amendment increases the cost to renew a RN license from \$60 to \$100 and the cost to renew a LPN license from \$52 to \$92. Ten dollars (\$10) of the RN fee and two dollars (\$2) of the LPN fee is for the nursing student loan fund administered by the Missouri Department of Health as provided by statute 315.221, RSMo. There are four factors that have created a depletion of the Board of Nursing's fund. These are:

1. A review of the revenue and expenditures for the past 6 years identify that there has been an increase of costs and a decrease in revenue. The number of new licensure applicants decreased 16% from FY1999 to FY2000. This is higher than the national average of a 6% annual decrease. The number of LPN decreased from 23,683 to 21,603 from FY1999 to FY2000. The board traditionally has a 1 1/2 to 2% increase in licensees each year. Because of the unplanned significant decrease in the number of licensees and number of applicants, actual revenue did not reach the projected revenue.

2. The current formula that is used to determine the board's portion of cost of the division and department averages 30% based on the 3-year licensure numbers. The major expenditures of the division to upgrade the licensure system, implement optical imaging, and complete a continuing education study these past two years have created significant costs for the board; approximately \$387,600.

3. The board's costs have increased the past three years due to increase in number of complaints and 3-year statute limitation on completion of cases.

4. The fee structure of the board has not changed since 1993.

The board finds that an immediate danger to the public health, safety and welfare exists because if this emergency amendment is not enacted, the Board of Nursing will not be able to operate and carry out their duties to protect the public. The board has followed procedures calculated to assure fairness to all interested persons and parties under the circumstances. This emergency amendment complies with the protections extended by the Missouri and United States Constitutions. The board has limited the scope of the emergency amendment to the circumstances creating the emergency. This emergency amendment was filed on December 15, 2000, shall be effective January 1, 2001 and shall expire on June 29, 2001.

(1) The following fees are established by the State Board of Nursing:

- (J) Biennial Renewal Fee—
- |        |                         |
|--------|-------------------------|
| 1. RN  | [ \$ 60.00 ] \$ 100.00; |
| 2. LPN | [ \$ 52.00 ] \$ 92.00;  |

3. License renewal for a professional nurse shall be biennial; occurring on odd-numbered years and the license shall expire on April 30 of each odd-numbered year beginning with the 1997-1999 renewal period. License renewal for a practical nurse shall be biennial; occurring on even-numbered years and the license shall expire on May 31 of each even-numbered year beginning with the 1998-2000 renewal period. Renewal shall be for a twenty-four (24)-month period except in instances when renewal for a greater or lesser number of months is caused by acts or policies of the Missouri State Board of Nursing. Renewal applications shall be mailed every even-numbered year by the Missouri State Board of Nursing to all LPNs currently licensed and every odd-numbered year to all RNs currently licensed;

4. A renewal fee of [sixty dollars (\$60)] one hundred dollars (\$100) every other year for an RN effective with the 2001-2003 renewal period and [fifty-two dollars (\$52)] ninety-two dollars (\$92.00) every other year for an LPN effective [with the 2000-2002 renewal period] January 1, 2001 shall be accepted by the Missouri State Board of Nursing only if accompanied by an appropriately completed renewal application; and

5. All fees established for licensure or licensure renewal of nurses incorporate an educational surcharge in the amount of one dollar (\$1) per year for practical nurses and five dollars (\$5) per year for professional nurses. These funds are deposited in the professional and practical nursing student loan and nurse repayment fund;

*AUTHORITY:* sections 335.036 and 335.046, RSMo [1999] 2000. Emergency rule filed Aug. 13, 1981, effective Aug. 23, 1981, expired Dec. 11, 1981. Original rule filed Aug. 13, 1981, effective Nov. 12, 1981. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 12, 2000. Emergency amendment filed Dec. 15, 2000, effective Jan. 1, 2001, expires June 29, 2001.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 265—Division of Motor Carrier  
and Railroad Safety  
Chapter 10—Motor Carrier Operations**

**EMERGENCY AMENDMENT**

**4 CSR 265-10.030 Insurance.** The division is amending the purpose clause, inserting new sections (1) and (2), amending and renumbering current sections (1), (2), (3), (4), (6), (7) and (10), amending and renumbering current section (5) as subsection (A) of section (6), and amending section (9). Sections (8), (11), (12), and (13) are deleted entirely, but their subject matter is being revised and addressed in other sections of the rule as amended.

*PURPOSE:* The division finds that this amendment is necessary to carry out the following purposes: (1) To implement the requirements and provisions of section 390.128 of section A of House Bill No. 1797, 90th Missouri General Assembly, 2nd Regular Session (effective August 28, 2000), by providing for the electronic filing of proof of insurance for motor carriers operating under the division's authority within the state; (2) To enable the division to continue carrying out its duties in registering interstate motor carriers under § 390.071, RSMo, by quickly adapting to imminent changes in the relevant federal regulations pursuant to the single, federal on-line registration system mandated by Congress in § 13908 of title 49, United States Code; (3) To enhance the ability and convenience of the motor carrier and insurance industries to comply with this rule and § 390.126, RSMo, by replacing the 15-day FAX

binder authorization with provisions allowing the filing of FAX copies as final documents instead of originals; (4) To streamline or clarify the rule, and to increase compatibility with corresponding federal motor carrier insurance requirements, through text revisions that include: (a) adding topical subheadings for each section; (b) advancing the definitions from the end to the beginning of the rule; (c) adding pertinent definitions of terms defined in corresponding federal laws or regulations; (d) updating references to the relevant federal agency, laws, regulations, and the Single State Registration System, which are either obsolete, or subject to imminent changes already approved by act of Congress; (e) explaining certain procedures that were merely implied or unclear in the existing rule; (f) clarifying that cargo insurance requirements are applicable only to the transportation of household goods; (g) avoiding redundant use of terms or phrases; (h) replacing text in the passive voice with the active voice when appropriate; (i) removing unnecessary plurals when singular word forms are sufficient; and (j) condensing the text when more concise wording can be used instead.

**PURPOSE:** This rule [prescribes the amounts and filing requirements for insurance] defines and describes the procedures, forms and authorization for filing, canceling, replacing and reinstating proof of motor carrier insurance or surety bonds, and prescribes the minimum limits of public liability coverage for motor carriers of passengers or property, and minimum limits of cargo liability coverage for household goods carriers.

**EMERGENCY STATEMENT:** For the reasons described below, the Division finds that an immediate danger to the public welfare exists which requires emergency action by the division, and that this emergency amendment is necessary to preserve a compelling governmental interest, and thus requires an early effective date for this amendment as permitted pursuant to § 536.025, RSMo.

Three major legislative enactments have precipitated the division's conclusion that emergency action by the division is necessary to avoid substantial adverse impacts to Missouri's economy and the public welfare of Missouri's highways. First, Congress has enacted section 13908 of title 49, United States Code, which mandates certain reforms in the registration of interstate motor carriers by the several States, including the adoption of regulations to replace the current Single State Registration System under section 14504 of title 49, United States Code, with a single, on-line, federal system. This new federal system will serve as a clearinghouse and depository of information concerning motor carrier identification and compliance with required levels of financial responsibility (insurance coverage or surety bonds), and the preemptive effect of these federal laws and regulations will require the division to be extremely flexible in responding to the insurance requirements of this new system. The final regulations to implement this new registration system have not yet been adopted, but because it is an "on-line" system, it is evident that the electronic filing of proof of financial responsibility for interstate motor carriers will be an essential element of the system, and that states will have to adapt to an electronic filing system to participate in it.

Second, newly enacted section 390.128 of the **Missouri Revised Statutes** (RSMo) authorizes the division "[t]o assist motor carriers in certifying their motor vehicle financial responsibility" pursuant to chapters 390 and 622, RSMo, by providing by rule for "the electronic filing by insurance companies of certificates of insurance required by section 390.126, RSMo . . . the confirmation of coverage by insurance companies authorized to do business in the state through national clearinghouses or private databases . . . [and] the acceptance of proof of insurance from insurance companies located outside of the state." This state statute has given MCRS authority to implement the changes affecting proof of liability insurance coverage anticipated from the new, federal, on-line motor carrier registration system, and corresponding changes for intrastate motor carriers. But to do so, the division must change

its administrative rules to provide for electronic filing of insurance certificates, surety bonds, and related documents.

Third, Congress has recently enacted the *Electronic Signatures in Global and National Commerce Act*, Public Law 106-229, 114 Stat. 464 (June 30, 2000). This act contains important provisions, effective October 1, 2000, which generally preempt any law from denying the validity of a signature, contract or other record relating to a transaction in or affecting interstate or foreign commerce, solely because it is in electronic form, or because a contract used an electronic signature or electronic record in its formation. Together with other provisions that will protect electronic records from legal objections on the ground that they are not in writing, and allow electronic storage and transmission of legal documents, this new law promotes electronic commerce by removing substantial legal barriers to online commercial transactions. Meanwhile, other states including California, Georgia, Massachusetts, Utah, Vermont and Washington have also introduced or adopted legislation aimed at spurring economic growth by validating electronic transactions. Emphasizing the need for prompt implementation of electronic signature legislation, legal scholars have observed that:

benign neglect may well produce stagnation or at least slow the development of business online. Retention of existing law during a period of rapid technological innovation can, paradoxically, create instability and uncertainty. Conversely, when law moves with change in business practice, law can actually have its most stabilizing effect and facilitate economic growth. . . . One thing is certain: great change predominates the e-commerce world, and unless we move with change, we will become its victims.

T. Smedinghoff & R. H. Bro, *Moving with Change: Electronic Signature Legislation as a Vehicle for Advancing E-commerce*, XVII JOHN MARSHALL JOURNAL OF COMPUTER AND INFORMATION LAW 723, et seq. (Spring, 1999), excerpted and reprinted in *FindLaw for Legal Professionals*, at <http://profs.lp.findlaw.com/signatures/index.html>.

If Missouri does not quickly adapt to the rapidly unfolding technologies of electronic commerce, the state's motor carriers and insurance providers could suffer competitive disadvantages and lose economic opportunities to their competitors in other states and rival industries. The division finds that excessive delay in implementing electronic insurance filing on behalf of motor carriers could subject Missouri motor carriers and insurance providers to economic disadvantages in comparison to other states and competing industries, which would adversely impact Missouri's economy and public welfare within the state.

These changes are also urgent because the highly competitive motor carrier and insurance industries need the benefits of improved customer service and reduced operating costs that are expected to result from these changes, to counteract the economic impacts of growing competition, negative pressure on prices and revenues, and increased fuel costs and other operating expenses. Electronic filing, filing of photocopies and by FAX, and other benefits of the emergency changes will enable auto liability insurers to significantly expedite the filing of required proof of liability coverage for their motor carrier clients, resulting in faster regulatory compliance, and enabling motor carriers to start business or change their insurance coverage more quickly. Because the division will provide electronic access for insurers to review the division's motor carrier data base system, and verify the insured motor carriers' status and detailed information before preparing and filing the required forms on their behalf, electronic insurance filing pursuant to this amendment will improve accuracy of the required documents and avoid technical mistakes, which can often delay and hinder compliance with insurance requirements by motor carriers, and should speed up any necessary corrections to the required documentation. These improvements should also enable insurers to reduce operating costs and increase profitability, which could attract additional insurers into the Missouri market and ben-

eft motor carriers by increased competition among insurers and possibly lower insurance premiums.

This emergency amendment also promotes a compelling governmental interest of MCRS in furthering the powers granted to the division under § 390.128, RSMo, by enabling MCRS to carry out a service contract recently signed with National Online Registries, Inc. (NOR), which is leading the development of a multistate insurance compliance database and clearinghouse system. The contract establishes terms of Missouri's participation in NOR's Electronic Motor Carrier Insurance Exchange Program for electronic filing and approval of proof of liability insurance coverage for motor carriers, along with about 15 other states who are already participating in NOR's program. The amendment is urgently needed to enable MCRS to carry out this contract, to implement the provisions of § 390.128, to participate in the single, federal on-line registration system for interstate motor carriers, and to extend the same benefits to intrastate motor carriers also. It also will enable MCRS timely to coordinate the changes to the rule with our anticipated implementation of a "paperless office" system for computerized processing of motor carrier registration and licensing applications in January, 2001, which will result in a smoother transition and reduced costs for the division.

MCRS worked with representatives of the motor carrier and insurance industries in supporting the enactment of § 390.128, RSMo. Through personal discussions, the public legislative process, conferring with several motor carrier industry groups at their annual meetings, and meeting with other state regulatory officials, motor carriers and insurance industry representatives at the National Conference of State Transportation Specialists, MCRS has discussed with and listened to industry and government agency representatives about the need for electronic insurance filing, how to implement the single, federal, on-line registration system for interstate motor carriers as mandated by 49 U.S.C. § 13908, and how to develop cost-effective methods for compliance with the division's insurance requirements. MCRS has also sent advance copies of the Emergency Amendment to representatives of the Missouri Motor Carriers Association, the Missouri Dump Truckers Association, and the Missouri Movers Association, to solicit their comments and give them an opportunity to respond to the amendment as soon as possible. These procedures are best calculated to assure fairness to all interested persons and parties under the circumstances, and to comply with the protections extended by the Missouri and United States Constitutions, without longer delaying the necessary benefits to the affected industries.

The Division has limited the scope of this Emergency Amendment to the circumstances creating the emergency and requiring emergency procedure. The substantive changes described above are necessary to respond quickly and effectively to the emergency conditions, and to avoid the adverse impacts on motor carriers, insurance providers and sureties that are anticipated if the division delays amendment of the rule during the prolonged procedures required by law for an ordinary proposed amendment. In addition, the text changes to streamline and clarify the rule are essential to promoting increased public understanding of the rule and of these substantive changes, by making the rule easier to read and understand. Significantly, the emergency changes only make additional methods of insurance filing available for motor carriers to satisfy the statutory requirements, without depriving anyone of the option to use any approved methods currently available under the existing rule.

This Emergency Amendment was filed December 15, 2000, shall become effective on January 2, 2001, and shall remain effective for one hundred eighty (180) days after that date, to expire on June 30, 2001.

**PUBLISHER'S NOTE:** The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested

person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

**(1) DEFINITIONS.** As used in this rule, unless the context clearly indicates otherwise, the following words and terms mean:

**(A) Bodily injury**—Injury to the body, sickness, or disease, including death resulting from any of these.

**(B) Cancellation**—The termination of insurance coverage by either the insurer or the insured.

**(C) Endorsement**—A written amendment to the insurance policy.

**(D) FMCSA**—Federal Motor Carrier Safety Administration, including any successor agency or official that hereafter is authorized by federal law to administer the licensing of interstate motor carriers.

**(E) Form**—The standard form document that is currently specified for use by the division, including any electronic forms or data that may be approved by the division as acceptable equivalents pursuant to this rule or § 390.128, RSMo. Forms E, F, G, H, I, J, K and L referred to in this rule are incorporated by reference in this rule. The division may add, amend, or eliminate any standard forms, which may include joint or common forms used by the division in cooperation with other public governmental agencies or officials.

**(F) Property damage**—Damage to or loss of use of tangible property, except property that the carrier transports as cargo on its motor vehicle.

**(G) Public liability**—Liability for bodily injury or property damage; and with reference to the transportation of property in interstate commerce pursuant to authority granted by the FMCSA, or the transportation of any hazardous material, hazardous substance or hazardous waste in interstate or intrastate commerce, the term includes liability for environmental restoration.

**(H) SSRS**—The Single State Registration System established pursuant to section 14504 of title 49, *United States Code*, and part 365 of title 49, *Code of Federal Regulations*, including any successor motor carrier registration system that may be created pursuant to section 13908 of title 49, *United States Code*, and any federal regulations implementing that section, as those statutes and regulations have been or periodically may be amended.

**(2) FILING OF DOCUMENTS.** Insurance companies offering motor carrier insurance certificates, surety bonds, cancellation notices, or other documents for filing with the division pursuant to this rule, shall deliver the documents to the attention of the division's registration section, in the division's main office, by any of the following methods: personal delivery, U.S. mail, express courier delivery, and unless otherwise specifically ordered by the division, photocopies or FAX copies may be offered for filing instead of originals. Whenever the division determines that it has the capability, it may also receive and accept or reject these documents for filing through any national clearinghouse or private database, electronic mail (e-mail), or other approved electronic media, in conformity with section (10) of this rule. A person or company that offers photocopies, FAX copies, or electronic documents for filing shall be bound by them as if they were signed originals. All documents offered for filing shall comply with the applicable requirements and be properly signed or otherwise authenticated in accordance with this rule.

**(A)** Upon request, the division will acknowledge receipt of any document offered for filing pursuant to this rule by stamping or marking the document, or other method approved by the division, which shall specify the date when received. The division shall receive these documents between the hours of



8:00 a.m. and 5:00 p.m. daily, except on Saturdays, Sundays and state holidays. If any document is received by the division by FAX, e-mail, or any other electronic medium on a Saturday, Sunday or state holiday, or on any other day after 5:00 p.m. but before 8:00 a.m. on the next succeeding day, then the division shall deem it as received at 8:00 a.m. on the next succeeding day that is neither a Saturday, Sunday, nor state holiday.

(B) A document offered for filing pursuant to this rule is filed with the division when the designated division personnel have—

1. Received the completed document;
2. Made a preliminary review and determination that the document received is complete, properly authenticated, and satisfies all applicable legal requirements; and
3. Confirmed the filing by stamping or marking the document, or other method approved by the division, which shall record the date when filed.

(C) Except as provided in section (10) of this rule, whenever a document form is specified by this rule, the document shall be filed using that form.

(D) The division may reject any document filed or offered for filing pursuant to this rule, or declare it invalid at any time, and shall notify the motor carrier of the rejection or invalidity, if —

1. The motor carrier fails to comply, or to obtain compliance by its insurer or surety, with any applicable requirement of the division pursuant to this rule, section 390.126, or section 390.128, RSMo;
2. The person or persons purporting to have signed or authenticated the document fail to give the division adequate assurance of the authenticity of the document, including any signatures or copies, when requested by the division; or
3. The document is filed on paper that is either larger than eight and one-half inches wide by eleven inches high (8 1/2" × 11"), or smaller than eight and one-half inches wide by five and one-half inches high (8 1/2" × 5 1/2").

(E) Insurance certificates and surety bonds filed with the division shall not be removed from the division's custody, except as provided by law or by permission of the division director or personnel authorized by the director.

**[[1]](3) PROOF OF COVERAGE AND MINIMUM LIMITS OF PUBLIC LIABILITY FOR INTRASTATE CARRIERS GENERALLY.** Except as provided in section **[[2]](4)**, every motor carrier operating any motor vehicles in intrastate commerce by authority of *[the Division of Motor Carrier and Railroad Safety]* this division shall at all times have on file with and approved by the division a surety bond or a certificate of public liability *[and property damage]* insurance (on a form approved by the division) which shall show specifically that the required uniform endorsements are attached to the policy covering each motor vehicle in amounts not less than the following amounts:

(A) Passenger vehicles—twelve (12)-passenger or less capacity, \$100,000 for injury or death of one (1) person; \$300,000 for any one (1) accident; \$50,000 property damage for any one (1) accident. More than twelve (12)-passenger capacity, \$100,000 for injury or death of one (1) person; \$500,000 for any one (1) accident; \$50,000 property damage for any one (1) accident; and

(B) Freight vehicles—\$100,000 for injury or death of one (1) person; \$300,000 for any one (1) accident; \$50,000 property damage for any one (1) accident.

**[[2]](4) PROOF OF COVERAGE AND MINIMUM LIMITS OF PUBLIC LIABILITY FOR INTERSTATE OR HAZARDOUS MATERIALS CARRIERS.** Every motor carrier operating any motor vehicles in interstate commerce in or through Missouri, and every motor carrier operating any motor vehicles in intrastate commerce transporting those types of commodities des-

ignated in the following table, at all times shall have on file with and approved by the division a surety bond or a certificate of public liability *[(bodily injury) and property damage]* insurance; except that, before operating any motor vehicles within this state, a motor carrier whose Missouri vehicle operations are exclusively in interstate commerce under *[Interstate Commerce Commission (ICC) or Federal Highway Administration (FHWA)]* FMCSA authority shall file proof of insurance with its registration state as required by the *Single State Registration System (SSRS) Procedures Manual* which is incorporated by reference in this rule<sup>[.]</sup>, or in accordance with any succeeding SSRS requirements. Except as otherwise required to comply with SSRS, *[E]*every surety bond and insurance certificate filed pursuant to this section shall show specifically that the required uniform endorsements are attached to the policy covering each motorvehicle in amounts not less than the amounts depicted on the following table:

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**SCHEDULE OF MINIMUM LIMITS OF PUBLIC LIABILITY**  
*[(Public Liability and Property Damage Insurance)]*

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Type of Carriage	Commodity Transported	Amount
1) Motor carriers operating in interstate commerce, with a gross vehicle weight rating of 10,000 or more pounds	Property (nonhazardous)	\$ 750,000
2) Motor carriers operating in interstate commerce or intrastate commerce, with a gross vehicle weight rating of 10,000 or more pounds	Hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks or hopper-type vehicles with capacities in excess of 3500 water gallons; or in bulk <sup>1</sup> Division 1.1, 1.2 and 1.3 materials, Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A materials; or in bulk Division 2.1 or 2.2; or highway route controlled quantities of a Class 7 material as defined in 49 CFR 173.403	\$5,000,000
3) Motor carriers operating in interstate commerce or intrastate commerce, with a gross vehicle weight rating of 10,000 or more pounds	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in 2) or 4)	\$1,000,000
4) Motor carriers operating in interstate commerce, with a gross vehicle weight rating of LESS THAN 10,000 pounds	Any quantity of Division 1.1, 1.2 or 1.3 material; any quantity of Division 2.3 Hazard zone A or Division 6.1, Packing Group I Hazard Zone A material; or highway route controlled quantities of a Class 7 material as defined in 49 CFR 173.403	\$5,000,000
5) Motor carriers operating in interstate commerce	Passengers—Any vehicle with a seating capacity of 16 passengers or more Passengers—Any vehicle with a seating capacity of 15 passengers or less	\$5,000,000 \$1,500,000

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<sup>1</sup> NOTE: As used in row number 2) of the above table, the following definitions apply:

“In bulk” means the transportation, as cargo, of property, except Division 1.1, 1.2 or 1.3 materials, and Division 2.3, Hazard Zone A gases, in containment systems with capacities in excess of 3,500 water gallons;

“In bulk” (Division 1.1, 1.2 and 1.3 explosives) means the transportation, as cargo, of any Division 1.1, 1.2 or 1.3 materials in any quantity; and

“In bulk” (Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A materials) means the transportation, as cargo, of any Division 2.3, Hazard Zone A or Division 6.1, Packing Group I, Hazard Zone A material in any quantity.

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**[(3)](5) PUBLIC LIABILITY INSURANCE AND SURETY BOND FORMS.** The certificate of public liability insurance (form E) shall state that the insurer has issued to the motor carrier a policy of insurance which by endorsement provides automobile bodily injury and property damage liability insurance covering the obligations imposed upon the motor carrier by the provisions of the law of this state. The certificate shall be on form E—Uniform Motor Carrier Bodily Injury And Property Damage Liability Certificate of Insurance. The certificate shall be duly completed and executed by the insurer. The endorsement/s/ shall be attached to the insurance policy and *[shall] form a part of it, and true*. True copies of the policy with the endorsement/s/ attached shall be maintained at the motor carrier's principal place of business *[(if any)]*, and upon request shall be produced for inspection by the division within this state. The endorsement/s/ shall be on form F—Uniform Motor Carrier Bodily Injury and Property Damage Liability Insurance Endorsement/s/. The endorsement/s/ shall be duly completed and executed by the insurer. The form F endorsement amends the insurance policy to which it is attached to assure compliance with this rule by the motor carrier. The surety bond shall be in the form set forth in form G—Uniform Motor Carrier Bodily Injury And Property Damage Surety Bond. The bond shall be duly completed and executed by the surety and principal. *[The division shall accept, as a fifteen (15)-day binder pending the receipt of the original form, legible copies of forms E and G filed with the division by telephonic (fax) transmission. If the original form is not received by the division within fifteen (15) days after receipt of the fax, then the carrier is not in compliance with this section and the division will accept only the original form.]* Except as otherwise required pursuant to SSRS, this section is applicable to interstate as well as intrastate motor carriers.

**[(4)](6) INTRASTATE HOUSEHOLD GOODS CARGO LIABILITY—PROOF OF COVERAGE, MINIMUM LIMITS AND FORMS.** Except as otherwise provided in this rule or by division order, each *[freight-carrying]* vehicle while transporting household goods in intrastate commerce within this state shall be covered by a surety bond or certificate of cargo insurance filed with, and approved by, the division in amounts not less than the following: for loss or damage to *[property carried]* household goods cargo on any one (1) motor vehicle—\$2500; for loss or damage to or aggregate of losses or damages of or to *[property]* household goods cargo occurring at any one (1) time and place—\$5000.

*[(A) Any shipper and contract carrier may agree upon different limits of cargo insurance than these set forth or the shipper may expressly waive the requirements of any cargo insurance. Any such agreement or waiver shall be evidenced in writing and filed with the division in lieu of policy of insurance.*

*[(B) 49 U.S.C. sections 14501(c) and 41713(b) generally preempts the states from enacting or enforcing any law, regulation, or other provision having the force and effect of law relating to the prices, routes and services of motor carriers of property (except household goods). The division interprets this federal law as generally preempting Missouri's uniform cargo liability rules, because the Act imposes a condition requiring those rules to be optional at the request of the carrier, which is not allowed by Missouri law. This section has therefore been amended to require cargo insurance only with respect to household goods.]*

**[(5)] (A)** The certificate of cargo liability insurance shall state that the insurer has issued to the motor carrier of household goods a policy of insurance which by endorsement provides cargo insurance covering the obligations imposed upon the motor carrier by provisions of the law of this state. The certificate shall be on form

H—Uniform Motor Carrier Cargo Certificate Of Insurance. The certificate shall be duly completed and executed by the insurer. **The endorsement shall be attached to the insurance policy and form a part of it. True copies of the policy with the endorsement attached shall be maintained at the motor carrier's principal place of business, and upon request shall be produced for inspection by the division within this state. The endorsement shall be on form I—Uniform Motor Carrier Cargo Insurance Endorsement, which shall be duly completed and executed by the insurer. The form I endorsement amends the insurance policy to which it is attached to assure compliance with this rule by the motor carrier.** The surety bond shall be in the form set forth in form J—Uniform Motor Carrier Cargo Surety Bond. The bond shall be duly completed and executed by the surety and principal. *[The division shall accept, as a fifteen (15)-day binder pending the receipt of the original form, legible copies of forms H and J filed with the division by fax transmission. If the original form is not received by the division within fifteen (15) days after receipt of the fax, then the carrier is not in compliance with this section and the division will accept only the original form.]*

**(B) An insurance company or surety shall file separate certificates or bonds, whenever it provides both cargo liability and public liability coverage for a motor carrier of household goods.**

**(C) Any shipper and contract carrier of household goods may agree upon different limits of cargo insurance than this section requires, or the shipper may expressly waive cargo insurance coverage for all household goods shipments transported by the contract carrier. The agreement or waiver shall be evidenced in writing and filed with the division. When agreements or waivers are filed and in effect regarding all contracting shippers that a contract carrier may serve, upon the carrier's request the division shall waive the filing of a cargo liability insurance certificate or surety bond for that carrier.**

**[(6)](7) CANCELLATION AND REINSTATEMENT.** Except as provided in section **[(7)](8)** of this rule, an insurer under the provisions of this rule shall give the division not less than thirty (30) days' notice of the cancellation of motor carrier bodily injury and property damage liability insurance or motor carrier cargo insurance, by filing with the division the form of notice set forth in form K—Uniform Notice Of Cancellation Of Motor Carrier Insurance Policies. The notice shall be duly completed and executed by the insurer. A surety under the provisions of the rule shall give the division not less than thirty (30) days' notice of the cancellation of motor carrier bodily injury and property damage liability surety bond or motor carrier cargo surety bond, by filing with the division the form of notice set forth in form L—Uniform Notice Of Cancellation Of Motor Carrier Surety Bond. The notice shall be duly completed and executed by the surety or motor carrier. **After cancellation in accordance with this section, a new certificate of insurance or surety bond must be filed to reinstate coverage for the motor carrier. Except as otherwise required pursuant to SSRS, this section is applicable to interstate as well as intrastate motor carriers.**

**[(7)] (8) REPLACEMENT COVERAGE.** Policies of insurance and surety bonds required *[under]* pursuant to this rule may be replaced by other policies of insurance or surety bonds. The liability of the retiring insurer or surety shall be considered as having terminated on the effective date of the replacement policy of insurance or surety bond if accepted by the division; *[provided, however,]* except that if a cancellation notice under section **[(6)](7)** of this rule is received prior to receipt of the replacement certificate of insurance or surety bond, the liability of the retiring insurer or surety shall be considered as having terminated at the end of the thirty (30)-day cancellation period required in section **[(6)](7)** of this rule.

[(8) *When the insurance company issuing the policy desires to write coverage on both public liability and property damage and cargo insurance, separate certificates and endorsements shall be used.*]

(9) **AUTHORIZATION OF INSURER OR SURETY.** *[Before any policy of insurance shall be accepted by the division, the insurance company issuing the policy, or the carrier offering same,] Except as otherwise required pursuant to SSRS, upon request of the division, any insurance company that has filed or offers to file an insurance certificate shall furnish evidence satisfactory to the division that the insurance company issuing the policy is duly authorized to transact business in Missouri and to issue the policy offered, and that it is financially able to meet its obligations.*

(10) *[All insurance certificates and surety bonds filed with the division shall remain on file in the division and must not be removed from the division except with the written permission of the division.]* **ELECTRONIC FILING OF INSURANCE DOCUMENTS.** Whenever the division determines that it has the capability, it may also accept insurance certificates, surety bonds, cancellations, or any other documents offered for filing pursuant to this rule, or §§ 390.126 or 390.128, RSMo, on behalf of intrastate or interstate motor carriers, or both, through any national clearinghouses or private databases, by electronic mail (e-mail), or by any other electronic media approved by the division.

(A) Every motor carrier, insurance company, surety or other person that files a document electronically shall use the same document form as otherwise required by this rule, except that the division may accept for filing an electronic document containing only the particular information required of that motor carrier and insurance company, surety or other person, and the division shall incorporate by reference all other provisions of the required form. Whenever an electronic document is filed in this manner, all provisions of the required form shall be binding upon the motor carrier, insurance company, surety or other person identified in the document, to the same extent as if a fully executed paper document were filed.

(B) The division may require insurance or surety companies to use account numbers, passwords, and other forms of identification or authorization before filing a document electronically. Before the division accepts electronic documents for filing, each document shall be authenticated in a manner authorized by law and approved by the division. The division may require or accept electronic signatures, digital signatures, or other forms of authentication. The division will give public notice through the division's Internet website, or other conspicuous manner, of the approved methods of offering and authenticating documents for filing electronically.

[(11) *For reinstatement of insurance which has been cancelled, a new certificate of insurance must be filed.*]

[(12) *Forms E, F, G, H, I, J, K and L referred to in this rule are the standard forms determined by the National Association of Regulatory Utility Commissioners and adopted for use by this division. All insurance forms to be filed with the division, including duplicates and copies shall be legible. All insurance forms shall be filed in duplicate, including the original, signed form, on paper not greater in size than eight and one-half inches wide by five inches high (8 1/2" × 5"), except as follows:*

(A) One (1) copy of a fifteen (15)-day binder may be filed by facsimile transmission as provided under section (3) or section (5) of this rule;

(B) One (1) copy of the proof of insurance required by the SSRS Procedures Manual may be filed with this division as provided under section (2), and may be filed on

paper not greater in size than eight and one-half inches wide by eleven inches high (8 1/2" × 11"); and

(C) Bond form G may be filed on paper not greater in size than eight and one-half inches wide by eleven inches high (8 1/2" × 11").]

[(13) *As used in this rule, unless the context clearly indicates otherwise, the following words and terms mean:*

(A) *Cancellation—the termination of insurance coverage by either the insurer or the insured;*

(B) *Endorsement—a written amendment to the insurance policy;*

(C) *Property damage—damage to or loss of use of tangible property; and*

(D) *Public liability—liability for injuries to the body, sickness or disease, including death resulting from any of these, and for property damage.]*

**AUTHORITY:** sections 390.041, 390.071, 390.126, 390.128 and 622.027, RSMo [Supp. 1997] 2000. Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. For the intervening history, please consult the Code of State Regulations. Emergency amendment filed Dec. 15, 2000, effective Jan. 2, 2001, expires June 30, 2001. A proposed amendment covering this same material is published in this issue of the Missouri Register.

### Title 13—DEPARTMENT OF SOCIAL SERVICES Division 15—Division of Aging Chapter 15—Residential Care Facilities I and II

#### EMERGENCY RULE

#### 13 CSR 15-15.045 Standards and Requirements for Residential Care Facilities II Which Provide Services to Residents with Alzheimer's Disease or Other Dementia

**PURPOSE:** *This rule establishes the additional standards for those Residential Care Facilities II which admit or continue to care for residents who are physically capable but mentally incapable of negotiating a pathway to safety due to Alzheimer's disease or other dementia.*

**EMERGENCY STATEMENT:** *The Division of Aging finds a compelling governmental interest in establishing an early effective date for the following rule in order to implement the statutory requirements of section 198.073, RSMo (Supp. 1999) with regard to the establishment of additional standards for Residential Care Facilities II which admit or continue to care for residents who are physically capable but mentally incapable of negotiating a pathway to safety due to Alzheimer's disease or other dementia. Currently, there are 108,000 Missourians diagnosed with Alzheimer's disease or Alzheimer's related dementia. By 2040, the number of Missourians with Alzheimer's disease or Alzheimer's related dementia will increase fifty-six percent (56%) to more than 169,000 citizens. Ten percent (10%) of Missourians over the age of sixty-five (65) and forty percent (40%) of Missourians over the age of eighty-five (85) have Alzheimer's disease. Persons afflicted with Alzheimer's disease live an average of eight (8) years from the onset of the symptoms and nearly all will spend their last years residing in long-term care facilities. Furthermore, one-half (29,000 Missourians) of the population residing in long-term care facilities have dementia. This emergency rule is necessary to implement the provisions of section 198.073, RSMo (Supp. 1999) and establish the regulations and procedures under which residential care facilities II may admit or continue to care for persons who have been diagnosed with Alzheimer's disease or other dementia who are physically capable but mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids when necessary. This rule preserves the com-*

*protecting governmental interests of safeguarding the health and welfare of elderly citizens suffering from Alzheimer's disease or other dementia by the expeditious implementation of procedures for those residential care facilities II covered under the provisions of section 198.073, RSMo (Supp. 1999) as mandated by the Missouri General Assembly. The scope of this rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The division believes this emergency rule is fair to all interested persons affected by the circumstances. A proposed rule covering this same material is published in this issue of the Missouri Register. This emergency rule was filed December 14, 2000, effective January 2, 2001, and expires June 30, 2001.*

**PUBLISHER'S NOTE:** *The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.*

**EDITOR'S NOTE:** *All rules relating to long-term care facilities licensed by the Division of Aging are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.*

(1) Definitions. For the purposes of this rule, the following definitions shall apply:

(A) Activities of daily living (ADLs) mean a resident's ability to eat, bathe, toilet, dress, transfer and ambulate.

(B) Chemical restraint means a psychopharmacologic drug that is used for discipline or convenience and is not required to treat medical symptoms.

(C) Convenience means any action taken by the facility to control resident behavior or maintain residents with a lesser amount of effort by the facility and not in the resident's best interests.

(D) Discipline means any action taken by the facility for the purpose of punishing or penalizing residents.

(E) Individual Service Plan means the planning document which outlines and describes the services to be provided and the outcomes expected in order to meet the resident's needs.

(F) Licensed professional means any of the following:

1. Physician, as defined in and licensed under the provisions of Chapter 334, RSMo;

2. Nurse, as defined in and licensed under the provisions of Chapter 335, RSMo;

3. Psychologist, as defined in and licensed under the provisions of Chapter 337, RSMo;

4. Professional Counselor, as defined in and licensed under the provisions of Chapter 337, RSMo; and

5. Clinical Social Worker, as defined in and licensed under the provisions of Chapter 337, RSMo.

(G) Physical Restraint means any physically applied method, or mechanical device which the resident cannot easily remove, that restricts the free movement or normal functioning of any portion of the resident's body, or the resident's normal access to common areas and his or her personal spaces.

(H) Resident, only for the purpose of this rule, means an individual who is mentally incapable of negotiating a pathway to safety due to Alzheimer's disease or other dementia, who is admitted to or continues to be cared for in the facility under the provisions of this rule.

(I) Significant Change means any change in the resident's physical, emotional or psychosocial condition or behavior that would require an adjustment or modification in the resident's treatment or services.

(2) General Requirements.

(A) A residential care facility II which admits or continues to care for persons who have been diagnosed with Alzheimer's disease or other dementia who are physically capable but mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids when necessary, shall not care for such residents unless:

1. The resident has been diagnosed with Alzheimer's disease or other dementia by a physician licensed to practice medicine; and

2. The facility is able to provide appropriate services for and meet the needs of the resident. I/II

(B) A residential care facility II may admit or continue to care for residents who have been diagnosed with Alzheimer's disease or other dementia if the residents are physically capable but mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids when necessary, providing the facility is in substantial compliance with the provisions of Chapter 198, RSMo and all regulations under which the facility is licensed by the Division of Aging. I/II

(C) A residential care facility II which admits or continues to care for persons who have been diagnosed with Alzheimer's disease or other dementia who are physically capable but mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids when necessary, shall comply with the provisions of the Alzheimer's Special Care Disclosure Act pursuant to sections 198.500 to 198.515, RSMo. The facility shall complete, and submit to the Division of Aging, an Alzheimer's Special Care Services Disclosure form (MO Form 886-3548), which is incorporated by reference in this rule. II

(D) A residential care facility II which admits or continues to care for persons who have been diagnosed with Alzheimer's disease or other dementia who are physically capable but mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids when necessary, shall not admit, retain or continue to care for any resident who is mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids who:

1. Has exhibited behaviors which indicate that the resident is a danger to self or others;

2. Is at constant risk of elopement and, despite repeated interventions which have not altered the resident's behavior, continues to be a danger to self;

3. Requires physical or chemical restraint as defined in this rule;

4. Requires skilled nursing services as defined in section 198.006(17), RSMo for which the facility is not licensed or able to provide;

5. Requires more than one person to simultaneously provide physical assistance to the resident with any activity of daily living, with the exception of bathing; or

6. Is bed-bound or chair-bound and is unable to ambulate due to a debilitating or chronic condition. I/II

(3) Physical Design and Fire Safety Requirements.

(A) The facility shall be equipped with a complete sprinkler system installed and maintained in accordance with the 1996 edition of the National Fire Protection Association (NFPA) 13, *Standard for the Installation of Sprinkler Systems*, or the 1996 edition of NFPA 13R, *Sprinkler Systems in Residential Occupancies Up To and Including Four Stories in Height*, which are incorporated by reference in this rule. I/II

(B) The facility shall be equipped with a complete electrically supervised fire alarm system in accordance with the provisions of the 1997 *Life Safety Code for Existing Health Care Occupancy*, incorporated by reference in this rule. The system shall include smoke detectors located no more than thirty feet (30') apart in corridors with no point in the corridor located more than fifteen feet (15') from a smoke detector. The fire alarm system shall be equipped to automatically transmit an alarm to the fire department. I/II

(C) Each floor used for resident bedrooms shall be divided into at least two (2) smoke sections by one (1)-hour rated smoke stop partitions. No smoke section shall exceed one hundred fifty feet (150') in length. If, however, neither the length nor width of a floor exceeds seventy-five feet (75'), no smoke stop partitions are required. Openings in smoke stop partitions shall be protected by one and three-fourths inches (1 3/4")-thick solid core wood doors or metal doors with an equivalent fire rating. The doors shall be equipped with closers and magnetic hold-open devices. Any duct passing through this smoke wall shall be equipped with automatic resetting smoke dampers that are activated by the fire alarm system. Smoke partitions shall extend from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck. II

(D) In a multilevel facility, residents who are mentally incapable of negotiating a pathway to safety shall be housed only on a ground floor. The ground floor shall be any floor that has at least one exit at grade. All other required exits shall be at grade, or with no more than two steps to grade, or with a ramp to grade. The ramp shall have a maximum slope of one to twelve (1:12) leading to grade. II

(E) When a resident resides among the entire general population of the facility, the facility shall take necessary measures to provide such residents with the opportunity to explore the facility and, if appropriate, its grounds. When a resident resides within a designated, separated area that is secured by limited access, the facility shall take necessary measures to provide such residents with the opportunity to explore the separated area and, if appropriate, its grounds. If enclosed or fenced courtyards are provided, residents shall have reasonable access to such courtyards. Enclosed or fenced courtyards that are accessible through a required exit door shall be large enough to provide an area of refuge for fire safety at least thirty feet (30') from the building. Enclosed or fenced courtyards that are accessible through a door other than a required exit shall have no size requirements. II

(F) The facility shall provide freedom of movement for the residents to common areas and to their personal spaces. The facility shall not lock residents out of or inside their rooms. Key operated locks shall not be permitted on resident room doors. I/II

(G) Every facility shall use a personal electronic monitoring device for any resident whose physician recommends the use of such device. II

(H) The facility may provide a designated, separated area where residents, who are mentally incapable of negotiating a pathway to safety, reside and receive services and which is secured by limited access if the following conditions are met:

1. Dining rooms, living rooms, activity rooms, and other such common areas shall be provided within the designated, separated area. The total area for common areas within the designated, separated area shall be equal to at least forty (40) square feet per resident; II/III

2. Doors separating the designated, separated area from the remainder of the facility or building shall not be equipped with locks that require a key to open; I/II

3. If locking devices are used on exit doors egressing the facility or on doors accessing the designated, separated area, delayed egress magnetic locks shall be used. These delayed egress devices shall comply with the following:

- A. The lock must unlock when the fire alarm is activated;

- B. The lock must unlock when the power fails;

- C. The lock must unlock within thirty (30) seconds after the release device has been pushed for at least three (3) seconds, and an alarm must sound adjacent to the door;

- D. The lock must be manually reset and cannot automatically reset; and

- E. A sign shall be posted on the door that reads: PUSH UNTIL ALARM SOUNDS, DOOR CAN BE OPENED IN 30 SECONDS. I/II

4. The delayed egress magnetic locks may also be released by a key pad located adjacent to the door for routine use by staff. I/II

(4) Staffing Requirements.

(A) The facility shall be staffed twenty-four (24) hours a day by the adequate number and type of personnel necessary for the proper care of residents and upkeep of the facility in accordance with the staffing requirements found in 13 CSR 15-15.042. In meeting such staffing requirements, every resident who is mentally incapable of negotiating a pathway to safety shall count as three (3) residents. I/II

(B) All on-duty staff of the facility shall, at all times, be awake, dressed in on-duty work attire, and prepared to assist residents in case of emergency. I/II

(5) Assessments and Individual Service Plans.

(A) Prior to admitting or continuing to care for a resident diagnosed with Alzheimer's disease or other dementia, a family member or legal representative of the resident, in consultation with the resident's primary physician, shall meet with a facility representative to determine if the facility can meet the needs of the resident. The facility shall document the decisions regarding admission or continued placement in the facility through written verification by the family member, physician and the facility representative. II

(B) After consultation, if the facility admits or continues to care for the resident, a Minimum Data Set (MDS) assessment shall be completed on an MDS form provided by the Division of Aging to assess the needs of each resident who is mentally incapable of negotiating a pathway to safety. II/III

(C) Each resident shall be assessed by a licensed professional, as defined in subsection (1)(F) of this rule, by use of the MDS:

1. Within ten (10) days of admission; and

2. Every one hundred-eighty (180) days thereafter; or

3. Whenever a significant change occurs in the resident's condition as defined in subsection (1)(I) of this rule. I/II

(D) Based on the MDS assessment, an interdisciplinary team shall develop an individual service plan for each resident who is mentally incapable of negotiating a pathway to safety. Whenever possible and appropriate, the resident, family members or other individuals instrumental in identifying the needs of, or providing treatment or services to, the resident shall be involved in the development or revision of the individual service plan. Every individual service plan shall be signed by each person participating in its development. II/III

(E) An individual service plan shall be completed and implemented within twenty (20) days after the completion of an MDS assessment of a resident. I/II

(F) An individual service plan shall describe the resident's needs and preferences, the specific methods and services to meet those needs, desired outcomes or interventions, and the names of the staff, service provider, and if applicable, family members who are primarily responsible for implementing the individual service plan. At a minimum, the individual service plan for each resident shall identify:

1. The resident's capabilities, strengths, potential, preferences and customary behaviors;

2. The resident's behavioral, medical and social needs based on the assessment;

3. The services provided to meet the needs of the resident;

4. The expected outcomes of the services provided; and

5. Staff or other persons responsible for providing the services to meet the needs of the resident. II/III

(G) The facility shall make each resident's individual service plan available for use to all persons providing services to that resident. II/III

(6) Staff Training and Orientation.

(A) All facility personnel who provide direct care to residents who are mentally incapable of negotiating a pathway to safety shall receive at least twenty-four (24) hours of training within the first thirty (30) days of employment.

1. At least twelve (12) hours of the twenty-four (24) hours of training shall be classroom instructions; and

2. Six (6) classroom instruction hours and two (2) on-the-job training hours shall be related to the special needs, care and safety of residents with dementia. II

(B) If residents who are mentally incapable of negotiating a pathway to safety reside among the entire general population of the facility, all facility personnel, regardless of whether such personnel provide direct care to residents who cannot negotiate a pathway to safety, shall receive on a quarterly basis at least four (4) hours of in-service training, with at least two (2) such hours relating to the care and safety of residents who are mentally incapable of negotiating a pathway to safety. If residents who are mentally incapable of negotiating a pathway to safety reside within a designated, separated area that is secured by limited access, all personnel who have or could have contact with residents residing in the designated, separated area which is secured by limited access, shall receive on a quarterly basis at least four (4) hours of in-service training, with at least two (2) such hours relating to the care and safety of residents who are mentally incapable of negotiating a pathway to safety. II

(C) Any training related to the special needs, treatment and safety of residents with dementia shall include, but not be limited to, the following:

1. An overview of Alzheimer's disease and other dementia;
2. Communication techniques which are effective in enhancing and maintaining communication skills for residents with dementia;
3. Components of or techniques for creating a safe, secure and socially oriented environment for residents with dementia;
4. Provision of structure, stability and a sense of routine for residents based on their needs;
5. Effective management of different or difficult behaviors; and
6. Issues involving families and care givers. II/III

(D) The initial twenty-four (24) hours of training required within the first thirty (30) days of employment shall include, at a minimum, all of the components in subsection (6)(C) of this rule. II

(E) The in-service training to be provided on a quarterly basis shall include at least four (4) hours of in-service training, with at least two (2) such hours relating to the care and safety of residents who are mentally incapable of negotiating a pathway to safety. Each component listed in subsection (6)(C) of this rule must be included over the course of each twelve (12)-month period. II

(F) All in-service or orientation training relating to the special needs, care and safety of residents who are mentally incapable of negotiating a pathway to safety shall be conducted, presented or provided by a training instructor who is qualified by education, experience or knowledge in the care of individuals with Alzheimer's disease or other dementia. II/III

(7) Programs and Services for Residents Who are Mentally Incapable of Negotiating a Pathway to Safety.

(A) Each facility shall make available and implement self-care, productive and leisure activity programs for persons with dementia which maximize and encourage the resident's optimal functional ability. The facility shall provide activities that are appropriate to the resident's individual needs, preferences, background and culture. Individual or group activity programs may consist of the following:

1. Gross motor activities, such as exercise, dancing, gardening, cooking and chores;
2. Self-care activities, such as dressing, grooming and personal hygiene;
3. Social and leisure activities, such as games, music and reminiscing;
4. Sensory enhancement activities, such as auditory, olfactory, visual and tactile stimulation;
5. Outdoor activities, such as walking and field trips;

6. Creative arts; or

7. Other social, leisure or therapeutic activities that encourage mental and physical stimulation or enhance the resident's well-being. II/III

(B) The facility shall develop and implement written policies and procedures which address, at a minimum:

1. The facility's admission, transfer and discharge criteria taking into account the individual's needs and the facility's ability to meet those needs;

2. The basic services provided or offered to residents with Alzheimer's disease or other dementia;

3. The procedures and actions to be taken in the event of resident elopement;

4. The development and implementation of individual service plans;

5. The assignment of staff to residents based on the resident's needs which minimize resident confusion and maintain familiarity with environment;

6. Staff orientation and in-service training relating to the special needs, care and safety of residents with dementia;

7. Fire drill and emergency evacuation procedures for residents who are mentally incapable of negotiating a pathway to safety; and

8. The protection of the rights, privacy and safety of residents and the prevention of financial exploitation of residents. II/III

*AUTHORITY: section 198.073, RSMo 2000. Emergency rule filed Dec. 14, 2000, effective Jan. 2, 2001, expires June 30, 2001. A proposed rule covering this same material is published in this issue of the Missouri Register.*



Missouri Department of Social Services/Division of Aging  
Missouri Department of Health/Division of Health Standards and Licensure  
Alzheimer's Special Care Services Disclosure

**PURPOSE**

Long-term care facilities which provide or offer to provide care for persons with Alzheimer's disease by means of a special care unit or program are mandated by section 198.510, RSMo, to disclose information to the Division of Aging about those elements of their program which distinguishes the unit or program as being especially suitable for persons with Alzheimer's or other dementias. This disclosure form, along with a document or brochure containing information on selecting an Alzheimer's special care program, must be submitted to the Division of Aging as part of the licensure application. Facilities are also required to disclose the same information to residents, their next of kin, designee or guardian at the time of admission.

**IDENTIFYING INFORMATION** (PLEASE TYPE OR PRINT)

Facility Name

Address

Phone

Type of License

Unit Capacity

Person in Charge of Program Oversight

**PROGRAM PHILOSOPHY**

Briefly describe the philosophy of the Special Care Program.

**ADMISSION & DISCHARGE INFORMATION**

Items in the checklist below are characteristics of some Special Care Programs and do not necessarily represent regulatory requirements.

A. - Check the following admissions criteria and procedures that apply to the Special Care Program:

Medical Confirmation of Alzheimer's or Related Dementia

Pre-admission Family Interview

Pre-admission Observation

Tour of the Special Care Program, Explanation of Unique Features

Additional Admission Criteria (include any other diagnostic or functional capacity requirements; ability to ambulate..etc.):



B. - Check the following discharge and/or transfer criteria and that apply to residents in the program:

- No Longer Ambulatory
- Specialized Nursing Procedures Required
- Unable to Feed Self
- Unable to Benefit from Therapeutic Programming
- Additional Criteria: \_\_\_\_\_

C. - Describe any specialized services available to assist with transfer and discharge planning for special program participants:

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**■ ASSESSMENT ■**

A. - Describe how the process for evaluating Special Care Program participants and developing a plan of care may differ from procedures followed elsewhere in the facility.

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B. - Explain how the facility ensures that staff carry out the plan of care for Special Care Program participants and how the plan of care changes in response to the participant's condition.

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**STAFF TRAINING**

A. - Do staff who work with the Special Care Program receive specialized training not provided to staff in the rest of the facility?  YES  NO

B. - If so, indicate how many hours annually of specialized training by type of staff:

RNs & L.P.Ns: \_\_\_\_\_  
Hours Per Year

C.N.As: \_\_\_\_\_  
Hours Per Year

Support: \_\_\_\_\_  
Hours Per Year

Volunteers: \_\_\_\_\_  
Hours Per Year

C. -List the topics of this specialized training provided to staff in the Special Care Unit:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PHYSICAL ENVIRONMENT & RESIDENT SAFETY**

Items in the checklist below are characteristics of some Special Care Programs and do not necessarily represent regulatory requirements.

Indicate any of the program's physical design & security features designed to safeguard individuals with Alzheimer's and dementia and enhance their lives:

Door Alarms

Wander Guard

Enclosed Courtyard

Door Locks

Lockout Elevators

Other Features:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RESIDENT ACTIVITIES**

List the types and frequency of activities offered by the Special Care Program which are different than those offered in the rest of the facility:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FAMILY INVOLVEMENT**

Items in the checklist below are characteristics of some Special Care Programs and do not necessarily represent regulatory requirements.

Indicate those features available to family members of residents in the program:

- Alzheimer's Family Support Group
- Support Staff Assigned to Work with Family Members
- Respite Care
- Educational Materials on Alzheimer's & Other Dementia's

Other Features:

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**PROGRAM COSTS**

A. - How does the cost for participants in the Special Care Program differ from the cost for other residents in the facility?

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B. - If there is an additional cost for participants in the Special Care Program, what additional services are provided?

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C. - Please indicate any other optional services available only to Special Care Program participants at an additional cost:

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D. - Does the facility have designated Medicaid beds available in the Special Care Program?  YES  NO

**Title 13—DEPARTMENT OF SOCIAL SERVICES**  
**Division 40—Division of Family Services**  
**Chapter 31—Child Abuse**

**EMERGENCY RESCISSION**

**13 CSR 40-31.050 Child Fatality Review Process.** This rule applied to the State Technical Assistance Team and the Child Fatality Review Panels fulfilling their responsibility in identifying and preventing child fatalities in this state.

*PURPOSE:* This rule is proposed for rescission because the division of family services is no longer responsible for overseeing the State Technical Assistance Team and the Child Fatality Review Process. The Director of the Department of Social Services has transferred the State Technical Assistance Team to the Division of Legal Services along with responsibility for the child fatality review process. An emergency rule and accompanying proposed rule containing the revised procedures relating to this area appear in this edition of the *Missouri Register* as 13 CSR 45-2.010.

*EMERGENCY STATEMENT:* The Division of Family Services (DFS) finds a compelling governmental interest in rescinding this rule with an early effective date in order to ensure the proper implementation of the provisions of Senate Bills 757 and 602 enacted by the 90th General Assembly in 2000. It is important to note that the Director of the Department of Social Services has transferred the State Technical Assistance Team (STAT) from DFS to the Division of Legal Services (DLS) along with responsibility for the child fatality review process. DLS is promulgating an emergency rule and a proposed rule, as contained in 13 CSR 45-2.010, to reflect this transfer of STAT and establish comprehensive child protective services procedures which are designed to update and supersede those contained in 13 CSR 40-31.050. If this rule is not rescinded, confusion will be created by having these two rules in existence at the same time thus adversely affecting and hampering the child protective services mission of ensuring that cases of child abuse, child neglect, child sexual abuse, child exploitation and child fatality are expeditiously reported, investigated and, in appropriate cases, prosecuted. This emergency rescission will ensure that any such confusion is avoided and that any potential danger to the health, safety and welfare of Missouri's children is eliminated. This emergency rescission will help to ensure that the expressed desires of the General Assembly of enhancing the child protective services process in this state are fully implemented through the new rulemaking promulgated by DLS. The scope of this emergency rescission is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. DFS has followed procedures best calculated to assure fairness to interested persons and parties under the circumstances. A proposed rescission covering this same material is published in this issue of the *Missouri Register*. Emergency rescission filed December 19, 2000, effective January 1, 2001, expires June 29, 2001.

*AUTHORITY:* section 207.020, RSMo 1986. Original rule filed June 15, 1989, effective Jan. 1, 1990. Emergency rescission and emergency rule filed Dec. 20, 1991, effective Jan. 1, 1992, expired April 29, 1992. Emergency rescission and emergency rule filed April 16, 1992, effective April 26, 1992, expired Aug. 23, 1992. Rescinded and readopted: Filed Jan. 3, 1992, effective Aug. 6, 1992. Emergency rescission filed Dec. 19, 2000, effective Jan. 1, 2001, expires June 29, 2001. A proposed rescission covering this same material is published in this issue of the *Missouri Register*.

**Title 13—DEPARTMENT OF SOCIAL SERVICES**  
**Division 40—Division of Family Services**  
**Chapter 32—Child Care**

**EMERGENCY RULE**

**13 CSR 40-32.020 Processing of Applications for State and Federal Funds for Providing Child Care Services**

*PURPOSE:* This emergency rule implements the provisions of section 210.025, RSMo 2000 relating to conducting background checks of persons applying for state or federal funds for providing child-care services in the home.

*EMERGENCY STATEMENT:* The Division of Family Services, Department of Social Services finds that this emergency rule is necessary in order to implement the provisions of section 210.025, RSMo 2000 which mandates that background checks be conducted of any person applying for state and federal funds for providing child care services in the home and of any person over the age of eighteen (18) who is living in such applicant's home. The Division finds that there exists an immediate danger to the public safety and welfare which requires emergency action inasmuch as the promulgation of this emergency rule will ensure that there are procedures in place for conducting the mandated background checks and disqualifying persons from receiving state and federal funds for providing child care services in the home when a background check has revealed that such persons are ineligible. This procedure will, therefore, provide a form of protection to children who may otherwise be placed in the care of a disqualified individual. The Division also finds that this rule is necessary to preserve a compelling governmental interest requiring an earlier effective date inasmuch as the emergency rule informs the public and all potential applicants regarding the background check requirement and disqualification procedure. This will, in turn, serve as a deterrent to those individuals who may be considering making application for federal and state funding for providing child care services in the home but who, upon learning of the stringent eligibility requirements, would not attempt to obtain eligibility because of disqualifying information that would surface during a background check. Without this emergency rule in place there could be cases where an applicant and certain household members are not given proper and thorough background screenings and, therefore, could be found eligible for receiving funds for providing child care services in the home. Such a situation would be detrimental to the safety, welfare and best interest of children cared for by such persons. This rule helps to ensure that disqualified persons are ferreted out from receiving state and federal funds for providing in-home child care services under this rule.

This emergency rule follows those procedures best calculated to ensure fairness to all interested persons and parties under the circumstances, complies with the protections extended by the *Missouri and United States Constitution* and limits the scope of the emergency rule to the circumstances creating the emergency. Therefore, the Division believes the emergency rule to be fair to all interested persons and parties under the circumstances. Emergency rule filed December 19, 2000, effective January 1, 2001, expires June 29, 2001.

(1) General. To qualify for receipt of state or federal funds for providing child-care services in the home either by direct payment or through reimbursement to a child-care beneficiary, an applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo, and any person over the age of eighteen (18) who is living in the applicant's home shall be required to submit to background checks as prescribed below. A person over the age of eighteen (18) is a person who has attained his or her eighteenth

(18th) birthday. These required background checks include the following:

(A) A criminal background check pursuant to section 43.540, RSMo;

(B) A check of the child abuse central registry established pursuant to section 210.145, RSMo; and

(C) A check of licensure suspensions and revocations pursuant to section 210.221 or 210.496, RSMo.

(2) Processing of Applications.

(A) Upon receipt of an application for state or federal funds for providing child-care services in the home, pursuant to section 210.025, RSMo, or upon review of a recipient, pursuant to section 210.027, RSMo, which review shall occur at least annually, the Division of Family Services shall:

1. Determine if a probable cause (or reason to suspect) finding of child abuse or neglect involving the applicant, pursuant to section 210.025, RSMo, or the recipient, pursuant to section 210.027, or any person over the age of eighteen (18) who is living in the applicant's home has been recorded pursuant to section 210.221 or 210.145, RSMo;

2. Determine if the applicant, pursuant to section 210.025, RSMo, or the recipient, pursuant to section 210.027, or any person over the age of eighteen (18) who is living in the applicant's home has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.221 or 210.496, RSMo; and

3. Request a criminal background check pursuant to section 43.540, RSMo of the applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, and any person over the age of eighteen (18) who is living in the applicant's home.

(B) Except as otherwise provided in section (3) below, upon completion of the background checks required in subsection (2)(A) above, an applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, shall be denied state or federal funds for providing child care if such applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, or any person over the age of eighteen (18) who is living in the applicant's home:

1. Has had a probable cause (or reason to suspect) finding of child abuse or neglect pursuant to section 210.145, RSMo;

2. Has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.496, RSMo; or

3. Has plead guilty or *nolo contendere* to or been found guilty of:

A. Any felony for an offense against the person as defined in Chapter 565, RSMo, or any other offense (misdemeanor or felony) against the person involving the endangerment of a child as prescribed by law;

B. Any misdemeanor or felony for a sexual offense as defined by Chapter 566, RSMo;

C. Any misdemeanor or felony for an offense against the family as defined in Chapter 568, RSMo, with the exception of the sale of fireworks to a child under the age of eighteen (18);

D. Any misdemeanor or felony for pornography or related offense as defined by Chapter 573, RSMo; or

E. Any similar crime in any federal, state, municipal or other court of similar jurisdiction of which the director has knowledge or any offenses or reports which will disqualify an applicant from receiving state or federal funds, including the following:

(I) murder, in any degree, which is considered a felony in the jurisdiction in which it was filed; or

(II) manslaughter, in any degree, which is considered a felony in the jurisdiction in which it was filed; or

(III) assault, in any degree, which is considered a felony in the jurisdiction in which it was filed; or

(IV) assault, in any degree, involving a child victim which is considered a misdemeanor or a felony in the jurisdiction in which it is filed; or

(V) kidnapping, in any degree, which is considered a felony (or, if involving the endangerment of a child, either a misdemeanor or felony) in the jurisdiction in which it was filed; or

(VI) felonious restraint or false imprisonment, in any degree, which is considered a felony (or, if involving the endangerment of a child, either a misdemeanor or felony) in the jurisdiction in which it was filed; or

(VII) interference with child custodial rights, in any degree, which is considered a felony (or, if involving the endangerment of a child, either a misdemeanor or felony) in the jurisdiction in which it was filed; or

(VIII) elder abuse, in any degree, which is considered a felony in the jurisdiction in which it was filed; or

(IX) adult abuse or stalking, in any degree, which is considered a felony in the jurisdiction in which it was filed; or

(X) any form of rape, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XI) any form of sodomy, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XII) any form of prostitution, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XIII) any form of child molestation, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XIV) any form of bigamy, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XV) any form of child abandonment, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XVI) any form of criminal nonsupport of a child, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XVII) any form of child endangerment, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XVIII) any form of child abuse, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XIX) any form of robbery, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XX) any form of arson, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XXI) any form of armed criminal action, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XXII) any form of unlawful possession, unlawful use, or unlawful transfer of a firearm, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XXIII) any form of unlawful promotion, unlawful possession, or unlawful furnishing of obscene or pornographic materials, including, but not limited to, child pornography, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XXIV) any form of unlawful possession, sale, transfer or trafficking (or any similar term in the jurisdiction in which the offense occurred) of a controlled substance, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XXV) any adjudication of guilt, any plea of guilty, or any plea of *nolo contendere* in a municipal court for conduct which if prosecuted in a court of general jurisdiction would be an offense described in subdivisions (I) through (XXIV) above.

(C) Any costs associated with such checks shall be paid by the applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027.

(D) Identity of the name of the applicant, pursuant to section 210.025, RSMo; or a recipient, pursuant to section 210.027, RSMo; or any person over the age of eighteen (18) who is living in the home of the applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo, and either such person's social security number or date of birth to the name and either the social security number or date of birth of the perpetrator of an incident of child abuse or neglect, or person who was subject to licensure suspension or revocation pursuant to section 210.496, RSMo, or defendant in a criminal offense shall be sufficient to find that the applicant, pursuant to section 210.025, RSMo; or a recipient, pursuant to section 210.027, RSMo; or person over the age of eighteen (18) who is living in the home of the applicant is the same person who was found to have perpetrated the child abuse or neglect, or who was subject to licensure suspension or revocation pursuant to section 210.496, RSMo, or who committed the criminal offense. The applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, may present evidence to rebut this presumption. However, the presumption survives the presentation of such evidence and may be sufficient to find that the applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, or person over the age of eighteen (18) who is living in the home of the applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, is the same person who was found to have perpetrated the child abuse or neglect, or who was subject to licensure suspension or revocation pursuant to section 210.496, RSMo, or who committed the criminal offense despite the presentation of contrary evidence.

(3) Extenuating or Mitigating Circumstances. Upon completion of background checks required by this rule, the Division shall give an applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, an opportunity to offer any extenuating or mitigating circumstances concerning adverse information found relating to findings of child abuse or neglect, licensure refusal or suspension, or criminal background checks against the applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, or any person over the age of eighteen (18) who is living in the applicant's home. Such extenuation or mitigation may include, but is not limited to, the extent of the individual's participation in the abuse, neglect or offense; the length of time since the last incident of abuse, neglect or offense; the age of the person at the time of the abuse, neglect or offense; and remedial measures taken by the individual such as counseling, training, or therapy. In addition, the division may consider all information relating to any allegations of abuse or neglect including reports of investigation, if available. However, the fact that the report of investigation of an incident of abuse or neglect is no longer available, will not prevent the division from considering such a finding of abuse or neglect. Such a finding shall be considered along with any information the applicant wishes to present regarding the incident and any extenuating or mitigating information. Such extenuating or mitigating circumstances may be considered by the division in its determination whether to permit such applicant to receive state or federal funds for providing child care in the home.

(4) Family Care Safety Registry.

(A) The Family Care Safety Registry will contain criminal background information on only felony criminal offenses pursuant to chapters 198, 334, 560, 565, 568, 569, 573, 575, and 578, RSMo.

(Section 210.909.1(4), RSMo). Providers of in-home child care services are not eligible to receive state or federal funds if they or members of their household over the age of eighteen have criminal records involving chapters 565 (felonies or any offense involving the endangerment of a child), 566 (misdemeanors or felonies), 568 (misdemeanors or felonies), 573 (misdemeanors or felonies), any offense which would disqualify the applicant or recipient from receiving state or federal funds, or of any similar crimes in any federal, state or municipal court.

(B) Because in-home child care providers are ineligible to receive state or federal funds for a different range of criminal offenses (for example, certain misdemeanors and similar crimes in any federal, state or municipal court) than would be included in the Family Care Safety Registry, applicants for direct payment or reimbursement of in-home child care services and members of their household over the age of eighteen (18) will be required to sign a request for criminal background check by the Missouri State Highway Patrol. The costs associated with this check shall be paid by the applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027.

(5) Evidence. In determining whether there has been a finding of probable cause to suspect (or reason to suspect) that child abuse or neglect has been committed by an applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, or a person over the age of eighteen (18) living in the applicant's home, the following shall be considered in evidence in making such determination:

(A) The letter, or a copy of the letter, from the Division of Family Services to the subject stating that there was probable cause to suspect (or reason to suspect) that the subject had committed child abuse or neglect;

(B) The letter, or a copy of the letter, from the Child Abuse and Neglect Review Board to the subject affirming the decision of the Division of Family Services which found that there was probable cause to suspect (or reason to suspect) that the subject had committed child abuse or neglect;

(C) A computer printout documenting either that the Division of Family Services made a probable cause (or reason to suspect) finding that child abuse or neglect occurred or that the Child Abuse and Neglect Review Board affirmed such finding which is otherwise authenticated pursuant to Chapter 490, RSMo, or with regard to which authentication is waived; or

(D) Any order, judgment or decree of a court of competent jurisdiction which found that the subject committed child abuse or neglect.

(E) The fact that any documentation regarding a finding of abuse or neglect, including but not limited to the report of investigation, cannot be found or has been destroyed shall not prevent that finding of abuse (otherwise documented in written or electronic form) from being considered by the division.

(6) Child Abuse or Neglect Findings: For purposes of disqualification, probable cause findings to suspect that child abuse or neglect occurred and reason to suspect findings that child abuse or neglect occurred shall be considered synonymous.

(7) All providers of child-care services in the home pursuant to this rule shall be at least eighteen (18) years old, i.e., such providers must have attained their eighteenth (18th) birthday.

(8) If there are no local ordinances or regulations regarding smoke detectors which apply to the location where the provider will be providing child-care services in the home, providers must install and maintain smoke detectors as follows:

(A) Structures Included. Smoke detectors shall be provided in all structures occupied by children in connection with child-care services in the home.

(B) Location.

1. A detector shall be mounted on the ceiling or wall at a point centrally located in a corridor or other area giving access to rooms used for providing child-care services in the home unless the manufacturer's instructions provide otherwise, then in accordance with those instructions.

2. All detectors shall be located in accordance with approved manufacturer's instructions. When actuated, the detectors shall provide an alarm in the structure or room.

(C) Duties.

1. It shall be the duty of the provider of child-care services in the home regulated by this section to provide an operable smoke alarm system.

2. It shall be the duty of the provider of child-care services in the home regulated by this section to maintain the smoke alarm system.

(9) All providers of child-care services in the home regulated by this section shall be tested at least annually for tuberculosis. Initially providers of child-care services in the home shall have a screening test (e.g., skin test). Any provider testing positive in the screening test shall submit, within one week of notice of the positive screening test, to additional, specific medical tests to verify the positive screening test and to determine if the provider is medically diagnosed with an active case of tuberculosis. If the provider is medically diagnosed with an active case of tuberculosis, the provider shall be ineligible to receive state or federal funds for the provision of child-care services in the home while the medical diagnosis of an active case of tuberculosis remains.

(10) All providers, of child-care services in the home, regulated by this section who do not have immediate access to a telephone shall notify the parents of the child(ren) of the lack of immediate access to a telephone and shall notify the parents of the child(ren) how the parents may contact the provider.

(11) Appeal. Any applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, who has been denied state or federal funds for providing child-care services in the home may appeal such denial decisions in accordance with the provisions of section 208.080, RSMo.

*AUTHORITY: section 210.025, RSMo 2000. Emergency rule filed Dec. 19, 2000, effective Jan. 1, 2001, expires June 29, 2001. A proposed rule covering this same material is published in this issue of the Missouri Register.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 45—Division of Legal Services  
Chapter 2—State Technical Assistance Team**

**EMERGENCY RULE**

**13 CSR 45-2.010 Organization and Operation**

*PURPOSE: This rule describes the general organization and function of the State Technical Assistance Team including its responsibilities in providing technical assistance to Child Fatality Review Program (CFRP) panels in investigating and prosecuting cases involving child abuse, child neglect, child sexual abuse, child exploitation or child fatality review. This rule also establishes and describes the functions of local (county) CFRP panels, as well as the state CFRP panel in this child protective services process.*

*EMERGENCY STATEMENT: This Emergency Rule is necessary to implement the provisions of Senate Bills Nos. 757 and 602 enacted by the 90th General Assembly in 2000, pertinent provisions of which are codified in sections 210.192, 210.195 and 660.520,*

*RSMo. The Division finds that there exists an immediate danger to the health, safety and welfare of the citizens of Missouri which requires an early effective date. If this Emergency Rule is not promulgated, procedures will not be in place to ensure that cases of child abuse, child neglect, child sexual abuse, child exploitation or child fatality review are expeditiously and thoroughly reported, investigated and prosecuted in appropriate cases. The Division also finds that this Emergency Rule is necessary to preserve a compelling governmental interest of ensuring that procedures are in place to guide the State Technical Assistance Team (STAT) in fulfilling its responsibilities to provide technical assistance to the Child Fatality Review Program (CFRP) panels in fulfilling their responsibilities including submitting a final report consisting of a summary of prevention conclusions and recommendations in order that appropriate prevention responses can be made which will help to reduce the number child fatalities in this state.*

*This Emergency Rule will ensure that the expressed desires of the General Assembly of enhancing the child protective services process in this state are fully implemented. The scope of this Emergency Rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Division has followed procedures best calculated to assure fairness to interested persons and parties under the circumstances. A proposed rule covering the same material is published in this issue of the Missouri Register. Emergency Rule filed December 19, 2000, effective January 1, 2001, expires June 29, 2001.*

(1) General Provisions and Authority. This rule is promulgated under the rulemaking authority granted to the Department of Social Services (DSS) pursuant to section 660.017, RSMo. Pursuant to Article IV, Section 37 of the Missouri Constitution, the Director of the Department of Social Services is charged with promoting improved health and other social services to the citizens of the State as provided by law. Section 660.010.2, RSMo authorizes the DSS Director to coordinate the state's programs devoted to those who are unable to provide for themselves and for victims of social disadvantage. Section 660.012.2, RSMo also entrusts the DSS Director with the duty to use the resources allocated to the department to provide comprehensive programs and leadership in order to improve services and economical operations. To that end, the DSS Director has determined that the transfer of the State Technical Assistance Team (STAT) from the Division of Family Services (DFS) to the Division of Legal Services (DLS) improves the efficiency and economical operations of resources and maximizes services to the citizens of this state. This rule recognizes that the transfer of STAT from DFS to DLS has been accomplished and such rule also provides a mechanism for the promulgation of procedures setting forth the function, general organization and operation of the State Technical Assistance Team. As a unit of the Division of Legal Services, STAT is responsible for performing its duties related to child fatality review pursuant to sections 210.192 to 210.196, RSMo and its duties related to providing assistance to multidisciplinary teams and law enforcement agencies in investigating and prosecuting cases involving child abuse, child neglect, child sexual abuse, child exploitation or child fatality as prescribed in sections 660.520 to 660.527, RSMo. In performing its CFRP mission, STAT is responsible for providing training, expertise and assistance to county CFRP panels for the review of child fatalities including establishing procedures for the preparation and submission of a Final Report by CFRP panels as reflected in subsection (4)(K) of this rule.

(2) Definitions.

(A) Child abuse means any physical injury or emotional abuse inflicted on a child other than by accidental means by another person, except that discipline, including spanking, administered in a reasonable manner, shall not be construed to be abuse.

(B) Child exploitation means allowing, permitting or encouraging a child, under the age of eighteen years, to engage in prostitution or sexual conduct, as defined by state law, by a person responsible for the child's welfare or any other person involved in the act, and allowing, permitting, encouraging or engaging in the obscene or pornographic photographing, filming or depicting of a child, under the age of eighteen years, or the possession of such items, as those acts are defined by state law, by a person responsible for the child's welfare or any other person involved in the act.

(C) Child fatality means the death of a child under the age of 18 years as a result of any natural, intentional or unintentional act.

(D) Child neglect means the failure to provide, by those responsible for the care, custody and control of the child, the proper or necessary support, education as required by law, nutrition or medical, surgical or any other care necessary for the child's well-being.

(E) Child sexual abuse means to engage in sexual intercourse or deviate sexual intercourse with a child or any touching of a child with the genitals, or any touching of the genitals, or anus of the child by another person, when the child is a person under the age of seventeen years.

(3) State Technical Assistance Team.

(A) The State Technical Assistance Team shall assist in the investigation of child abuse, child neglect, child sexual abuse, child exploitation or child fatality cases upon the request of:

1. A local law enforcement agency;
2. Prosecuting Attorney;
3. Division of Family Services staff;
4. A representative of the family courts;
5. Medical examiner;
6. Coroner; or
7. Juvenile officer.

(B) Upon being requested to assist in an investigation, the State Technical Assistance Team shall notify all parties specified in this subdivision of STAT's involvement in the investigation via U.S. Postal Service.

(C) Where STAT's assistance has been requested by a local law enforcement agency, STAT Investigators, certified as peace officers by the Director of the Department of Public Safety pursuant to chapter 590, RSMo shall be deemed to be peace officers within the jurisdiction of the requesting law enforcement agency, while acting at the request of the law enforcement agency. The power of arrest of a STAT Investigator, acting as a peace officer, shall be limited to offenses involving child abuse, child neglect, child sexual abuse, child exploitation or child fatality.

(D) STAT shall assist county multi-disciplinary teams in the development and implementation of protocols for the investigation and prosecution of child abuse, child neglect, child sexual abuse, child exploitation or child fatality cases.

(E) All reports and records made and maintained by the STAT or local law enforcement relating to criminal investigations conducted pursuant to this section, including arrests, shall be available in the same manner as law enforcement records, as set forth in sections 610.100 to 610.200, RSMo, and to the individuals identified in subdivision (13) of subsection 2 of section 210.150, RSMo.

(F) An individual identified in subdivision (13) of subsection 2 of section 210.150, RSMo, is a person who is a tenure-track or full-time research faculty member at an accredited institution of higher education engaged in scholarly research and who has the permission of the Director of the Department of Social Services. Prior to the release of any identifying information the Director of the DSS shall require the researcher to present a plan for maintaining the confidentiality of the identifying information. The researcher shall be prohibited from releasing the identifying information of individual cases.

(G) All other records shall be available in the same manner as provided in section 210.150, RSMo. Nothing in this section shall

preclude the release of findings or information about cases which resulted in a child fatality or near fatality. Such release is at the sole discretion of the Director of the Department of Social Services, based upon the review of the potential harm to other children with the immediate family.

(4) Local (County) Child Fatality Review Program (CFRP) Panels.

(A) The prosecuting attorney or circuit attorney shall convene a local CFRP panel in each of the state's one hundred fourteen (114) counties and St. Louis City to review suspicious child deaths.

(B) The Department of Social Services (DSS) shall convene a state CFRP panel appointed by the director of DSS to identify systemic problems and submit findings and recommendations on ways to prevent further child deaths.

(C) The local CFRP panel will review all deaths of children less than eighteen (18) years of age at the time of their death where one (1) or more of the following factors are present:

1. Sudden, unexplained death of a child under age one (1) year;
2. Unexplained/undetermined manner;
3. DFS reports on decedent or others persons in the residence;
4. Decedent in DFS custody;
5. Possible inadequate supervision of the decedent;
6. Possible malnutrition or delay in seeking medical care;
7. Possible suicide;
8. Possible inflicted injury;
9. Firearm injury;
10. Injury not witnessed by person in charge of child at time of injury;
11. Confinement;
12. Suspicious/criminal activity;
13. Drowning;
14. Suffocation or strangulation;
15. Poison/chemical/drug ingestion;
16. Severe unexplained injury;
17. Pedestrian/bicycle/driveway injury;
18. Drug/alcohol-related vehicular injury;
19. Suspected sexual assault;
20. Fire injury;
21. Autopsy by certified child death pathologist;
22. Panel discretion; or
23. Other suspicious findings (injuries such as electrocution, crush or fall).

(D) The local CFRP panel at least shall review the following information on all suspicious deaths:

1. Findings from interviews, history or death-scene investigation;
2. Physical evidence at the scene of injury, death, or both;
3. Findings from physical and medical examinations;
4. Findings from autopsy, radiological examination and laboratory evaluation;
5. Reports of investigation/evaluation; and
6. Relevant past history/agency involvement.

(E) The director of DSS shall appoint regional coordinators to serve as resources to local CFRP panels. The regional coordinators will provide the following services:

1. Consultation and technical assistance;
2. Training; and
3. Reviewing forms and provide recommendations on procedures developed by local panels.

(F) Initially, all panel members will be appointed by the prosecuting attorney. Subsequent appointments will be made by the chairperson. All members who represent a governmental agency defined as mandatory in this section will serve as long as they hold the position which made them eligible for appointment to the local CFRP panel. All other members shall serve a term which is defined in the procedures developed by the local panel. The local



procedures also shall define the selection and removal processes for non-core members. The chairperson shall be elected by the review panel. The chairperson and all other members may be reappointed for consecutive terms. The local CFRP panel shall include, but not be limited to, the following core members:

1. The prosecuting or circuit attorney;
2. Medical examiner/coroner;
3. A law enforcement officer;
4. A representative of the DFS;
5. A provider of public health services;
6. A representative of the juvenile court; and
7. A representative of emergency medical services.

(G) If the county of residence, illness/injury/event or death are different, the CFRP panel in the county where the illness/injury/event occurred shall review the death.

1. The activated review panel may communicate with the chairperson of the CFRP panel in the county of residence and death, if different, to request necessary information.

2. The review panel in the county of death, residence, or both, may choose to review the death.

3. The Coroner/Medical Examiner Data Report (Data Form 1), which is hereby incorporated by reference as part of this rule, must be completed on all children ages birth through seventeen (0-17) who die in Missouri, regardless of state of residence.

4. Children injured out of state, who die in Missouri, may be reviewed at the sole discretion of the county panel, regardless of state of residence.

(H) The panel members will hold all information obtained in the course of a review in the strictest confidence and will not discuss or disclose any information regarding any case, except as permitted by applicable statutes.

(I) DLS will not reimburse or compensate a county CFRP panel for expenses associated with review panel business. Expenses may be reimbursed consistent with state travel rules and limitations for required participation of DLS panel members in training. DFS will be responsible for payment of expenses, subject to state travel rules and limitations, and compensation for its employees who are members of a review panel.

(J) The following process will be followed by the county CFRP panels:

1. Any police officer, sheriff, law enforcement officer or official, physician, coroner/medical examiner, funeral director, hospital personnel or any person having knowledge that a person less than eighteen (18) years of age has died, shall notify the coroner or medical examiner immediately in the county of injury.

A. If the coroner or medical examiner in the county of death or residence is notified of a death, s/he shall notify the coroner or medical examiner immediately in the county of illness/injury/event, if different.

B. If the coroner or medical examiner in the county of illness/injury/event determines that the death of the person under age eighteen (18) does not exhibit any suspicious circumstances as described in this section, the panel chairperson will be responsible for cosigning Data Form 1 and shall forward the form within forty-eight (48) hours to the DSS, STAT. If the chairperson disagrees with the coroner or medical examiner regarding the nature of the death and desires a review, the review panel can be activated.

C. The coroner or medical examiner in the county of illness/injury/event shall notify a certified child death pathologist to determine the need for an autopsy. If there is disagreement, the certified child death pathologist shall make the determination, unless the CFRP panel, within twelve (12) hours, decides against the certified child death pathologist;

D. If the coroner or medical examiner determines that the child died from natural causes while under medical care, such coroner or medical examiner shall notify DFS (Central Registry Unit, "Child Abuse/Neglect Hotline—800-392-3738). In all other

cases, the medical examiner or coroner shall immediately notify DFS of the child's death, as required by section 58.452, RSMo.

2. The coroner or medical examiner in the county of illness/injury/event shall notify the chairperson of the CFRP panel immediately if the death is suspicious;

3. Upon notification, the chairperson will activate the review panel within twenty-four (24) hours to review the death.

A. Each member of the panel shall share information and records available to that panel member.

B. Each review panel shall operate the review based on procedures developed by the panel and based on guidelines and protocols developed by the DSS;

4. The review panel shall determine, at a minimum;

A. The place where the injury/illness causing a death occurred;

B. The manner and circumstances of the death;

C. Actions taken by the agencies/persons involved with the child and his/her family;

D. The identification of any siblings or other children in the home of the deceased child and whether they require protection; and

E. The identification of local systemic issues or policies which enhance or detract from efforts to assist in the investigation, treatment or prevention of fatalities; and

5. The chairperson of the local CFRP panel will complete a Child Fatality Review Panel Data Report (Data Form 2), which is incorporated by reference as part of this rule, and forward it through to the DSS, STAT, for linkage with death certificates. This form must be sent within sixty (60) days of the date of death.

(K) Final Report.

1. In all cases reviewed by a CFRP panel, the CFRP shall, after completing the review, prepare a final report which shall consist of a summary of prevention conclusions and recommendations. This report shall be submitted on a form referred to as the Child Fatality Review Panel Final Report (or Final Report), which is incorporated by reference as part of this rule. Pursuant to section 210.192.3, RSMo the Final Report issued by the panel is a public record and may be obtained by submitting a written request to the following address: State Technical Assistance Team, Division of Legal Services, 2724 Merchants Drive, Jefferson City, MO 65109.

2. The CFRP panel's Final Report will be forwarded directly to the State Technical Assistance Team, Prevention Coordinator, within ten (10) days of the CFRP panel review, except in cases where criminal charges are being considered or pending. In those cases, the final report of the panel will be due within ten (10) days after a criminal indictment or information is filed in the case or the local panel chair is notified of the prosecutor's decision not to file charges.

3. The Prevention Coordinator will be a direct liaison with all CFRP panels, maintaining a prevention resource repository, and providing guidance and facilitation in the implementation of appropriate prevention strategies and responses.

4. Separate from data collected, the Prevention Coordinator will track the effectiveness of various prevention responses to specific risks, and will make this information available to the State CFRP Panel and appropriate supporting agencies.

(5) State Child Fatality Review Panel.

(A) The state CFRP panel shall be composed of a minimum of seven (7) members. All members will be appointed by the director of the DSS.

1. Members mandated by this rule to be members of this panel may serve as long as they hold the position which made them eligible for appointment.

2. The DSS shall establish procedures which define the terms for all members, reasons for the removal of members from the panel and how members will be appointed in the future.

3. The chairperson and all members may be reappointed for consecutive terms.

(B) The director of DSS shall appoint the following persons to serve on the state CFRP panel:

1. A prosecuting attorney or circuit attorney;
2. A coroner or medical examiner;
3. A law enforcement officer or official;
4. A representative from DFS;
5. A provider of public health care services;
6. A representative from the Department of Health;
7. A representative of the juvenile court; and
8. A representative of emergency medical services.

(C) Other members of the state CFRP panel may include persons from the following agencies/groups:

1. Division of Youth Services;
2. Attorney General;
3. Missouri Juvenile Justice Association;
4. A physician experienced in examining and treating abused/neglected children;
5. Department of Mental Health;
6. Department of Public Safety;
7. Department of Elementary and Secondary Education;
8. Department of Corrections; and
9. Any other professionals or citizens with special interest in child abuse and neglect.

(D) The state CFRP panel will meet at least biannually. DLS may reimburse the members who are not division employees for reasonable expenses, consistent with state travel rules and limitations for expenses associated with review panel business held outside their county of residence, but will not provide for any other compensation. DFS will be responsible for the reimbursement of expenses, subject to state travel rules and limitations, and compensation for its employees on the panel.

(E) The state CFRP panel shall review and discuss all relevant materials submitted by the local panels and the state implementation team. The purpose of the review will be to:

1. Review the findings of the county CFRP panels to determine the frequency and cause of child fatalities throughout the state;
2. Identify the appropriateness and comprehensiveness of current statutes, policies and procedures relevant to the management of fatal abuse/neglect cases;
3. Review data collected by the DSS, STAT to determine the accuracy of identification of fatally abused and neglected children;
4. Review reports on the status of the operations of the county CFRP panels; and
5. Recommend prevention strategies after reviewing statewide trends and actions suggested by local panels.

(F) The panel members will hold all information obtained in the course of a review in the strictest confidence and will not discuss or disclose any information regarding any case, except as permitted by applicable statutes.

(G) DSS and the state CFRP panel annually shall evaluate the following factors related to the work of the local CFRP panels:

1. Number of reviews;
2. Geographic area of reviews;
3. Results of reviews; and
4. Necessary amendments to the rules.

(H) The state CFRP panel shall submit findings and recommendations to the director of DSS, the governor, the speaker of the house of representatives, the president pro tempore of the senate, and the children's services commission, juvenile officers and chairperson of the local CFRP panels. At a minimum, the findings shall address the following issues:

1. The number of child fatality cases reviewed by county panels;
2. Nonidentifying characteristics for perpetrators;
3. Nonidentifying characteristics for deceased children;

4. The number of fatalities by cause(s) of death and whether death was attributable to child abuse/neglect;

5. Effectiveness of local panels; and

6. Systemic issues which need to be addressed through changes in policy, procedures or statute.

*AUTHORITY: sections 210.192–210.196, 660.017 and 660.520–660.526, RSMo 2000. Emergency rule filed Dec. 19, 2000, effective Jan. 1, 2001, expires June 29, 2001. A proposed rule covering the same material is published in this issue of the Missouri Register.*



MISSOURI DEPARTMENT OF SOCIAL SERVICES  
DIVISION OF LEGAL SERVICES  
**CORONER/MEDICAL EXAMINER DATA REPORT**  
TO BE COMPLETED FOR ALL CHILD DEATHS <18 YEARS OF AGE

STATE USE ONLY		DATA FORM
DEATH CERT. NO.	BIRTH CERT. NO.	1
CFRP CASE NO.	DECEDENT DCN	
<input type="checkbox"/> MEDICAID		CAN INCIDENT NO.
DEATH CERTIFICATE MANNER OF DEATH		
a. <input type="checkbox"/> NATURAL	d. <input type="checkbox"/> HOMICIDE	
b. <input type="checkbox"/> ACCIDENT	e. <input type="checkbox"/> UNDETERMINED	
c. <input type="checkbox"/> SUICIDE	f. <input type="checkbox"/> PENDING	

**INSTRUCTIONS**

Notify Child Abuse/Neglect Hotline (800-392-3738) of all deaths of children <18 years of age. If county of illness/injury/event is different from county of death, complete form with all known information before forwarding to coroner or medical examiner of county of illness/injury/event. Notify the panel chairperson of the death. Complete the form with all known information and forward to the panel chairperson for signature.

**A. IDENTIFICATION INFORMATION**

1. a.  Illness/injury/event is in Missouri. Complete all sections of Form 1.  
b.  Illness/injury/event occurred out-of-state, but death occurred in Missouri. Complete Section A only.

2. COUNTY OF RESIDENCE STATE USE ONLY      3. COUNTY OF ILLNESS/INJURY/EVENT STATE USE ONLY      4. COUNTY OF DEATH STATE USE ONLY

5. DECEDENT'S NAME (FIRST, MI, LAST)      6. DATE OF BIRTH (MM/DD/YY)      7. DATE OF DEATH (MM/DD/YY)

8. SEX      9. RACE      10. IS DECEDENT OF HISPANIC ORIGIN?

a.  MALE      a.  WHITE      c.  ASIAN/PACIFIC ISLANDER      e.  UNKNOWN      a.  YES      b.  NO

b.  FEMALE      b.  BLACK      d.  AMERICAN INDIAN/ALASKAN NATIVE

11. MOTHER'S NAME (FIRST, MAIDEN, LAST)      12. MOTHER'S DATE OF BIRTH

**B. INDICATIONS FOR REVIEW — (ALL DEATHS)**

1. Mark all that apply to this fatality. If one or more indicators are applicable, RSMo. 210.192 requires that the case shall be referred to the panel.

a.  Sudden, unexplained death, age <1 year      m.  Drowning  
b.  Unexplained/undetermined manner      n.  Suffocation or strangulation  
c.  DFS reports on decedent or other persons in the residence      o.  Poison/chemical/drug ingestion  
d.  Decedent in DFS custody      p.  Severe unexplained injury  
e.  Possible inadequate supervision      q.  Pedestrian/bicycle/driveway injury  
f.  Possible malnutrition or delay in seeking medical care      r.  Motor vehicle injury  
g.  Possible suicide      s.  Suspected sexual assault  
h.  Possible inflicted injury      t.  Fire injury  
i.  Firearm injury      u.  Autopsy by certified child death pathologist  
j.  Injury not witnessed by person in charge at time of injury      v.  Panel discretion  
k.  Confinement      w.  Other suspicious findings (injuries such as electrocution, crush or fall)  
l.  Suspicious/criminal activity

2. Referral to Panel (Mark one)

a.  One or more of the indicators marked above apply in this fatality. The case shall be referred to the review panel.  
b.  None of the indicators listed apply in this fatality. The case is not referred to the panel.

**C. CHILD ABUSE/NEGLECT HOTLINE (800-392-3738)**

Notify Child Abuse/Neglect Hotline of all deaths of children <18 years of age.

1. Were there prior reports to the Child Abuse/Neglect Hotline? a.  Yes      b.  No  
If yes, mark all that apply:

1.  Involving child      3.  Involving caretaker (other than family)  
2.  Involving anyone else in family      4.  Total number of DFS reports \_\_\_\_\_

2. Current notification to Child Abuse/Neglect Hotline was accepted as:

a.  Information only      b.  Report for investigation

3. Person reporting death to the hotline? \_\_\_\_\_

**D. SOCIAL INFORMATION**

1. For all persons living in the residence of the decedent, indicate their relationship to the decedent, their age range, and who is head of household. (Select only one head of household)

Use corresponding letter for appropriate age range:

A = 0-5 yrs.    B = 6-9 yrs.    C = 10-14 yrs.    D = 15-18 yrs.    E = 19-40 yrs.    F = >40 yrs.

	Age Range	Head of Household		Age Range	Head of Household
a. <input type="checkbox"/> Natural father	_____	<input type="checkbox"/>	i. <input type="checkbox"/> Other relative	_____	<input type="checkbox"/>
b. <input type="checkbox"/> Natural mother	_____	<input type="checkbox"/>	j. <input type="checkbox"/> Other relative	_____	<input type="checkbox"/>
c. <input type="checkbox"/> Adoptive father	_____	<input type="checkbox"/>	k. <input type="checkbox"/> Mother's paramour	_____	<input type="checkbox"/>
d. <input type="checkbox"/> Adoptive mother	_____	<input type="checkbox"/>	l. <input type="checkbox"/> Father's paramour	_____	<input type="checkbox"/>
e. <input type="checkbox"/> Stepfather	_____	<input type="checkbox"/>	m. <input type="checkbox"/> Other non-relative	_____	<input type="checkbox"/>
f. <input type="checkbox"/> Stepmother	_____	<input type="checkbox"/>	n. <input type="checkbox"/> Another child	_____	<input type="checkbox"/>
g. <input type="checkbox"/> Foster father	_____	<input type="checkbox"/>	o. <input type="checkbox"/> Another child	_____	<input type="checkbox"/>
h. <input type="checkbox"/> Foster mother	_____	<input type="checkbox"/>	p. <input type="checkbox"/> More than two children (list in narrative)		

2. Current marital status of head of household?

- a.  Married                      c.  Divorced                      e.  Unknown  
b.  Widowed                      d.  Never married

**E. DEATH/SCENE INFORMATION**

1. Place of Injury/Event?

- |   |   |   |   |
|---|---|---|---|
| a. <input type="checkbox"/> Decedent's home | e. <input type="checkbox"/> Public drive  | i. <input type="checkbox"/> Other private property          | m. <input type="checkbox"/> Body of water |
| b. <input type="checkbox"/> Other home      | f. <input type="checkbox"/> Street        | j. <input type="checkbox"/> Licensed child care facility    | n. <input type="checkbox"/> Work place    |
| c. <input type="checkbox"/> Rural road      | g. <input type="checkbox"/> Private drive | k. <input type="checkbox"/> Unlicensed child care facility  | o. <input type="checkbox"/> Hospital      |
| d. <input type="checkbox"/> Highway         | h. <input type="checkbox"/> Farm          | l. <input type="checkbox"/> Child care residential facility | p. <input type="checkbox"/> Other: _____  |

2. Date of injury/event? a.  \_\_\_ / \_\_\_ / \_\_\_ (MM/DD/YY)                      b.  Unknown

3. Time of injury/event? a.  \_\_\_ : \_\_\_ (Hour:Minute)     AM     PM                      b.  Unknown

4. Time pronounced dead? a.  \_\_\_ : \_\_\_ (Hour:Minute)     AM     PM                      b.  Unknown

5. Was an autopsy performed? a.  Yes    b.  No    c.  Unknown

if yes:

1.  By CFRP pathologist?  
2.  By hospital physician?

**NOTE:** Autopsies performed by non-certified Child Death Pathologists are limited to hospital deaths resulting from a **known** medical condition/illness. All others are to be done by a Child Death Pathologist (see listing at [www.dss.state.mo.us/stat/cpn.htm](http://www.dss.state.mo.us/stat/cpn.htm)). Only CFRP pathologist autopsies qualify for reimbursement.

3. Name of CFRP pathologist? (Last name only) \_\_\_\_\_

**F. SUPERVISION**

1. Who was in charge of watching the decedent at the time of injury/event?

- |   |   |   |
|---|---|---|
| a. <input type="checkbox"/> Natural father  | g. <input type="checkbox"/> Foster father                         | m. <input type="checkbox"/> Unlicensed babysitter/child care worker |
| b. <input type="checkbox"/> Natural mother  | h. <input type="checkbox"/> Foster mother                         | n. <input type="checkbox"/> Child, age: _____                       |
| c. <input type="checkbox"/> Adoptive father | i. <input type="checkbox"/> Other relative                        | o. <input type="checkbox"/> Hospital staff                          |
| d. <input type="checkbox"/> Adoptive mother | j. <input type="checkbox"/> Parent's male paramour                | p. <input type="checkbox"/> Other non-relative                      |
| e. <input type="checkbox"/> Stepfather      | k. <input type="checkbox"/> Parent's female paramour              | q. <input type="checkbox"/> No one in charge of watching            |
| f. <input type="checkbox"/> Stepmother      | l. <input type="checkbox"/> Licensed babysitter/child care worker | r. <input type="checkbox"/> Due to age, no one in charge            |

2. Was the decedent adequately supervised? a.  Yes    b.  No    c.  Unknown    d.  Not applicable

If no:

1. Did the person(s) in charge appear to be intoxicated, under influence of drugs, mentally ill or limited, or otherwise impaired at time of injury/event?  
a.  Yes    b.  No    c.  Unknown

2. Was the person(s) preoccupied, distracted or asleep at the time of the injury/event?  
a.  Yes    b.  No    c.  Unknown

3. Was injury/event witnessed by at least one person? a.  Yes    b.  No    c.  Unknown

**G. CAUSE OF DEATH**

(Select most appropriate cause of death and if applicable, complete Section H)

1.  **INJURY (Complete questions 1 and 2 for all injuries)**

1. Was the injury inflicted? a.  Yes b.  No c.  Unknown  
(Inflicted - defined as assaultive or aggressive action)
2. Was the injury intentional? a.  Yes b.  No c.  Unknown

If vehicle accident, non-reviewable, answer questions 3 through 9. If reviewable vehicle accident (pedestrian/bicycle/driveway injury, drug/alcohol related or other suspicious/criminal activity), skip the following questions and complete Section H.

3. Position of decedent?  
a.  Operator c.  Other  
b.  Passenger d.  Unknown
4. Vehicle in which decedent was occupant?  
a.  Car c.  Motorcycle/ATV e.  Semi/Tractor trailer unit  
b.  Truck/RV/Van d.  Farm vehicle f.  Other
5. Was another vehicle involved in accident? a.  Yes b.  No
6. Condition of road?  
a.  Normal c.  Wet e.  Other  
b.  Loose gravel d.  Ice or snow f.  Unknown
7. Restraint used by decedent?  
a.  Present, not used c.  Used correctly e.  Unknown  
b.  None in vehicle d.  Used incorrectly f.  Not applicable
8. Helmet used by decedent?  
a.  Helmet worn b.  Helmet not worn c.  Not applicable
9. Primary cause of accident?  
a.  Speeding c.  Mechanical failure e.  Driver error  
b.  Carelessness d.  Weather conditions f.  Other

2.  **ILLNESS OR OTHER NATURAL CAUSE**

1. Known condition \_\_\_\_\_
2. Was inadequate care or neglect involved in death? a.  Yes b.  No  
(If yes, mark Section H, Number 2)

Complete questions 3 - 8 if death in infant <1 year of age.

3. History information provided by? a.  Parent b.  Physician/Medical facility c.  Other
4. Age at death?  
a.  0 - 24 hours after birth c.  48 hours - 6 weeks e.  6 months - 1 year  
b.  24 - 48 hours d.  6 weeks - 6 months
5. Gestational age?  
a.  <25 weeks b.  25 - 30 weeks c.  30-37 weeks d.  >37 weeks e.  Unknown
6. Birth weight in grams (approximate lbs./oz.)?  
a.  <750 (<1 lb. 10 oz.) c.  1,500 - 2,499 (3 lbs. 6 oz. to 5 lbs. 5 oz.) e.  Unknown  
b.  750 - 1,499 (1 lb. 10 oz. to 3 lbs. 5 oz.) d.  >2,500 (>5 lbs. 6 oz.)
7. Multiple birth? a.  Yes b.  No
8. Have there been other infant deaths in the immediate family? a.  Yes b.  No c.  Unknown

3.  **UNKNOWN CAUSE (Describe in narrative. Death shall be reviewed.)**

1. Was death sudden and unexplained in infant <1 year of age, but over 1 week old? a.  Yes b.  No  
(If yes, the child is required to be autopsied by child death pathologist)  
If yes, also complete Section G, Number 2, questions 3 - 8 and mark Section H, Number 1.





MISSOURI DEPARTMENT OF SOCIAL SERVICES  
DIVISION OF LEGAL SERVICES  
**CHILD FATALITY REVIEW PANEL DATA REPORT**  
TO BE COMPLETED FOR ALL REVIEWABLE CHILD DEATHS <18 YEARS OF AGE

STATE USE ONLY		DATA FORM <b>2</b>
DEATH CERT. NO.	BIRTH CERT. NO.	
CFRP CASE NO.	DECEDENT DCN	
<input type="checkbox"/> MEDICAID	CAN INCIDENT NO.	
DEATH CERTIFICATE MANNER OF DEATH		
a. <input type="checkbox"/> NATURAL	d. <input type="checkbox"/> HOMICIDE	
b. <input type="checkbox"/> ACCIDENT	e. <input type="checkbox"/> UNDETERMINED	
c. <input type="checkbox"/> SUICIDE	f. <input type="checkbox"/> PENDING	

**INSTRUCTIONS**

Notify Child Abuse/Neglect Hotline (800-392-3738) of all deaths of children <18 years of age.  
Complete the form with all known information and forward to the regional coordinator within forty-five days of the death.

**A. IDENTIFICATION INFORMATION**

1. COUNTY OF RESIDENCE <small>STATE USE ONLY</small>	2. COUNTY OF ILLNESS/INJURY/EVENT <small>STATE USE ONLY</small>	3. COUNTY OF DEATH <small>STATE USE ONLY</small>
4. DECEDENT'S NAME (FIRST, MI, LAST) _____/_____/____	5. DATE OF BIRTH (MM/DD/YY) ____/____/____	6. DATE OF DEATH (MM/DD/YY) ____/____/____
7. SEX a. <input type="checkbox"/> MALE b. <input type="checkbox"/> FEMALE	8. RACE a. <input type="checkbox"/> WHITE b. <input type="checkbox"/> BLACK c. <input type="checkbox"/> ASIAN/PACIFIC ISLANDER d. <input type="checkbox"/> AMERICAN INDIAN/ALASKAN NATIVE e. <input type="checkbox"/> UNKNOWN	9. IS DECEDENT OF HISPANIC ORIGIN? a. <input type="checkbox"/> YES b. <input type="checkbox"/> NO
10. MOTHER'S NAME (FIRST, MAIDEN, LAST) _____/_____/____		11. MOTHER'S DATE OF BIRTH (MM/DD/YY) ____/____/____

**B. CHILD ABUSE/NEGLECT HOTLINE (800-392-3738)**

1. Were there prior reports to the Child Abuse/Neglect Hotline? a.  Yes b.  No

If yes, mark all that apply:

1.  Involving child  
2.  Involving anyone else in family  
3.  Involving caretaker (other than family)  
4.  Total number of DFS reports \_\_\_\_\_

2. Current notification to Child Abuse/Neglect Hotline was accepted as:

a.  Information/Referral only  
b.  Report for investigation

**C. SOCIAL INFORMATION**

1. For all persons living in the residence of the decedent, indicate their relationship to the decedent, their age range, and who is head of household. (Select only one head of household)

Use corresponding letter for appropriate age range:

**A** = 0-5 yrs.    **B** = 6-9 yrs.    **C** = 10-14 yrs.    **D** = 15-18 yrs.    **E** = 19-40 yrs.    **F** = >40 yrs.

	Age Range	Head of Household		Age Range	Head of Household
a. <input type="checkbox"/> Natural father	_____	<input type="checkbox"/>	i. <input type="checkbox"/> Other relative	_____	<input type="checkbox"/>
b. <input type="checkbox"/> Natural mother	_____	<input type="checkbox"/>	j. <input type="checkbox"/> Other relative	_____	<input type="checkbox"/>
c. <input type="checkbox"/> Adoptive father	_____	<input type="checkbox"/>	k. <input type="checkbox"/> Mother's paramour	_____	<input type="checkbox"/>
d. <input type="checkbox"/> Adoptive mother	_____	<input type="checkbox"/>	l. <input type="checkbox"/> Father's paramour	_____	<input type="checkbox"/>
e. <input type="checkbox"/> Stepfather	_____	<input type="checkbox"/>	m. <input type="checkbox"/> Other non-relative	_____	<input type="checkbox"/>
f. <input type="checkbox"/> Stepmother	_____	<input type="checkbox"/>	n. <input type="checkbox"/> Another child	_____	<input type="checkbox"/>
g. <input type="checkbox"/> Foster father	_____	<input type="checkbox"/>	o. <input type="checkbox"/> Another child	_____	<input type="checkbox"/>
h. <input type="checkbox"/> Foster mother	_____	<input type="checkbox"/>	p. <input type="checkbox"/> More than two children (list in narrative)		

2. Current marital status of head of household?

- a.  Married                      c.  Divorced                      e.  Unknown  
b.  Widowed                      d.  Never married

**D. DEATH/SCENE INFORMATION**

1. Place of death?

- |   |   |   |   |
|---|---|---|---|
| a. <input type="checkbox"/> Decedent's home | e. <input type="checkbox"/> Public drive  | i. <input type="checkbox"/> Other private property          | m. <input type="checkbox"/> Body of water |
| b. <input type="checkbox"/> Other home      | f. <input type="checkbox"/> Street        | j. <input type="checkbox"/> Licensed child care facility    | n. <input type="checkbox"/> Work place    |
| c. <input type="checkbox"/> Rural road      | g. <input type="checkbox"/> Private drive | k. <input type="checkbox"/> Unlicensed child care facility  | o. <input type="checkbox"/> Hospital      |
| d. <input type="checkbox"/> Highway         | h. <input type="checkbox"/> Farm          | l. <input type="checkbox"/> Child care residential facility | p. <input type="checkbox"/> Other: _____  |

2. Date of injury/event?

- a.  \_\_\_ / \_\_\_ / \_\_\_ (MM/DD/YY)      b.  Unknown

3. Time of injury/event?

- a.  \_\_\_ : \_\_\_ (Hour:Minute)     AM     PM      b.  Unknown

4. Time pronounced dead?

- a.  \_\_\_ : \_\_\_ (Hour:Minute)     AM     PM      b.  Unknown

5. Autopsy performed by?

- a.  CFRP Pathologist (Last Name Only) \_\_\_\_\_  
b.  Not performed

**E. SUPERVISION**

1. Who was in charge of watching the decedent at the time of injury/event?

- |   |   |   |
|---|---|---|
| a. <input type="checkbox"/> Natural father  | g. <input type="checkbox"/> Foster father                         | m. <input type="checkbox"/> Unlicensed babysitter/child care worker |
| b. <input type="checkbox"/> Natural mother  | h. <input type="checkbox"/> Foster mother                         | n. <input type="checkbox"/> Child, age: _____                       |
| c. <input type="checkbox"/> Adoptive father | i. <input type="checkbox"/> Other relative                        | o. <input type="checkbox"/> Hospital staff                          |
| d. <input type="checkbox"/> Adoptive mother | j. <input type="checkbox"/> Parent's male paramour                | p. <input type="checkbox"/> Other non-relative                      |
| e. <input type="checkbox"/> Stepfather      | k. <input type="checkbox"/> Parent's female paramour              | q. <input type="checkbox"/> No one in charge of watching            |
| f. <input type="checkbox"/> Stepmother      | l. <input type="checkbox"/> Licensed babysitter/child care worker | r. <input type="checkbox"/> Due to age, no one in charge            |

2. Was the decedent adequately supervised?    a.  Yes    b.  No    c.  Unknown    d.  Not applicable

If no:

1. Did the person(s) in charge appear to be intoxicated, under influence of drugs, mentally ill or limited, or otherwise impaired at time of injury/event?

- a.  Yes    b.  No    c.  Unknown

2. Was the person(s) preoccupied, distracted or asleep at the time of the injury/event?

- a.  Yes    b.  No    c.  Unknown

3. Was injury/event witnessed by at least one person?    a.  Yes    b.  No    c.  Unknown

**F. PANEL FINDINGS**

1. Date of first panel meeting?    a.  \_\_\_ / \_\_\_ / \_\_\_ (MM/DD/YY)

2. Panel members participating?

- |   |   |  |
|---|---|--|
| a. <input type="checkbox"/> Coroner                 | e. <input type="checkbox"/> EMS                     | h. <input type="checkbox"/> Juvenile officer |
| b. <input type="checkbox"/> Prosecutor              | f. <input type="checkbox"/> Medical examiner        | i. <input type="checkbox"/> Optional member  |
| c. <input type="checkbox"/> DFS worker              | g. <input type="checkbox"/> Law enforcement officer | j. <input type="checkbox"/> Optional member  |
| d. <input type="checkbox"/> Public health/Physician |   |  |

3. Total number of meetings held?    a.  One    b.  Two    c.  Three or more

4. Death scene investigation conducted? (Mark all that apply)

- |  |   |  |   |
|--|---|--|---|
| a. <input type="checkbox"/> By law enforcement | c. <input type="checkbox"/> By medical examiner | e. <input type="checkbox"/> By fire investigator | g. <input type="checkbox"/> Not conducted |
| b. <input type="checkbox"/> By coroner         | d. <input type="checkbox"/> By EMS              | f. <input type="checkbox"/> By other agency      |   |

5. Investigation by law enforcement?

- a.  Conducted, no arrest    b.  Conducted, arrest for: \_\_\_\_\_    c.  Pending    d.  Not conducted

6. Investigation/evaluation by juvenile officer?

- a.  Conducted, no action    b.  Conducted, juvenile court action    c.  Pending    d.  Not conducted

7. Review of records by Department of Health?

- a.  Conducted, no action    b.  Conducted, services provided    c.  Pending    d.  Not conducted



8. Review of history by Division of Family Services?
- a.  Conducted, no action      c.  Conducted, case investigation      e.  Not conducted  
b.  Conducted, services provided      d.  Pending
9. Action by prosecutor?
- a.  Suspected perpetrator, no charge filed      c.  Pending or in progress  
b.  Charge filed for: \_\_\_\_\_      d.  No action
10. Review of medical/trip records by EMS?
- a.  Conducted, no action      b.  Conducted, services provided      c.  Pending      d.  Not conducted
11. Did the review lead to additional investigation?      a.  Yes      b.  No
12. Were additional services provided as a result of the review?      a.  Yes      b.  No
13. Were changes in agency policies or practices recommended as a result of the review?      a.  Yes      b.  No

**G. PERSON(S) ARRESTED/CHARGED**

If no arrest or charge, go to Section H

1. Number of person(s) arrested/charged?      a.  One      b.  Two      c.  Three or more
2. Number of persons arrested or charged under 18 years of age?
- a.  One      b.  Two      c.  Three or more      d.  Not applicable
3. Was one or more of the persons arrested or charged responsible for supervision of the child at time of fatal illness/injury/event?
- a.  Yes      b.  No
4. Indicate the relationship of the person(s) arrested or charged to the decedent.
- |   |  |  |
|---|--|--|
| a. <input type="checkbox"/> Natural father  | g. <input type="checkbox"/> Foster father            | m. <input type="checkbox"/> Babysitter/child care worker |
| b. <input type="checkbox"/> Natural mother  | h. <input type="checkbox"/> Foster mother            | n. <input type="checkbox"/> Friend                       |
| c. <input type="checkbox"/> Adoptive father | i. <input type="checkbox"/> Other relative           | o. <input type="checkbox"/> Acquaintance                 |
| d. <input type="checkbox"/> Adoptive mother | j. <input type="checkbox"/> Sibling                  | p. <input type="checkbox"/> Other non-relative           |
| e. <input type="checkbox"/> Stepfather      | k. <input type="checkbox"/> Parent's male paramour   | q. <input type="checkbox"/> Other non-relative           |
| f. <input type="checkbox"/> Stepmother      | l. <input type="checkbox"/> Parent's female paramour | r. <input type="checkbox"/> Stranger                     |

**H. CAUSE OF DEATH**

Complete Section appropriate to death

1.  INJURY (If marked, also complete Section I)
1. Was the injury inflicted?      a.  Yes      b.  No      c.  Unknown  
(Inflicted - defined as assaultive or aggressive action)
2. Was the injury intentional?      a.  Intentional      b.  Unintentional/Accidental      c.  Unknown
3. If intentional, was decedent?      a.  Intended victim      b.  Random victim
4. Person(s) inflicting injury? (Mark all that apply)
- |  |   |   |   |
|--|---|---|---|
| a. <input type="checkbox"/> Self       | e. <input type="checkbox"/> Stepfather        | i. <input type="checkbox"/> Other relative    | m. <input type="checkbox"/> Sibling     |
| b. <input type="checkbox"/> Mother     | f. <input type="checkbox"/> Mother's paramour | j. <input type="checkbox"/> Acquaintance      | n. <input type="checkbox"/> Other child |
| c. <input type="checkbox"/> Father     | g. <input type="checkbox"/> Father's paramour | k. <input type="checkbox"/> Friend            | o. <input type="checkbox"/> Stranger    |
| d. <input type="checkbox"/> Stepmother | h. <input type="checkbox"/> Foster parent     | l. <input type="checkbox"/> Child care worker | p. <input type="checkbox"/> Unknown     |
5. Age of primary person inflicting injury?      a.  \_\_\_\_\_      b.  Unknown
6. Race of primary person inflicting injury?
- |                                   |  |   |
|-----------------------------------|--|---|
| a. <input type="checkbox"/> White | c. <input type="checkbox"/> Asian/Pacific Islander         | e. <input type="checkbox"/> Unable to determine |
| b. <input type="checkbox"/> Black | d. <input type="checkbox"/> American Indian/Alaskan Native | f. <input type="checkbox"/> Unknown             |

7. Was the injury drug related? a.  Yes b.  No c.  Unknown
8. Was the injury gang related? a.  Yes b.  No c.  Unknown
9. Did the injury occur during commission of a crime? a.  Yes b.  No c.  Unknown
10. If suicide: (Mark all that apply)
- a.  Prior attempts d.  Had previously received mental health services
- b.  Talked of suicide e.  Suicide completely unexpected
- c.  Prior mental health problems

**2.  ILLNESS OR OTHER NATURAL CAUSE**  
(If applicable, complete Inadequate Care or Neglect in Section I)

1.  Known Condition \_\_\_\_\_

**Complete questions 2 - 11 if natural cause death in infant <1 year of age (INCLUDING SIDS)**

2. Age at death?
- a.  0 - 24 hours after birth c.  48 hours - 6 weeks e.  6 months - 1 year
- b.  24 - 48 hours d.  6 weeks - 6 months
3. Gestational age at birth?
- a.  <25 weeks b.  25 - 30 weeks c.  30 - 37 weeks d.  >37 weeks e.  Unknown
4. Birth weight in grams (approximate lbs./oz.)?
- a.  < 750 (<1 lb. 10 oz.) c.  1,500 - 2,499 (3 lbs. 6 oz. to 5 lbs. 5 oz.) e.  Unknown
- b.  750 - 1,499 (1 lb. 10 oz. to 3 lbs. 5 oz.) d.  >2,500 (>5 lbs. 6 oz.)
5. Multiple birth? a.  Yes b.  No
6. Total number of prenatal visits?
- a.  None b.  1 - 3 c.  4 - 6 d.  7 - 10 e.  Unknown
7. First prenatal visit occurred during?
- a.  First trimester b.  Second trimester c.  Third trimester d.  Unknown
8. Medical complications during pregnancy? a.  Yes b.  No c.  Unknown
9. Smoking during pregnancy? a.  Yes b.  No c.  Unknown
10. Drug use during pregnancy? a.  Yes b.  No c.  Unknown
11. Alcohol use during pregnancy? a.  Yes b.  No c.  Unknown

**3.  UNKNOWN CAUSE (Describe in narrative)**

**I. CIRCUMSTANCES OF DEATH**

1.  **SUDDEN INFANT DEATH SYNDROME** (Also complete Section H-2, questions 2-11)
1. Position of decedent at discovery?
- a.  On stomach, face down c.  On stomach, face position unknown e.  On side
- b.  On stomach, face to side d.  On back f.  Unknown
2. Normal sleeping position?
- a.  On Back b.  On stomach c.  On side d.  Varies e.  Unknown
3. Location of decedent when found?
- a.  Crib b.  Playpen c.  Bed d.  Couch e.  Floor f.  Other g.  Unknown
4. Was decedent sleeping alone?
- a.  Yes b.  No c.  Unknown

2.  **INADEQUATE CARE OR NEGLECT** (Mark all that apply)

- |   |   |  |
|---|---|--|
| a. <input type="checkbox"/> Apparent lack of supervision    | e. <input type="checkbox"/> Malnutrition            | i. <input type="checkbox"/> Inadequate medical attention |
| b. <input type="checkbox"/> Apparent lack of medical care   | f. <input type="checkbox"/> Dehydration             | j. <input type="checkbox"/> Out-of-hospital birth        |
| c. <input type="checkbox"/> Munchausen Syndrome by Proxy    | g. <input type="checkbox"/> Oral water intoxication | k. <input type="checkbox"/> Other                        |
| d. <input type="checkbox"/> Failure to Thrive (non-organic) | h. <input type="checkbox"/> Delayed medical care    |  |

3.  **VEHICLE ACCIDENT**

1. Position of decedent?

- |  |                                       |                                     |
|--|---------------------------------------|-------------------------------------|
| a. <input type="checkbox"/> Operator   | c. <input type="checkbox"/> Passenger | e. <input type="checkbox"/> Other   |
| b. <input type="checkbox"/> Pedestrian | d. <input type="checkbox"/> Bicyclist | f. <input type="checkbox"/> Unknown |

2. Vehicle in which decedent was occupant?

- |  |  |   |  |
|--|--|---|--|
| a. <input type="checkbox"/> Car          | d. <input type="checkbox"/> Bicycle      | g. <input type="checkbox"/> Other farm vehicle        | j. <input type="checkbox"/> Other          |
| b. <input type="checkbox"/> Truck/RV/Van | e. <input type="checkbox"/> Riding mower | h. <input type="checkbox"/> All-terrain vehicle       | k. <input type="checkbox"/> Not applicable |
| c. <input type="checkbox"/> Motorcycle   | f. <input type="checkbox"/> Farm tractor | i. <input type="checkbox"/> Semi/Tractor trailer unit |  |

3. Vehicle in which decedent was not occupant?

- |  |  |   |  |
|--|--|---|--|
| a. <input type="checkbox"/> Car          | d. <input type="checkbox"/> Bicycle      | g. <input type="checkbox"/> Other farm vehicle        | j. <input type="checkbox"/> Other          |
| b. <input type="checkbox"/> Truck/RV/Van | e. <input type="checkbox"/> Riding mower | h. <input type="checkbox"/> All-terrain vehicle       | k. <input type="checkbox"/> Not applicable |
| c. <input type="checkbox"/> Motorcycle   | f. <input type="checkbox"/> Farm tractor | i. <input type="checkbox"/> Semi/Tractor trailer unit |  |

4. Condition of road?

- |                                    |  |                                 |   |                                   |                                     |
|------------------------------------|--|---------------------------------|---|-----------------------------------|-------------------------------------|
| a. <input type="checkbox"/> Normal | b. <input type="checkbox"/> Loose gravel | c. <input type="checkbox"/> Wet | d. <input type="checkbox"/> Ice or snow | e. <input type="checkbox"/> Other | f. <input type="checkbox"/> Unknown |
|------------------------------------|--|---------------------------------|---|-----------------------------------|-------------------------------------|

5. Restraint used?

- |   |  |  |
|---|--|--|
| a. <input type="checkbox"/> Present, not used | c. <input type="checkbox"/> Used correctly   | e. <input type="checkbox"/> Unknown        |
| b. <input type="checkbox"/> None in vehicle   | d. <input type="checkbox"/> Used incorrectly | f. <input type="checkbox"/> Not applicable |

6. Helmet used?

- |   |   |  |
|---|---|--|
| a. <input type="checkbox"/> Helmet worn | b. <input type="checkbox"/> Helmet not worn | c. <input type="checkbox"/> Not applicable |
|---|---|--|

7. Alcohol and/or other drug use?

- |   |  |
|---|--|
| a. <input type="checkbox"/> Decedent impaired                     | c. <input type="checkbox"/> Driver of other vehicle impaired |
| b. <input type="checkbox"/> Driver of decedent's vehicle impaired | d. <input type="checkbox"/> Not applicable                   |

8. Primary cause of accident?

- |  |  |  |                                     |
|--|--|--|-------------------------------------|
| a. <input type="checkbox"/> Speeding     | c. <input type="checkbox"/> Mechanical failure | e. <input type="checkbox"/> Driver error | g. <input type="checkbox"/> Unknown |
| b. <input type="checkbox"/> Carelessness | d. <input type="checkbox"/> Weather conditions | f. <input type="checkbox"/> Other        |                                     |

4.  **DROWNING**

1. Place of drowning?

- |  |   |   |                                     |
|--|---|---|-------------------------------------|
| a. <input type="checkbox"/> Lake, river, pond or creek | c. <input type="checkbox"/> Swimming pool | e. <input type="checkbox"/> Bucket      | g. <input type="checkbox"/> Other   |
| b. <input type="checkbox"/> Bathtub                    | d. <input type="checkbox"/> Well/Cistern  | f. <input type="checkbox"/> Wading pool | h. <input type="checkbox"/> Unknown |

2. Activity at time of drowning?

- |   |                                      |                                     |
|---|--------------------------------------|-------------------------------------|
| a. <input type="checkbox"/> Boating                 | c. <input type="checkbox"/> Swimming | e. <input type="checkbox"/> Other   |
| b. <input type="checkbox"/> Playing at water's edge | d. <input type="checkbox"/> Playing  | f. <input type="checkbox"/> Unknown |

3. Was decedent wearing a floatation device? a.  Yes b.  No

4. Did decedent enter area of water unattended? a.  Yes b.  No c.  Unknown d.  Not applicable

5. Could decedent swim? a.  Yes b.  No c.  Unknown d.  Not applicable

6. Were alcohol or drugs a factor? a.  Yes b.  No

**5.  FIREARM**

1. Person handling the firearm?
  - a.  Decedent    b.  Family member    c.  Acquaintance    d.  Stranger    e.  Unknown
2. Type of firearm?
  - a.  Handgun    b.  Rifle    c.  Shotgun    d.  Other    e.  Unknown
3. Age of person handling firearm?
  - a.  \_\_\_\_\_    b.  Unknown
4. Use of firearm at time of injury?
  - a.  Shooting at other person    d.  Target shooting    g.  Playing
  - b.  Shooting at self    e.  Loading firearm    h.  Other
  - c.  Cleaning firearm    f.  Hunting    i.  Unknown
5. Did person handling firearm attend safety classes?
  - a.  Yes    b.  No    c.  Unknown

**6.  SUFFOCATION/STRANGULATION**

1. Cause of suffocation/strangulation?
  - a.  Other person overlaying or rolling over decedent
  - b.  Wedging
  - c.  Food
  - d.  Other person's hand(s)
  - e.  Object covering decedent's mouth/nose
  - f.  Object exerting pressure on victim's neck/chest
  - g.  Small object or toy in mouth
  - i.  Other
  - j.  Unknown
2. If sleeping, location of decedent at the time?
  - a.  In crib    c.  In couch/chair    e.  In infant car seat    g.  Other
  - b.  In bed    d.  Being held    f.  On floor    h.  Unknown
3. If sleeping, was decedent sleeping alone?
  - a.  Yes    b.  No    c.  Unknown
4. If bedding was involved:
  1. Was the design of bed hazardous?
    - a.  Yes    b.  No    c.  Unknown
  2. Was decedent placed on soft bedding?
    - a.  Yes    b.  No    c.  Unknown
  3. Was there improper use of bedding?
    - a.  Yes    b.  No    c.  Unknown

**7.  ELECTROCUTION**

1. Source of electricity?
  - a.  Water contact    c.  Electrical outlet    e.  Tool    g.  Other
  - b.  Electrical wire    d.  Appliance    f.  Lightning    h.  Unknown

**8.  FALL INJURY**

1. Fall was from?
  - a.  Open window    c.  Natural elevation    e.  Man-made elevation
  - b.  Furniture    d.  Stairs or steps    f.  Other
2. Height of fall?
  - a.  # feet \_\_\_\_\_    b.  Unknown
3. Landing surface composition/hardness?
  - a.  Carpet    b.  Concrete    c.  Ground    d.  Other
4. Was decedent in a baby walker?
  - a.  Yes    b.  No    c.  Not applicable
5. Was decedent thrown or pushed down?
  - a.  Yes    b.  No    c.  Unknown

9.  **POISONING/OVERDOSE**

1. Type of poisoning?

- a.  Prescription medicine
- b.  Over-the-counter medicine
- c.  Chemical
- d.  Illegal drug
- e.  Alcohol
- f.  Carbon monoxide or other gas inhalation
- g.  Food product
- h.  Other
- i.  Unknown

2. Was substance in safety packaging?

- a.  Yes
- b.  No
- c.  Unknown
- d.  Not applicable

3. Location of drug or chemical?

- a.  In closed, secured area
- b.  In closed, unsecured area
- c.  In open area

10.  **FIRE/BURN**

1. If fire, the source?

- a.  Matches
- b.  Lighter
- c.  Cigarette
- d.  Combustibles
- e.  Explosives
- f.  Fireworks
- g.  Space heater
- h.  Faulty wiring
- i.  Other
- j.  Unknown

2. Smoke alarm present?

- a.  Yes
- b.  No
- c.  Unknown
- d.  Not applicable

3. Smoke alarm in working order?

- a.  Yes
- b.  No
- c.  Unknown
- d.  Not applicable

4. Fire started by?

- a.  Decedent
- b.  Other
- c.  No one
- d.  Unknown

5. Activity of person starting fire?

- a.  Playing
- b.  Smoking
- c.  Cooking
- d.  Suspected arson
- e.  Other
- f.  Unknown
- g.  Not applicable

6. Construction of fire site?

- a.  Wood frame
- b.  Brick/stone
- c.  Metal
- d.  Trailer
- e.  Other
- f.  Not applicable

7. Multiple fire injuries or deaths?

- a.  Yes
- b.  No

8. For structure fire, where was decedent found?

- a.  Hiding
- b.  In bed
- c.  Stairway
- d.  Close to exit
- e.  Other

9. Did decedent know of a fire escape plan?

- a.  Yes
- b.  No
- c.  Unknown
- d.  Not applicable

10. If burn, the source?

- a.  Hot water
- b.  Appliance
- c.  Cigarettes
- d.  Heater
- e.  Chemical
- f.  Other

11.  **CRUSH (Non-vehicle)** (Describe in narrative)

1. Where did crush occur?

- a.  Indoors
- b.  Outdoors

12.  **CONFINEMENT**

1. Place of confinement?

- a.  Refrigerator/Appliance
- b.  Motor vehicle
- c.  Chest/Box/Locker
- d.  Room/Building
- e.  Other

13.  **SHAKEN/IMPACT SYNDROME**

1. Prior history of abuse?

- a.  Yes
- b.  No

2. Suspected cause?

- a.  Crying
- b.  Disobedience
- c.  Feeding difficulty
- d.  Toilet training
- e.  Other
- f.  Unknown

14.  OTHER INFLICTED INJURY

1. Manner of injury?

- a.  Cut/stabbed    b.  Struck    c.  Thrown    d.  Other    e.  Unknown

2. Injury inflicted with?

- a.  Sharp object (e.g., knife, scissors)    c.  Hands/feet    e.  Unknown  
b.  Blunt object (e.g., hammer, bat)    d.  Other

15.  OTHER CAUSE (Describe in narrative)

J. NARRATIVE DESCRIPTION OF CIRCUMSTANCES OR OTHER COMMENTS

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K. SERVICES PROVIDED

1. List services provided by agencies as a result of the death. (Mark all that apply)

- a.  Bereavement counseling    d.  Emergency shelter    g.  Health care    j.  No services  
b.  Economic support    e.  Mental health services    h.  Legal services  
c.  Funeral arrangements    f.  Social services    i.  Other

L. PREVENTION

1. To what degree was this death believed to be preventable?

- a.  Not at all    b.  Possibly    c.  Definitely

2. Primary risk factors involved in the child's death? (Mark all that apply)

- a.  Medical    c.  Economic    e.  Environmental    g.  Drugs or alcohol  
b.  Social    d.  Behavioral    f.  Product safety    h.  Other

3. Were these risk factors identified in your community prior to the death?

- a.  Yes    b.  No

4. Was any action taken in your community to address the risk factors prior to this death?

- a.  Yes    b.  No

5. Could the family or child have taken actions to reduce the risk?

- a.  Yes    b.  No    c.  Unknown

6. What prevention activities have been proposed since the death? (Mark all that apply)

- a.  Legislation, law or ordinance    f.  Consumer product safety action (800-638-8095)  
b.  Community safety project    g.  News services  
c.  Public forums    h.  Changes in agency practice  
d.  Educational activities in school    i.  Other programs or activities  
e.  Educational activities in the media    j.  None

7. Target populations for prevention activities? (Mark all that apply)

- a.  Children    c.  Parents/Care givers    e.  Others  
b.  General public    d.  Child protection professionals

8. Estimated costs for prevention?

- a.  No cost involved    c.  <\$100    e.  >\$500  
b.  All services donated    d.  \$100 - \$500    f.  Unknown

9. Lead organization?

- a.  Health/Medical services    d.  Schools    g.  Other  
b.  Social services    e.  Mental health services  
c.  Law enforcement    f.  Local community group

CFRP CHAIR SIGNATURE



DATE (MM/DD/YY)

\_\_\_/\_\_\_/\_\_\_

REGIONAL COORDINATOR SIGNATURE



DATE (MM/DD/YY)

\_\_\_/\_\_\_/\_\_\_



MISSOURI DEPARTMENT OF SOCIAL SERVICES  
DIVISION OF LEGAL SERVICES  
**CHILD FATALITY REVIEW PANEL (CFRP) FINAL REPORT**  
TO BE COMPLETED FOR ALL REVIEWABLE CHILD DEATHS LESS THAN 18 YEARS OF AGE

**INSTRUCTIONS:** Complete the form with all known information and forward to the prevention coordinator within ten days.

**IDENTIFICATION INFORMATION**

1. DECEDENT'S NAME (FIRST, MI, LAST)		2. SEX A. <input type="checkbox"/> MALE    B. <input type="checkbox"/> FEMALE	
3. DATE OF DEATH ____/____/____	4. DATE OF BIRTH ____/____/____	5. COUNTY OF CFRP PANEL REVIEW	
6. DATE OF LAST CFRP PANEL REVIEW ____/____/____	7. CIRCUMSTANCES LEADING TO DEATH? (PRECIPITATING EVENT)		

**PREVENTION CONCLUSIONS**

1. KEEPING IN MIND WHAT IS KNOWN ABOUT THIS TYPE OF FATALITY, IS THERE A PREVENTION MESSAGE?  
A.  Yes    B.  No

2. IF YES, WHAT PREVENTION MESSAGE(S) ARE APPROPRIATE?  
\_\_\_\_\_  
\_\_\_\_\_

3. HAVE PREVENTION INITIATIVES BEEN DISCUSSED?  
A.  Yes    B.  No

4. IF YES, WHAT TYPE OF PREVENTION INITIATIVE(S)?

A. <input type="checkbox"/> Legislation, Law or Ordinance	F. <input type="checkbox"/> Consumer Product Safety Action (800-638-8095)
B. <input type="checkbox"/> Community Safety Project	G. <input type="checkbox"/> News Service
C. <input type="checkbox"/> Public Forums	H. <input type="checkbox"/> Changes in Agency Practices
D. <input type="checkbox"/> Educational Activities in School	I. <input type="checkbox"/> Other Programs or Activities
E. <input type="checkbox"/> Educational Activities in the Media	

5. BRIEFLY DESCRIBE PREVENTION INITIATIVE(S)  
\_\_\_\_\_  
\_\_\_\_\_

6. ANTICIPATED ORGANIZATIONS INVOLVED?

A. <input type="checkbox"/> Health/Medical Services	D. <input type="checkbox"/> Schools	G. <input type="checkbox"/> Other
B. <input type="checkbox"/> Social Services	E. <input type="checkbox"/> Mental Health Services	
C. <input type="checkbox"/> Law Enforcement	F. <input type="checkbox"/> Local Community Group	

7. TARGET POPULATIONS FOR PROPOSED PREVENTION INITIATIVE(S)?

A. <input type="checkbox"/> Children	D. <input type="checkbox"/> Child Protection Professionals
B. <input type="checkbox"/> General Public	E. <input type="checkbox"/> Other
C. <input type="checkbox"/> Parents/Caregivers	

8. IS STAT PREVENTION COORDINATOR ASSISTANCE REQUESTED CONCERNING CURRENT OR FUTURE PREVENTION INITIATIVES, E.G., FACILITATION, RESOURCES, ETC.?  
A.  Yes    B.  No

IF YES, POINT OF CONTACT: NAME/TITLE

AGENCY

MAIL/STREET ADDRESS

CITY/STATE/ZIP

PHONE

FAX

EMAIL





**Title 15—ELECTED OFFICIALS  
Division 30—Secretary of State  
Chapter 45—Records Management**

**EMERGENCY RULE**

**15 CSR 30-45.040 Missouri Historical Records Advisory Board (MHRAB) Regrant Program Administration**

*PURPOSE: This rule outlines the management plan of the grants-in-aid program for historical records preservation.*

*EMERGENCY STATEMENT: The Secretary of State finds emergency action of the rule necessary to preserve the compelling governmental interest of enabling the Missouri Historical Records Advisory Board (MHRAB) to apply \$300,000 state appropriation and \$300,000 federal funds toward a grants-in-aid program to preserve and provide access to Missouri's historic records. The Missouri State Archives' receipt of federal and state funds on behalf of the MHRAB is conditional on accomplishing stated goals and objectives built within the program's start and end dates of January 1, 2001 and June 30, 2003 respectively. The program risks losing funding if the fixed start date of January 1, 2001 is not met. The MHRAB is the central advisory body for historical records planning and for projects relating to historic records, developed and carried out within the state of Missouri. Authority for this rule may be found in RSMo Supp 1999, sections 109.221.3 and 109.221.5. The scope of this emergency rule is limited to circumstances creating the emergency and complies with the protection extended in the Missouri and United States Constitutions. The Secretary of State believes this emergency rule is fair to all interested parties affected by the circumstances. This emergency rule was filed December 19, 2001, effective January 1, 2001 and will expire June 29, 2001. A proposed rule covering the same material was published in the November 15, 2000 issue of the Missouri Register.*

(1) The Missouri Historical Records Advisory Board (MHRAB) Regrant Program, administered by the Missouri State Archives, Office of Secretary of State, with funds provided by the National Historical Publications and Records Commission (NHPRC) and the state of Missouri, grants financial assistance to historical records repositories to enhance the preservation and access of Missouri's documented heritage. This grants-in-aid program is a significant effort in the Missouri Historical Records Advisory Board's mission to promote and support the identification of, preservation of, and access to all historical records in Missouri.

(2) Those eligible to apply include institutions such as historic, ethnic and religious societies; museums; libraries; and colleges and universities whose archival collections or records of historic value are open to the public on equal terms for everyone.

(3) Activities supported by the MHRAB Regrant Program include—

- (A) Education;
- (B) Planning;
- (C) Preservation;
- (D) Professional consultants;
- (E) Essential equipment;
- (F) Reference tools.

(4) Local government entities are ineligible to apply, as the Missouri State Archives Local Records Grant Program (initiated in 1991) offers direct help for records preservation and management to all jurisdictions supported by tax levies.

(5) Ineligible activities include—

(A) Construction, renovation, furnishing, or purchasing a building or land;

(B) Purchasing manuscripts or other historical records;

(C) Conserving or exhibiting archaeological artifacts, museum objects, or works of art;

(D) Undertaking an oral history project unrelated to Native Americans;

(E) Acquiring, preserving, or describing books, periodicals, or other library materials;

(F) Acquiring, preserving, or describing art objects, sheet music, or other works primarily of value as works of art or entertainment;

(G) Undertaking a documentary editing project to publish the papers of someone who has been deceased for less than ten years;

(H) Undertaking a project centered on the papers of an appointed or elected public official who remains in major office, or is politically active, or the majority of whose papers have not yet been accessioned in a repository;

(I) Processing documents, a major portion of which will be closed to researchers for more than five years, or not be accessible to all users on equal terms, or will be in a repository that denies public access;

(J) Undertaking an arrangement, description, or preservation project in which the pertinent documents are privately owned or deposited in an institution subject to withdrawal upon demand for reasons other than requirements of law;

(K) Undertaking an arrangement, description, or preservation project involving federal government records that are—

1. In the custody of the National Archives and Records Administration (NARA); or

2. In the custody of some other federal agency; or

3. Have been deposited in a non-federal institution without an agreement authorized by NARA. Note: Many federally funded activities not directly undertaken by the federal government produce documents that may in law be considered federal records, including records produced under federal contracts or grants. If your project deals with federal records, you should talk further with the Archives Grant Administrator;

(L) Funding for—

- 1. Existing/permanent staff positions;
- 2. Equipment nonessential to the project;
- 3. Payments to lobbyists;
- 4. Hospitality expenses;
- 5. Prizes/awards;
- 6. Benefit activities such as socials, fundraisers, etc.;
- 7. Educational outreach not available to the public;
- 8. Activities having a religious purpose;
- 9. Expenses incurred prior to the grant period.

(6) Funding.

(A) The MHRAB Regrant Program supports 100% of the total costs for projects between \$500 and \$5,000.

(B) For projects over \$5,000 the MHRAB Regrant Program supports 70% of the project and the applicant must contribute a minimum of 30% in cost-sharing match with 10% of the total project cost in local cash match.

(C) An in-kind contribution may consist of staff time, supplies, utilities (if local space is required for the project), donated to the project.

(D) Permanent equipment is a separate line item requiring a 50/50 match of grant funds and local cash.

(E) Applicants that have a higher percentage of cash cost-sharing will be given preference when all other things are equal.

(F) The maximum grant that can be requested is \$25,000 per application.

(7) Grant Application Requirements.

(A) Identification of entity, entity's governance structure and project personnel.

(B) Activity description—

1. Statement of purpose and goals;
2. Project summary;
3. Detailed analysis of plan, discussion of techniques and timeline of activities;

4. Project objectives;
5. Specific end results or products.

(C) Funding description—

1. Budget layout;
2. Budget explanation;
3. Need for outside funding;
4. Local entity's accounting methods and audit procedures.

(D) Relevant information—

1. Statement of any previous relevant actions;
2. Evaluation of results (how will the success or failure be measured);
3. Description of importance of the project in terms of an overall, long-range program.

(E) Authorization—

1. Signed and dated by proper official;
2. Identification of preparer of the application.

(F) Support material—

1. Letter of commitment from the applicant's funding authority;
2. Resumes of project personnel, consultants, volunteers, and descriptions of their grant-funded duties;
3. Required forms;
4. Appropriate attachments, such as floor plans, sample forms, letters of support;
5. Identification of necessary services, equipment, supplies;
6. Other relevant information.

(8) Evaluation of Proposals.

(A) The Archives Grant Administrator will review grant applications for completeness; conformity to application requirements; soundness of budget; and relevancy to the objectives of the MHRAB Regrant Program.

(B) Each complete application will be summarized and forwarded to the MHRAB.

(C) The MHRAB will evaluate applications based on the following criteria—

1. Demonstrated need for outside funding;
2. Commitment to professional practices;
3. Historical value of records;
4. Ability to maintain achievements.

(D) The MHRAB will make funding decisions at meetings set for this purpose.

(E) The Archives Grant Administrator will notify the applicant on behalf of the MHRAB in writing if the proposal has been funded or rejected.

(9) Grant Calendar.

(A) The first grant period will begin in September 2001 and the second in March 2002; both will close December 31, 2002. Award letters will be issued by the Archives Grant Administrator, Office of Secretary of State.

(B) The first payment in the grant award will not accompany the official award letter, but should be received by the end of the first month in each grant cycle. Subsequent payments are contingent upon receipt by the Archives Grant Administrator of complete and accurate Interim Reports submitted by the grantee.

(C) Grant work must be monitored while in progress. Archives staff may visit the work site for review at any time during the grant cycle.

(D) Any changes in the project, including changes of personnel, must be submitted in writing to the Archives Grant Administrator, Office of Secretary of State.

(E) The grantee must submit Final Reports within 30 days of the grant cycle's conclusion. Report forms will be provided to the grantee. Final Reports should relate to the original grant proposal and evaluate the progress made in accomplishing stated goals and objectives. Failure to comply may negatively impact the organization's ability to obtain future grants.

(F) Grant projects must be completed during the grant period. One extension may be requested in writing to the Archives Grant Administrator, Office of Secretary of State. The request must relate the extenuating circumstances hindering completion of the grant project. If an extension is granted, notification will be made in writing by the Archives Grant Administrator, Office of Secretary of State. A request for extension must be made by August 2002. If the extension is not approved, the award may be canceled.

(10) Accounting.

(A) Grantees must keep financial records for each grant in accordance with agreed upon accounting practices. These records, as public records, shall be subject to inspection by Secretary of State staff and members of the MHRAB during regular business hours throughout the grant period and for the following three years after the grant period ends. If any litigation, claim, or audit is begun before the end of the three years, the records must be retained until such proceeding is resolved.

(B) Grant money must be deposited in an auditable, interest-bearing account, and interest received must be applied to the project.

(C) While the grantee cannot invoice expenses incurred before the grant period begins, expenses incurred after the grant period begins but before the monies are available are allowable.

(D) Grantees must submit documentation for in-kind contributions with Interim and Final Reports. Grantees must submit bid information for services or purchases over \$3,000 with Interim and Final Reports.

(E) All unused grant funds and interest in possession of the grantee must be returned to the MHRAB Regrant Program.

(F) In the case of default by the grantee, the grant will be revoked and all unused funds must be returned to the MHRAB Regrant Program. The Archives Grant Administrator will notify the grantee of default in writing.

(11) Auditing Requirements. The grantee is responsible for ensuring that the MHRAB receives copies of the audit report for any audit performed during the grant period or for the following three years.

(12) Conflicts of Interest.

(A) An MHRAB member shall abstain from reviewing or voting on proposals if s/he is indirectly connected with a proposed project through employment at the same institution, indirectly supervises the project, serves as an unpaid consultant to the project, or is an officer of the institution or association that submits the proposal. Nor may the board member be physically present during board discussion of such a proposal.

(B) An MHRAB member may participate in discussion of, but not vote on, a grant proposal if s/he merely subscribes to membership in the organization submitting the proposal, but holds no office.

*AUTHORITY: sections 109.221.3 and 109.221.5, RSMo 2000. Original rule filed Oct. 6, 2000. Emergency rule filed Dec. 19, 2000, effective Jan. 1, 2001, expires June 29, 2001.*