Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.420 Application Process. This rule delineated the process for submitting a Certificate of Need (CON) application for a CON review.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provision of section 197.366 of the CON statute.

AUTHORITY: section 197.320, RSMo Supp. 1998. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed June 29, 1999, effective July 9, 1999, expired Jan. 5, 2000. Rescinded and readopted: Filed June 29, 1999, effective Jan. 30, 2000. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.420 Review Process

PURPOSE: This rule delineates the process for submitting a Certificate of Need (CON) application for a CON review.

(1) The Certificate of Need (CON) filing deadlines are as follows:

(A) For full applications, at least seventy-one (71) days prior to each Missouri Health Facilities Review Committee (committee) meeting;

(B) For expedited equipment replacement applications, expedited long-term care (LTC) facility renovation or modernization applications, and expedited LTC bed expansions and replacements pursuant to section 197.318.8 through 197.318.10, RSMo, the tenth day of each month, or the next business day thereafter if that day is a holiday or weekend;

(C) For non-applicability reviews, the Letter of Intent (LOI) filing may occur at any time.

(2) A CON application filing that does not substantially conform with the LOI, including any change in owner(s), operator(s), scope of services, or location, shall not be considered a CON application and shall be subject to the following provisions:

(A) The Certificate of Need Program (CONP) staff shall return any nonconforming submission; or

(B) The committee may issue an automatic denial unless the applicant withdraws the attempted application.

(3) All filings must occur at the principal office of the committee during regular business hours. The CONP staff, as an agent of the committee, shall provide notification of applications received through publication of the Application Review Schedule (schedule), as follows:

(A) For full applications the schedule shall include the filing date of the application, a brief description of the proposed service, the time and place for filing comments and requests for a public hearing, and the tentative date of the meeting at which the application is scheduled for review. Publication of the schedule shall occur on the next business day after the filing deadline. The publication of the schedule is conducted through the following actions:

1. The schedule shall be submitted to the secretary of state's office for publication in the next regularly scheduled *Missouri Register*;

2. A press release about the CON application schedule shall be sent to all newspapers of general circulation in Missouri as supplied by the Department of Health and Senior Services (DHSS), Office of Public Information;

3. The schedule shall be posted on the CON web site; and

4. The schedule shall be mailed to all affected persons who have registered with the CONP staff as having an interest in such CON applications.

(B) For expedited applications the schedule shall include the filing date of the application, a brief description of the proposed service, the time and place for filing comments and requests for a public hearing, and the tentative decision date for the application. Publication of the schedule shall occur on the next business day after the filing deadline. The publication of the schedule is conducted through the following actions:

1. The schedule shall be submitted to the secretary of state's office for publication in the next regularly scheduled *Missouri Register*; and

2. The schedule shall be posted on the CON web site.

(C) For non-applicability reviews, the listing of non-applicability letters to be confirmed shall be posted on the CON web site at least twenty (20) days prior to each scheduled meeting of the committee where confirmation is to take place.

(4) When an application for a full review is filed pursuant to section 197.318.1, RSMo, the CONP staff shall immediately request certification of licensed and available bed occupancy and deficiencies for each of the most recent four (4) consecutive calendar quarters in the county and fifteen (15)-mile radius by the DHSS.

(5) The CONP staff shall review CON applications relative to the Criteria and Standards in the order filed.

(6) The CONP staff shall notify the applicant in writing regarding the completeness of a full CON application within fifteen (15) calendar days of filing or within five (5) working days for an expedited application.

(7) Verbal information or testimony shall not be considered part of the application.

(8) Subject to statutory time constraints, the CONP staff shall send its written analysis to the committee as follows:

(A) For full CON applications, the CONP staff shall send the analysis twenty (20) days in advance of the first committee meeting following the seventieth day after the CON application is filed. The written analysis of the CONP staff shall be sent to the applicant no less than fifteen (15) days before the meeting.

(B) For expedited applications which meet all statutory and rules requirements and which have no opposition, the CONP staff shall send its written analysis to the committee and the applicant within two (2) working days following the expiration of the thirty (30)-day public notice waiting period or the date upon which any required additional information is received, whichever is later.

(C) For expedited applications which do not meet all statutory and rules requirements or those which have opposition, they will be considered at the earliest scheduled committee meeting where the written analysis by the CONP staff can be sent to the committee and the applicant at least seven (7) days in advance.

(9) See rule 19 CSR 60-50.600 for a description of the CON decision process.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed June 29, 1999, effective July 9, 1999, expired Jan. 5, 2000. Rescinded and readopted: Filed June 29, 1999, effective Jan. 30, 2000. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded and readopted: Filed Dec. 14, 2001.

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PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

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Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.430 Application Package. This rule provided the information requirements and the application format of how to complete a Certificate of Need (CON) application for a CON review.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provision of section 197.366 of the CON statute.

AUTHORITY: section 197.320, RSMo Supp. 1998. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed June 29, 1999, effective July 9, 1999, expired Jan. 5, 2000. Rescinded and readopted: Filed June 29, 1999, effective Jan. 30, 2000. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded: Filed Dec. 14, 2001.

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Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.430 Application Package

PURPOSE: This rule provides the information requirements and the application format of how to complete a Certificate of Need (CON) application for a CON review.

(1) A Certificate of Need (CON) application package shall be accompanied by an application fee which shall be a nonrefundable minimum amount of one thousand dollars ($1,000) or one-tenth of one percent (0.1%), which may be rounded up to the nearest dollar, of the total project cost, whichever is greater, made payable to the "Missouri Health Facilities Review Committee."

(2) A written application package consisting of an original and eleven (11) bound copies (comb or three (3)-ring binder) shall be prepared and organized as follows:

(A) The CON Applicant's Completeness Checklists and Table of Contents should be used as follows:

1. Include at the front of the application;
2. Check the appropriate "done" boxes to assure completeness of the application;
3. Number all pages of the application sequentially and indicate the page numbers in the appropriate blanks;
4. Check the appropriate "n/a" box if an item in the Review Criteria is "not applicable" to the proposal; and
5. Restate (preferably in bold type) and answer all items in the Review Criteria.

(B) The application package should use one of the following CON Applicant's Completeness Checklists and Table of Contents appropriate to the proposed project, as follows:

1. New Hospital Application (Form MO 580-2501);
2. New Long-Term Care (LTC) Beds Application (Form MO 580-2502);
3. New/Additional Equipment Application (Form MO 580-2503);
4. Expedited LTC Bed Replacement/Expansion Application (Form MO 580-2504);
5. Expedited LTC Renovation/Modernization Application (Form MO 580-2505); or

6. Expedited Equipment Replacement Application (Form MO 580-2506).

(C) The application should be formatted into dividers using the following outline:

1. Divider I. Application Summary;

2. Divider II. Proposal Description;

3. Divider III. Service-Specific Criteria and Standards; and

4. Divider IV. Financial Feasibility (only if required for full applications).

(D) Support Information should be included at the end of each divider section to which it pertains, and should be referenced in the divider narrative. For applicants anticipating having multiple applications in a year, master file copies of such things as maps, population data (if applicable), board memberships, IRS Form 990, or audited financial statements may be submitted once, and then referred to in subsequent applications, as long as the information remains current.

(E) The application package should document the need or meet the additional information requirements in 19 CSR 60-50.450(4)–(6) for the proposal by addressing the applicable Service-Specific Criteria and Standards using the standards in 19 CSR 60-50.440 through 19 CSR 60-50.460 plus providing additional documentation to substantiate why any proposed alternative Criteria and Standards should be used.

(3) An Application Summary shall be composed of the completed forms in the following order:

(A) Applicant Identification and Certification (Form MO 580-1861). Additional specific information about board membership may be requested, if needed;

(B) A completed Representative Registration (Form MO 580-1869) for the contact person and any others as required by section 197.326(1), RSMo; and

(C) A detailed Proposed Project Budget (Form MO 580-1863), with an attachment which details how each line item was determined including all methods and assumptions used.

(4) The Proposal Description shall include documents which:

(A) Provide a complete detailed description and scope of the project, and identify all the institutional services or programs which will be directly affected by this proposal;

(B) Describe the developmental details including:

1. A legible city or county map showing the exact location of the facility or health service, and a copy of the site plan showing the relation of the project to existing structures and boundaries;

2. Preliminary schematics for the project that specify the functional assignment of all space which will fit on an eight and one-half inch by eleven inch (8 1/2" × 11") format (not required for replacement equipment projects). The CON Program staff may request submission of an electronic version of the schematics, when appropriate. The function for each space, before and after construction or renovation, shall be clearly identified and all space shall be assigned;

3. Evidence of submission of architectural plans to the Division of Health Standards and Licensure (DHSL) engineer for long-term care projects and the DHSL architect for other facilities (not required for replacement equipment projects);

4. For long-term care proposals, existing and proposed gross square footage for the entire facility and for each institutional service or program directly affected by the project. If the project involves relocation, identify what will go into vacated space;

5. Documentation of ownership of the project site, or that the site is available through a signed option to purchase or lease; and

6. Proposals which include major and other medical equipment should include an equipment list with prices and documentation in the form of bid quotes, purchase orders, catalog prices, or other sources to substantiate the proposed equipment costs;

(C) Proposals for new hospitals, new long-term care (LTC) beds, or new major medical equipment must define the community to be served.

1. Describe the service area(s) population using year 2005 populations and projections which are consistent with those provided by the Bureau of Health Data Analysis (or the Office of Social and Economic Data Analysis (OSEDA) when additional LTC beds are sought) which can be obtained by contacting:

Chief, Bureau of Health Data Analysis
Center for Health Information Management and Evaluation (CHIME)
Department of Health and Senior Services
PO Box 570, Jefferson City, MO 65102
Telephone: (573) 751-6278
or
Director, Office of Social and Economic Data Analysis
625 Clark Hall, University of Missouri
Columbia, MO 65211
Telephone: (573) 882-7396.

There will be a charge for any of the information requested, and seven to fourteen (7–14) days should be allowed for a response from the CHIME or OSEDA. Information requests should be made to CHIME or OSEDA such that the response is received at least two (2) weeks before it is needed for incorporation into the CON application.

2. Use the maps and population data received from CHIME or OSEDA with the CON Applicant's Population Determination Method to determine the estimated population, as follows:

A. Utilize all of the population for zip codes entirely within the fifteen (15)-mile radius for LTC beds or geographic service area for hospitals and major medical equipment;

B. Reference a state highway map (or a map of greater detail) to verify population centers (see Bureau of Health Data Analysis information) within each zip code overlapped by the fifteen (15)-mile radius or geographic service area;

C. Categorize population centers as either "in" or "out" of the fifteen (15)-mile radius or geographic service area and remove the population data from each affected zip code categorized as "out";

D. Estimate, to the nearest ten percent (10%), the portion of the zip code area that is within the fifteen (15)-mile radius or geographic service area by "eyeballing" the portion of the area in the radius (if less than five percent (5%), exclude the entire zip code);

E. Multiply the remaining zip code population (total population less the population centers) by the percentage determined in "D" (due to numerous complexities, population centers will not be utilized to adjust overlapped zip code populations in Jackson, St. Louis, and St. Charles counties or St. Louis City; instead, the total population within the zip code will be considered uniform and multiplied by the percentage determined in "D");

F. Add back the population center(s) "inside" the radius or region for zip codes overlapped; and

G. The sum of the estimated zip codes, plus those entirely within the radius, will equal the total population within the fifteen (15)-mile radius or geographic service area.

3. Provide other statistics, such as studies, patient origin or discharge data, Hospital Industry Data Institutes (HIDI) information, or consultants' reports, to document the size and validity of any proposed user-defined "geographic service area";

(D) Identify specific community problems or unmet needs which the proposed or expanded service is designed to remedy or meet;

(E) Provide historical utilization for each existing service affected by the proposal for each of the past three (3) years;

(F) Provide utilization projections through at least three (3) years beyond the completion of the project for all proposed and existing services directly affected by the project;

(G) If an alternative methodology is added, specify the method used to make need forecasts and describe in detail whether projected utilizations will vary from past trends;

(H) Provide the current and proposed number of licensed beds by type for projects which would result in a change in the licensed bed complement of the LTC facility.

(4) Document that consumer needs and preferences have been included in planning this project. Describe how consumers have had an opportunity to provide input into this specific project, and include in this section all petitions, letters of acknowledgement, support or opposition received.

(5) The most current version of Forms MO 580-2501, MO 580-2502, MO 580-2503, MO 580-2504, MO 580-2505, MO 580-1861, MO 580-1869 and MO 580-1863 may be obtained by mailing a written request to the Certificate of Need Program (CONP), 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the forms from the CONP web site at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed June 29, 1999, effective July 9, 1999, expired Jan. 5, 2000. Rescinded and readopted: Filed June 29, 1999, effective Jan. 30, 2000. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded and readopted: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than three hundred fifty-three thousand six hundred dollars ($353,600) in the aggregate.

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FISCAL NOTE
PRIVATE COST

I. 19 CSR 60-50.430

Title: 19 - DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division: 60 - Missouri Health Facilities Review Committee

Chapter: 50 - Certificate of Need Program

Type of Rulemaking: Proposed Rule

Rule Number and Name: 19 CSR 60-50.430 Application Package

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely to be affected by the addoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
50	Health care facilities	$353,600

III. WORKSHEET

Based on the following assumptions and estimates, the Private Entity Cost associated with the Proposed Rule would be calculated as follows:

Letter of Intent	$ 100
Develop Application	5,000
Copies of Application	900
Minimum Application Fee	+ 1,000
Total Application Cost	$7,000

Annual Application Cost = 50 x $7,000 = $350,000

Annual Post Decision Cost $3,600

Proposed Rule Cost = $350,000 + $3,600 = $353,600

TOTAL $353,600

IV. ASSUMPTIONS

Based on past experience, it is estimated that the proposed CON Rules will generat approximately 50 Certification of Need applications annually.

(a) It is assumed that the applicant will file a Letter of Intent which is normally two pages in length. Allowing $50 per page for preparation, the cost would be approximately $100.

(b) For applicants applying for a statutory exception or exemption, the Letter of Intent must be accompanied by a Proposed Expenditures form, schematic drawings, and a copy of the facility license. Allowing $50 for preparation of the Proposed Expenditures form and $50 for the schematic drawing.

Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.440 Criteria and Standards for Hospital and Freestanding Services. This rule listed the service-specific criteria and standards used in the Certificate of Need (CON) review process.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provision of section 197.366 of the CON statute.

AUTHORITY: section 197.320, RSMo Supp. 1997. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded: Filed Dec. 14, 2001.

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Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.440 Criteria and Standards for Equipment and New Hospitals

PURPOSE: This rule lists the service-specific criteria and standards used in the Certificate of Need (CON) review process.

(1) For new units or services in the geographic service area, use the following methodologies:

(A) The population-based need formula should be (Unmet Need = (S × P) – U) where:

P = Year 2005 population in the service area(s);

U = Number of service units in the geographic service area(s); and

S = Service-specific need rate of one (1) unit per population listed:

1. Magnetic resonance imaging unit	100,000
2. Positron emission tomography unit	500,000
3. Lithotripsy unit	1,000,000
4. Linear accelerator unit	100,000
5. Adult cardiac catheterization lab	50,000
6. Pediatric cardiac catheterization lab	50,000
7. Adult open heart surgery rooms	100,000
8. Pediatric open heart surgery rooms	100,000
9. All general surgery	10,000
10. Gamma knife	7,500,000
11. Excimer laser	500,000

(B) The minimum annual utilization for all other providers in the geographic service area should achieve at least the following rates:

1. Magnetic resonance imaging procedures	2,000
2. Positron emission tomography procedures	1,000
3. Lithotripsy treatments	1,000
4. Linear accelerator treatments	3,500
5. Adult cardiac catheterization procedures (include coronary angioplasties)	500
6. Pediatric cardiac catheterization procedures	250
7. Adult open heart surgery operations	200
8. Pediatric open heart surgery operations	100
9. All general surgery	750
10. Gamma knife treatments	200
11. Hemodialysis treatments	200
12. Excimer laser procedures	1,800

(C) Long-term care hospitals (such as a hospital-within-a-hospital or long-term acute care hospital) should comply with the standards as described in 42 CFR, section 412.23(e), and bed need requirements should meet the applicable population-based bed need and utilization standards in 19 CSR 60-50.450;

(D) Geographic service areas and alternate methodologies may be provided in addition to the fifteen (15)-mile radius calculation and should have substitute values for the population-based need formula.

(2) For additional units or services, the applicant's optimal annual utilization should achieve at least the following rates:

(A) Magnetic resonance imaging procedures	3,000
(B) Positron emission tomography procedures	1,000
(C) Lithotripsy treatments	1,000
(D) Linear accelerator treatments	6,000
(E) Adult cardiac catheterization procedures	750
(F) Pediatric cardiac catheterization procedures	375
(G) Adult open heart surgery operations	300
(H) Pediatric open heart surgery operations	150
(I) All other general surgery	1,125
(J) Gamma knife treatments	200
(K) Hemodialysis treatments	200
(L) Excimer laser procedures	3,600

(3) For replacement equipment, utilization standards are not used, but rather the following questions should be answered:

(A) What is the financial rationale for the replacement?

(B) How has the existing unit exceeded its useful life in accordance with American Hospital Association guidelines?

(C) How does the replacement unit affect quality of care compared to the existing unit?

(D) Is the existing unit in constant need of repair?

(E) Has the current lease on the existing unit expired?

(F) What technological advances will the new unit include?

(G) How will patient satisfaction be improved?

(H) How will the new unit improve outcomes and/or clinical improvements?

(I) What impact will the new unit have on utilization and operational efficiencies?

(J) How will the new unit add additional capabilities?

(K) By what percentage will this replacement increase patient charges?

(4) For the construction of a new hospital, the following questions should be answered:

(A) What methodology was utilized to determine the need for the proposed hospital?

(B) Provide evidence that the current occupancy of other hospitals in the proposed geographic service area exceeds eighty percent (80%).

(C) What impact would the proposed hospital have on utilization of other hospitals in the geographic service area?

(D) What is the unmet need according to the following population-based bed need formula using (Unmet Need = (S × P) – U), where:

P = Year 2005 population in the geographic service area;
U = Number of beds in the geographic service area; and
S = Service-specific need rate of one (1) bed per population as follows:

1. Medical/surgical bed	570
2. Pediatric bed	8,330
3. Psychiatric bed	2,080
4. Substance abuse/chemical dependency bed	20,000
5. Inpatient rehabilitation bed	9,090
6. Obstetric bed	5,880

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Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.450 Criteria and Standards for Long-Term Care. This rule outlined the criteria and standards against which a project involving a long-term care facility would be evaluated in a Certificate of Need (CON) review.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provision of section 197.366 of the CON statute.

AUTHORITY: section 197.320, RSMo Supp. 1998. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed June 29, 1999, effective July 9, 1999, expired Jan. 5, 2000. Rescinded and readopted: Filed June 29, 1999, effective Jan. 30, 2000. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded: Filed Dec. 14, 2001.

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Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.450 Criteria and Standards for Long-Term Care

PURPOSE: This rule outlines the criteria and standards against which a project involving a long-term care facility would be evaluated in a Certificate of Need (CON) review.

(1) All additional long-term care (LTC) beds in nursing homes, hospitals, and residential care facilities (RCF), and beds in long-term acute hospitals are subject to the LTC bed minimum occupancy requirements (MOR) pursuant to sections 197.317 and 197.318(1), RSMo, with certain exemptions and exceptions pursuant to sections 197.305(7) and 197.312, RSMo, and LTC bed expansions and replacements pursuant to sections 197.318.8 through 197.318.10, RSMo.

(2) The MOR for additional LTC beds pursuant to section 197.318.1, RSMo, shall be met if the average occupancy for all licensed and available LTC beds located within the county and within fifteen (15) miles of the proposed site exceeded ninety percent (90%) during at least each of the most recent four (4) consecutive calendar quarters at the time of application filing as reported in the Division of Health Standards and Licensure (DHSL), Department of Health and Senior Services, Quarterly Survey of Hospital and Nursing Home (or Residential Care Facility) Bed Utilization and certified through a written finding by the DHSL, in which case the following population-based bed need methodology shall be used to determine the maximum size of the need—

(A) Approval of additional intermediate care facility/skilled nursing facility (ICF/SNF) beds will be based on a service area need determined to be fifty-three (53) beds per one thousand (1,000) population age sixty-five (65) and older minus the current supply of ICF/SNF beds shown in the Inventory of Hospital and Nursing Home ICF/SNF Beds as provided by the Certificate of Need Program (CONP) which includes licensed and Certificate of Need (CON)-approved beds; and

(B) Approval of additional RCF beds will be based on a service area need determined to be sixteen (16) beds per one thousand (1,000) population age sixty-five (65) and older minus the current supply of RCF beds shown in the Inventory of Residential Care

Facility Beds as provided by the CONP which includes licensed and CON-approved beds.

(3) Replacement Chapter 198 beds qualify for an exception to the LTC bed MOR plus shortened information requirements and review time frames if an applicant proposes to—

(A) Relocate RCF beds within a six (6)-mile radius pursuant to section 197.318.8(4), RSMo;

(B) Replace one-half (1/2) of its licensed beds within a thirty (30)-mile radius pursuant to section 197.318.9, RSMo; or

(C) Replace a facility in its entirety within a fifteen (15)-mile radius pursuant to section 197.318.10, RSMo, under the following conditions:

1. The existing facility's beds shall be replaced at only one (1) site;

2. The existing facility and the proposed facility shall have the same owner(s), regardless of corporate structure; and

3. The owner(s) shall stipulate in writing that the existing facility's beds to be replaced will not be used later to provide long-term care services; or if the facility is operated under a lease, both the lessee and the owner of the existing facility shall stipulate the same in writing.

(4) LTC bed expansions involving a Chapter 198 facility qualify for an exception to the LTC bed MOR. In addition to the shortened information requirements and review time frames, applicants shall also submit the following information:

(A) If an effort to purchase has been successful pursuant to section 197.318.8(1), RSMo, a Purchase Agreement (Form MO 580-2352) between the selling and purchasing facilities, and a copy of the selling facility's reissued license verifying the surrender of the beds sold; or

(B) If an effort to purchase has been unsuccessful pursuant to section 197.318.8(1), RSMo, a Purchase Agreement (Form MO 580-2352) between the selling and purchasing facilities which documents the "effort(s) to purchase" LTC beds.

(5) An exception to the LTC bed MOR and CON application filing fee will be recognized for any proposed facility which is designed and operated exclusively for persons with acquired human immunodeficiency syndrome (AIDS).

(6) An exception to the LTC bed MOR will be recognized for a proposed LTC facility where at least ninety-five percent (95%) of the patients require kosher diets pursuant to section 197.318.5, RSMo.

(7) Any newly-licensed Chapter 198 facility established as a result of the Alzheimer's and dementia demonstration projects pursuant to Chapter 198, RSMo, or aging-in-place pilot projects pursuant to Chapter 198, RSMo, as implemented by the DHSL, may be licensed by the DHSL until the completion of each project. If a demonstration or pilot project receives a successful evaluation from the DHSL and a qualified Missouri school or university, and meets the DHSL standards for licensure, this will ensure continued licensure without a new CON.

(8) For LTC renovation or modernization projects which do not include increasing the number of beds, the applicant should document the following, if applicable:

(A) The proposed project is needed to comply with current facility code requirements of local, state or federal governments;

(B) The proposed project is needed to meet requirements for licensure, certification or accreditation, which if not undertaken, could result in a loss of accreditation or certification;

(C) Operational efficiencies will be attained through reconfiguration of space and functions;

(D) The methodologies used for determining need; and

(E) The rationale for the reallocation of space and functions.

(9) The most current version of Form MO 580-2352 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the form from the CONP web site at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed June 29, 1999, effective July 9, 1999, expired Jan. 5, 2000. Rescinded and readopted: Filed June 29, 1999, effective Jan. 30, 2000. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded and readopted: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.460 Criteria and Standards for Other Health Services and Emerging Technology. This rule outlined the criteria and standards against which a project involving a modernization or renovation of a health care facility or a project involving new and emerging technology would be evaluated in a Certificate of Need (CON) review.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provision of section 197.366 of the CON statute.

AUTHORITY: section 197.320, RSMo Supp. 1997. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.460 Criteria and Standards for Evolving Technology

PURPOSE: This rule outlines the criteria and standards against which a project involving new technology would be evaluated in a Certificate of Need (CON) review.

(1) For evolving technology not currently available in the state or not in general usage in the state, the following shall be documented:

(A) The medical effects shall be described and documented in published scientific literature;

(B) The degree to which the objectives of the technology have been met in practice;

(C) Any side effects, contraindications or environmental exposures;

(D) The relationships, if any, to existing preventive, diagnostic, therapeutic or management technologies and the effects on the existing technologies;

(E) Food and Drug Administration approval;

(F) The need methodology used by this proposal in order to assess efficacy and cost impact of the proposal; and

(G) Explain the degree of partnership, if any, with other institutions for the joint use of and financing of the evolving technology.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded and readopted: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.470 Criteria and Standards for Financial Feasibility. This rule outlined the criteria and standards against which a project involving a health care facility would be evaluated relative to the financial feasibility of the project in a Certificate of Need (CON) review.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provision of section 197.366 of the CON statute.

AUTHORITY: section 197.320, RSMo Supp. 1999. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. Amended: Filed Oct. 19, 1999, effective April 30, 2000. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.470 Criteria and Standards for Financial Feasibility

PURPOSE: This rule outlines the criteria and standards against which a project involving a health care facility would be evaluated relative to the financial feasibility of the project in a Certificate of Need (CON) review.

(1) Proposals for any new hospital, nursing home, or residential care facility construction must include documentation that the proposed costs per square foot are reasonable when compared to the latest "RS Means Construction Cost Data" available from Certificate of Need Program (CONP). Any proposal with costs in excess of the three-fourths (3/4) percentile must include justification for the higher costs.

(2) Document that sufficient financing will be available to assure completion of the project by providing a letter from a financial

institution saying it is willing to finance the project, or an auditor's statement that unrestricted funds are available for the project.

(3) Document financial feasibility by including:

(A) The Service-Specific Revenues and Expenses (Form MO 580-1865) for each revenue generating service affected by the project for the past three (3) years projected through three (3) years beyond project completion;

(B) The Detailed Institutional Cash Flows (Form MO 580-1866) for the past three (3) years projected through three (3) years beyond project completion; and

(C) For existing services, a copy of the latest available audited financial statements or the most recent Internal Revenue Service (IRS) 990 Form or similar IRS filing for facilities not having individual audited financial statements.

(4) Show how the proposed service will be affordable to the population in the proposed service area:

(A) Document how the proposal would impact current patient charges, and disclose the method for deriving charges for this service, including both direct and indirect components of the charge; and

(B) Demonstrate that the proposed service will be responsive to the needs of the medically indigent through such mechanisms as fee waivers, reduced charges, sliding fee scales or structured payments.

(5) The most current version of Forms MO 580-1865 and MO 580-1866 may be obtained by mailing a written request to the Certificate of Need Program (CONP), 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the forms from the CONP web site at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. Amended: Filed Oct. 19, 1999, effective April 30, 2000. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded and readopted: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.480 Criteria and Standards for Alternatives. This rule outlined the criteria and standards for alternatives considered to a project involving a health care facility in order to determine cost effectiveness in a Certificate of Need (CON) review.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provision of section 197.366 of the CON statute.

AUTHORITY: section 197.320, RSMo Supp. 1997. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.500 Additional Information. This rule described the process for submitting additional information and for requesting a public hearing on Certificate of Need (CON) applications in the CON review process.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provision of section 197.366 of the CON statute.

AUTHORITY: section 197.320, RSMo Supp. 1997. Original rule filed June 2, 1994, effective Nov. 30, 1994. Emergency rescission and rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Rescinded and readopted: Filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate

of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.500 Additional Information

PURPOSE: This rule describes the process for submitting additional information and for requesting a public hearing on Certificate of Need (CON) applications in the CON review process.

(1) Additional information requested by the Missouri Health Facilities Review Committee (committee) shall be submitted within the time frame specified by the committee.

(2) If an application is determined to be incomplete, the applicant shall be notified within fifteen (15) calendar days after filing (five (5) working days in the case of an expedited application). The applicant's written response shall be received within fifteen (15) calendar days after receipt of notification.

(3) Information submitted by interested parties should be received at the committee's principal office at least thirty (30) calendar days before the scheduled meeting of the committee.

(4) Copies of any additional information sent directly to the committee by applicants or interested parties should also be sent to the Certificate of Need Program (CONP) for file copies.

(5) When a request in writing is filed by any affected person within thirty (30) calendar days from the date of publication of the Application Review Schedule, the committee or CONP staff shall hold a public hearing on any application under the following conditions:

(A) The hearing may be conducted in the city of the proposed project if monetarily feasible;

(B) The CONP staff will present the introductions and orientation for the public hearing;

(C) The applicant may have up to fifteen (15) minutes for an applicant presentation at the public hearing;

(D) Any person may present written testimony and up to five (5) minutes of verbal testimony at the public hearing; and

(E) The testimony shall become a part of the record of the review.

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. Emergency rescission and rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Rescinded and readopted: Filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded and readopted: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.600 Certificate of Need Decisions. This rule described the process for making decisions on Certificate of Need (CON) applications in the CON review process.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provision of section 197.366 of the CON statute.

AUTHORITY: section 197.320, RSMo Supp. 1997. Original rule filed June 2, 1994, effective Nov. 30, 1994. Emergency rescission and rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Rescinded and readopted: Filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.600 Certificate of Need Decisions

PURPOSE: This rule describes the process for making decisions on Certificate of Need (CON) applications in the CON review process.

(1) Decisions on full Certificate of Need (CON) applications and contested expedited applications shall be subject to the following:

(A) Parliamentary procedures for all meetings shall follow *Robert's Rules of Order*, newly revised 1990 edition, 9th edition.

(B) The Certificate of Need Program's analysis becomes the findings of fact for the Missouri Health Facilities Review

Committee (committee) decision except to the extent that it is expressly rejected, amended or replaced by the committee in which case the minutes of the committee will contain the changes and become the amended findings of fact of the committee. The committee's final vote becomes conclusion of law.

(C) A final decision is rendered on any application after each committee member present is given the opportunity to vote and the chair announces the passage or defeat of the motion on the floor. The chair or acting chair shall vote only in case of a tie.

(2) Decisions on expedited CON applications shall be subject to the following:

(A) In the case of qualifying expedited review applications, committee members will receive a ballot in addition to the written analysis. Members may vote either to approve the application or to have it placed on the next formal meeting agenda for consideration.

(B) Ballots may be returned to the CON office by either mail, e-mail, or fax, but must be received within ten (10) days from the date they were mailed to committee members.

(C) A final decision to approve the application will be rendered if all ballots received by the cut-off date (a majority is required) signifying a vote to approve the project. If the vote is not unanimous, the application will be subject to the provisions of section (1) of this rule.

(3) The committee shall make a decision on an application within one hundred thirty (130) calendar days after the date the application is filed, and subsequently notify the applicant by providing either a legal certificate or denial letter.

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. Emergency rescission and rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Rescinded and readopted: Filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded and readopted: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.700 Post-Decision Activity. This rule described the procedure for filing Periodic Progress Reports after approval of Certificate of Need (CON) applications, CONs subject to forfeiture, and the procedure for requesting a cost overrun.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provision of section 197.366 of the CON statute.

AUTHORITY: section 197.320, RSMo Supp. 1999. Original rule filed June 2, 1994, effective Nov. 30, 1994. Emergency rescission and rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Rescinded and readopted: Filed Aug. 29, 1997, effective March 30, 1998. Amended: Filed Oct. 19, 1999, effective April 30, 2000. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.700 Post-Decision Activity

PURPOSE: This rule describes the procedure for filing Periodic Progress Reports after approval of Certificate of Need (CON) applications, CONs subject to forfeiture, and the procedure for requesting a cost overrun.

(1) Applicants who have been granted a Certificate of Need (CON) shall file reports with the Missouri Health Facilities Review Committee (committee), using Periodic Progress Report (Form MO 580-1871). The reports shall be filed by the end of each six (6)-month period from CON approval until project construction and/or expenditures are complete. All Periodic Progress Reports must contain a complete and accurate accounting of all expenditures for the report period.

(2) Applicants who fail to incur a capital expenditure within six (6) months may request an extension of six (6) months by submitting a letter to the committee outlining the reasons for the failure, with a listing of the actions to be taken within the requested extension period to insure compliance; the Certificate of Need Program (CONP) staff on behalf of the committee will analyze the request and grant an extension, if appropriate. Applicants who request additional extensions must provide additional financial information or other information, if requested by the CONP staff.

(3) A CON shall be subject to forfeiture for failure to—

(A) Incur a project-specific capital expenditure within twelve (12) months after the date the CON was issued through initiation of project aboveground construction or lease/purchase of the proposed

equipment since a capital expenditure, according to generally accepted accounting principles, must be applied to a capital asset; or

(B) File the required Periodic Progress Report.

(4) If the CONP finds that a CON may be subject to forfeiture—

(A) Not less than thirty (30) calendar days prior to a committee meeting, the CONP shall notify the applicant in writing of the possible forfeiture, the reasons for it, and its placement on the committee agenda for action; and

(B) After receipt of the notice of possible forfeiture, the applicant may submit information to the committee within ten (10) calendar days to show compliance with this rule or other good cause as to why the CON shall not be forfeited.

(5) If the committee forfeits a CON, CONP staff shall notify all affected state agencies of this action.

(6) Cost overrun review procedures implement the CON statute section 197.315.7, RSMo. Immediately upon discovery that a project's actual costs would exceed approved project costs by more than ten percent (10%), an applicant shall apply for approval of the cost variance. A nonrefundable fee in the amount of one-tenth of one percent (0.1%) of the additional project cost above the approved amount made payable to "Missouri Health Facilities Review Committee" shall be required. The original and eleven (11) copies of the information requirements for a cost overrun review are required as follows:

(A) Amount and justification for cost overrun shall document—

1. Why and how the approved project costs would be exceeded, including a detailed listing of the areas involved;

2. Any changes that have occurred in the scope of the project as originally approved; and

3. The alternatives to incurring this overrun that were considered and why this particular approach was selected.

(B) Provide a Proposed Project Budget (Form MO 580-1863).

(7) At any time during the process from Letter of Intent to project completion, the applicant is responsible for notifying the committee of any change in the designated contact person. If a change is necessary, the applicant must file a Contact Person Correction (Form MO 580-1870).

(8) The most current version of Forms MO 580-1871, MO 580-1863, and MO 580-1870 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP office, or, if technically feasible, by downloading a copy of the forms from the CONP web site at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. Emergency rescission and rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Rescinded and readopted: Filed Aug. 29, 1997, effective March 30, 1998. Amended: Filed Oct. 19, 1999, effective April 30, 2000. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded and readopted: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.800 Meeting Procedures. This rule described the meeting format and protocol in a Certificate of Need (CON) review meeting.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provision of section 197.366 of the CON statute.

AUTHORITY: section 197.320, RSMo Supp. 1997. Original rule filed June 2, 1994, effective Nov. 30, 1994. Emergency rescission and rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Rescinded and readopted: Filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.800 Meeting Procedures

PURPOSE: This rule describes the meeting format and protocol in a Certificate of Need (CON) review meeting.

(1) The regular meetings of the Missouri Health Facilities Review Committee (committee) to consider Certificate of Need (CON) applications shall be held approximately every eight (8) weeks according to a schedule adopted by the committee before the beginning of each calendar year and modified periodically to reflect changes. A copy of this calendar may be obtained from the CON Program (CONP) staff.

(2) The original and eleven (11) copies of all new information not previously in the application or requests for the addition of agen-

da items shall be received by the CONP staff at least thirty (30) calendar days before the scheduled meeting with one (1) exception. An applicant shall have no less than fifteen (15) days to respond to the findings of the staff and adverse information received from other parties. An applicant should respond in writing to an inquiry from a committee member at any time, and the response shall be provided to the committee for consideration.

(3) Any committee member may request that an item be added to the agenda up to forty-eight (48) hours before the scheduled meeting, exclusive of weekends and holidays when the principal office is closed.

(4) The tentative agenda for each committee meeting shall be released at least twenty (20) calendar days before each meeting.

(5) The committee may give the applicant and interested parties an opportunity to make brief presentations at the meeting according to the Missouri Health Facilities Review Committee Meeting Format and Missouri Health Facilities Review Committee Meeting Protocol. The applicant and interested parties shall conform to the following procedures:

(A) The applicant's presentation shall be a key points summary based on the written application and shall not exceed ten (10) minutes inclusive of all presenters with five (5) minutes additional time for summation;

(B) Others in support or opposition to the applicant's project (such as political representatives, citizens of the community and other providers) shall be categorized as unrelated parties and shall appear after the applicant's presentation;

(C) Regardless of the number of presenters involved in the presentation, individual presentations by unrelated parties in support of, neutral, or in opposition to the applicant's project shall not exceed three (3) minutes each;

(D) No new material shall be introduced with the exception of materials or information provided in response to the CONP staff or at the request of a committee member;

(E) Rebuttals by applicants of presentations by interested parties are generally allowed;

(F) All presenters shall complete and sign a Representative Registration (Form MO 580-1869) and give it to the sign-in coordinator prior to speaking;

(G) The reserved area in the hearing room may be used by an applicant only during the applicant's presentation and then vacated for the next group (individuals waiting to present shall remain clear of the podium and staff area until specifically called by the chairman); and

(H) Prescribed time limits shall be monitored by the timekeeper, and presenters shall observe the timekeeper's indications of lapsed time to ensure that each presenter has an opportunity to present within the allotted time.

(6) Additional meetings of the committee may be held periodically. These meetings may include educational workshops for members to gain knowledge, meetings with organizations for cooperative purposes, discussion of rules, seeking legal advice from counsel, and other issues.

(7) The most current version of Form MO 580-1869 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the form from the CONP web site at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. Emergency rescission and rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Rescinded and readopted: Filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded and readopted: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.900 Administration. This rule described the duties and responsibilities of the Certificate of Need (CON) Program staff.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provision of section 197.366 of the CON statute.

AUTHORITY: section 197.320, RSMo Supp. 1997. Original rule filed June 2, 1994, effective Nov. 30, 1994. Emergency rescission and rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Rescinded and readopted: Filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.900 Administration

PURPOSE: This rule describes the duties and responsibilities of the Certificate of Need (CON) Program staff.

(1) The role of the Missouri Health Facilities Review Committee (committee) includes the following:

(A) Make specific decisions about applications, applicability and administrative matters;

(B) Make policy decisions to include the development of rules; and

(C) Oversee operations of the Certificate of Need Program (CONP) staff.

(2) The role of the CONP staff includes the following:

(A) Act as an agent of the committee; and

(B) Perform administrative tasks.

(3) The CONP staff shall be staffed as follows:

(A) The committee shall employ a CONP director and additional staff to perform the duties assigned to it by law;

(B) The committee shall designate the CONP director, or his/her designee, to perform any administrative functions that may be required of the committee by law; and

(C) The CONP staff shall be housed at the principal office of the committee.

(4) The committee shall maintain its principal office in Jefferson City where the CONP staff will:

(A) Accept letters of intent, applications and any other written communication related to the conduct of the CONP;

(B) Accept service of legal process;

(C) Maintain its records; and

(D) Post all notices required by law.

(5) The CONP staff shall provide technical assistance to potential applicants.

(6) The committee and CONP staff shall publish quarterly reports containing the status of reviews being conducted, the reviews completed since the last report, and the decisions made, plus an annual summary of activities for the past calendar year.

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. Emergency rescission and rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Rescinded and readopted: Filed Aug. 29, 1997, effective March 30, 1998. Emergency rescission and rule filed Dec. 14, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded and readopted: Filed Dec. 14, 2001.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Boulevard, Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 18, 2002. A public hearing has been scheduled for Friday, February 15, 2002, at 10:00 a.m. at the Certificate of Need Program office located at 915G Leslie Boulevard, Jefferson City, Missouri.

Title 20—DEPARTMENT OF INSURANCE
Division 10—General Administration
Chapter 1—Organization

PROPOSED AMENDMENT

20 CSR 10-1.020 Interpretation of Referenced or Adopted Material. The department is amending section (1).

PURPOSE: The purpose of this amendment is to update the materials cross-referenced in other rules of the Department of Insurance by incorporating by reference material published after June 30, 2000, and before July 1, 2001.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The versions of the following materials published as of June 30, *[2000]* **2001**, are incorporated by reference in the rules of the Department of Insurance under this title:

(B) National Association of Insurance Commissioners (NAIC) publications, as follows:

1. *Accounting Practices and Procedures Manual;*
2. Annual Statement Instructions;
3. Valuation of Securities;
4. Examiner's Handbook;
5. NAIC Proceedings 1984, Volume I; and
6. NAIC uniform biographical data forms;

AUTHORITY: section 374.045, RSMo 2000. Original rule filed Nov. 24, 1992, effective Aug. 9, 1993. Amended: Filed Oct. 1, 1993, effective May 9, 1994. Amended: Filed Sept. 29, 1995, effective May 30, 1996. Amended: Filed Sept. 12, 1996, effective April 30, 1997. Amended: Filed April 23, 1999, effective Nov. 30, 1999. Amended: Filed Dec. 14, 2000, effective July 30, 2001. Amended: Filed Dec. 14, 2001.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 20, 2002. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment, until 5:00 p.m. on February 20, 2002. Written statements shall be sent to Kimberly A. Grinston, Department of Insurance, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 526-4636 at least five (5) working days prior to the hearing.

Title 20—DEPARTMENT OF INSURANCE
Division 200—Financial Examination
Chapter 1—Financial Solvency and Accounting Standards

PROPOSED AMENDMENT

20 CSR 200-1.020 Accounting Standards and Principles. The department is amending section (1) and adding section (3).

PURPOSE: The proposed amendment will correct a cross-reference to a statute that has been repealed and makes mandatory the current standard of accounting practices of health maintenance organizations in statements made to the Department of Insurance.

(1) Each insurance company shall make and file statements of its assets, liabilities, capital and surplus, income and expenses, including all schedules and exhibits used in connection with such statements, which statements the director may use to determine whether the capital stock or guarantee fund of an insurance company is impaired under section 375.560.1(1), RSMo, whether an insurance company is insolvent under section 375.560.1(2) or 375.881.1(1), RSMo, whether an insurance company is in a financial condition that its further transaction of business would be hazardous under section *[375.560.1(5) or]* 375.881.1(3)*[,]* **or 375.1165(1),** RSMo and whether an insurance company fails to comply with the requirements for admission under section 375.881.1(2), RSMo according to the applicable accounting guidance, standards, and principles approved by the National Association of Insurance Commissioners (NAIC), published in the *Accounting Practice and Procedures Manual, Annual Statement Instructions, Valuation of Securities and Examiner's Handbook*, except where the applicable provisions of Chapters 374–385, RSMo or other specific rules expressly provide otherwise.

(3) Each health maintenance organization shall make and file statements of its assets, liabilities, capital and surplus, income and expenses, including all schedules and exhibits used in connection with such statements, which statements the director may use to determine whether a health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees under section 354.470.1(4), RSMo, whether the continued operation of a health maintenance organization would be hazardous to its enrollees under section 354.470.1(8), RSMo, whether a health maintenance organization is insolvent under section 375.1175(2), RSMo, and whether a health maintenance organization is in a financial condition that its further transaction of business would be hazardous under section 375.1165(1), RSMo, according to the applicable accounting guidance, standards, and principles approved by the National Association of Insurance Commissioners (NAIC), published in the *Accounting Practices and Procedures Manual, Annual Statement Instructions, Valuation of Securities and Examiner's Handbook*, except where the applicable provisions of Chapter 354, RSMo or other specific rules expressly provide otherwise.

AUTHORITY: sections 354.120, 354.485, and 374.045, RSMo 2000. This rule was previously filed as 4 CSR 190-11.230. Original rule filed Feb. 3, 1989, effective May 1, 1989. Amended: Filed Aug. 25, 1989, effective Jan. 1, 1990. Amended: Filed Dec. 14, 2000, effective July 30, 2001. Amended: Filed Dec. 4, 2001.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on February 20, 2002. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment, until 5:00 p.m. on February 20, 2002. Written statements shall be sent to Kimberly A. Grinston, Department of Insurance, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 526-4636 at least five (5) working days prior to the hearing.

Title 20—DEPARTMENT OF INSURANCE
Division 200—Financial Examination
Chapter 11—Control and Management of Insurance Companies

PROPOSED RULE

20 CSR 200-11.130 Materiality, Fairness and Reasonableness of Certain Affiliated Transactions

PURPOSE: The purpose of this rule is to carry out the provisions of section 382.190, RSMo 2000. Specifically, this rule provides the standards by which the director will determine whether a transaction is material for purposes of section 382.190(1) and (2), RSMo, whether the terms of material transactions between a registered insurer and its affiliates are "fair and reasonable" for purposes of section 382.190(1), RSMo, and whether charges or fees for services are "reasonable" for purposes of section 382.190(2), RSMo.

(1) A transaction is a "material transaction" for purposes of section 382.190(1) and (2), RSMo, if:

(A) It involves a registered insurer and one (1) or more of its affiliates; and

(B) Such transaction:

1. Involves more than one-half of one percent (0.5%) of such insurer's admitted assets as of the thirty-first day of December next preceding the transaction; or

2. Is part of a plan or series of like transactions with persons within the same holding company system as such insurer and the purpose of such transactions is to avoid the threshold established in paragraph 1 of subsection (B) of this section and thus avoid the review that would otherwise occur.

(2) A transaction which is not a material transaction need not comply with the standards set forth in section 382.190(1) and (2), RSMo.

(3) Standards for charges, fees and other consideration:

(A) For services.

1. The charges, fees or other consideration, paid by the registered insurer to an affiliate for a service shall not exceed the direct cost to the registered insurer. "Direct cost" means the expenses and costs to the registered insurer of directly performing substantially the same service for itself. The direct cost shall be determined by consistently applied, objectively verifiable, generally recognized, internal accounting practices.

2. If and only if the registered insurer cannot determine its direct cost, the charge or fee paid by the registered insurer to an affiliate for a service shall not exceed the cost of obtaining substantially the same service on the open market. A service is obtained on the open market where the service is obtainable from a person:

A. Who is not affiliated with the insurer; and

B. Either:

(I) Whose cost to the insurer represents the lowest and best bid for such service, such bid having been submitted in response to a request for proposal in a competitive bidding process approved by the director; or

(II) Whose cost to the insurer represents a price that is, with respect to substantially the same service:

(a) Typical of the price paid by other non-affiliated persons; and

(b) Available to the general public; and

(c) Known to the general public.

(B) For assets or goods. The charges, fees or other consideration, paid by the registered insurer to an affiliate for an asset or good shall not exceed the cost of obtaining substantially the same asset or good on the open market. An asset or good is obtained on the open market where the service is obtainable from a person:

1. Who is not affiliated with the insurer; and

2. Either:

A. Whose cost to the insurer represents the lowest and best bid for such asset or good, such bid having been submitted in response to a request for proposal in a competitive bidding process approved by the director; or

B. Whose cost to the insurer represents a price that is, with respect to substantially the same asset or good:

(I) Typical of the price paid by other non-affiliated persons; and

(II) Available to the general public; and

(III) Known to the general public.

(4) The director shall presume that a material transaction is fair and reasonable, if such material transaction complies with the standards set forth in section (3) of this rule. The director shall presume that a material transaction is neither fair nor reasonable, if such material transaction does not comply with the standards set forth in section (3) of this rule. Any person may seek during the appropriate administrative proceeding (e.g., a Form D or an examination) to rebut a presumption created by this section, but evidence relating to whether a transaction is fair or reasonable will be viewed with a bias in favor of the applicable presumption.

AUTHORITY: sections 374.045 and 382.240, RSMo 2000. Original rule filed Dec. 4, 2001.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on February 20, 2002. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on February 20, 2002. Written statements shall be sent to Kimberly A. Grinston, Department of Insurance, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 526-4636 at least five (5) working days prior to the hearing.

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options

PROPOSED AMENDMENT

22 CSR 10-2.010 Definitions. The board is amending subsection (1)(O).

PURPOSE: The amendment includes changes in the definitions made by the board of trustees regarding the key terms within the Missouri Consolidated Health Care Plan.

(1) When used in this plan document, these words and phrases have the meaning—

(O) Eligibility date—Refer to 22 CSR 10-2.020 for effective date provisions.

1. Newly-hired employees and their eligible dependents, or employees rehired after their participation terminates and their eligible dependents, are eligible to participate in the plan on the first day of the month following the employee's date of employment or reemployment.

2. Employees transferred from a department or other public entity with coverage under another medical care plan into a department or other public entity covered by this plan and their eligible dependents who were covered by the other medical care plan will be eligible for participation *[immediately]* **subject to the provisions of 22 CSR 10-2.060(1)(Q)1**.

3. Employees who terminate all employment with the state (not simply move from one agency to another) and are rehired as a new state employee before termination of participation, and their eligible dependents who were covered by the PPO plan, will be eligible for participation immediately.

4. Employees who terminate all employment with the state (not simply move from one agency to another) and are rehired as a new state employee in the subsequent month, and their eligible dependents who were covered by the PPO plan, will be eligible for participation retroactive to the date following termination of participation;

*AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 16, 1993, effective Jan. 1, 1994, expired April 30, 1994. Emergency rule filed April 4, 1994, effective April 14, 1994, expired Aug. 11, 1994. Original rule filed Dec. 16, 1993, effective July 10, 1994. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Dec. 17, 2001, effective Jan. 1, 2002, expires June 29, 2002. Amended: Filed Dec. 17, 2001.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Consolidated Health Care Plan, Ron Meyer, PO Box 104355, Jefferson City, MO 65110. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options

PROPOSED AMENDMENT

22 CSR 10-2.040 PPO Plan Summary of Medical Benefits. The board is amending the section (9).

PURPOSE: The amendment includes changes made by the board of trustees regarding medical benefits for participants in the Missouri Consolidated Health Care Plan PPO Plan.

(9) Prescription Drug Program—The PPO plan provides coverage for *[maintenance and non-maintenance medications,]* **prescription drugs** as described in the following:

(A) Medications.

1. In-Network.

A. *[Five dollar ($5)]* **Ten dollar ($10)** co-pay for thirty (30)-day supply for generic drug on the formulary.

B. *[Fifteen dollars ($15)]* **Twenty dollar ($20)** co-pay for thirty (30)-day supply for brand drug on the formulary.

C. *[Twenty-five dollar ($25)]* **Thirty-five dollar ($35)** co-pay for thirty (30)-day supply for non-formulary drug.

2. *[Non-Network—The deductible will apply. After satisfaction of the deductible, claims will be paid at fifty percent (50%) coinsurance. Charges will not be applied to the out-of-pocket maximum.]* **Prescriptions filled with a brand drug when a generic is available will be subject to the generic co-payment amount and the member must also pay the difference in the cost between the generic and brand drugs.**

3. Mail Order Program—Prescriptions may be filled through mail order program for up to a ninety (90)-day supply for twice the regular co-payment *[for a drug on the maintenance list]*.

(B) Non-Network Pharmacies—If a member chooses to use a non-network pharmacy, s/he will be required to pay the full cost of the prescription, then file a claim with the prescription drug administrator. S/he will be reimbursed the amount that would have been allowed at an in-network pharmacy, less any applicable *[deductibles or coinsurance]* **co-payment**. Any difference between the amount paid by the member at a non-network pharmacy and the amount that would have been allowed at an in-network pharmacy will not be applied to the out-of-pocket maximum.

AUTHORITY. section 103.059, RSMo 2000. Emergency rule filed Dec. 16, 1993, effective Jan. 1, 1994, expired April 30, 1994. Emergency rule filed April 4, 1994, effective April 14, 1994, expired Aug. 11, 1994. Original rule filed Dec. 16, 1993, effective July 10, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Dec. 17, 2001, effective Jan. 1, 2002, expires June 29, 2002. Amended: Filed Dec. 17, 2001.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: There is a potential for some individual state members to incur additional costs in excess of five hundred dollars five hundred dollars ($500) due to the changes in some of the co-payment levels for pharmacy services. However, it is impossible to accurately estimate the number of persons this would impact or the associated costs because it will be dependent upon the amount and type of individual health care needs that arise during this year. Additionally, higher co-payments could be offset in some cases if members switch to generic drugs when possible.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Consolidated Health Care Plan, Ron Meyer, PO Box 104355, Jefferson City, MO 65110. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 22 – Missouri Consolidated Health Care Plan

Chapter: Chapter 10

Type of Rulemaking: Proposed Amendment to Rule

Rule Number and Name: 2.040 PPO Plan Summary of Medical Benefits

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Percentage using pharmacy of the 5,231 members	Individuals enrolled in the MCHCP in the PPO	$332,000

III. WORKSHEET

The cost for pharmacy in the health benefit plan has been increasing at a far greater rate than any other benefit. Consequently, the plan design for many programs is being modified to counter an increase in the cost and utilization in this area.

The MCHCP will be implementing a revised three-tiered benefit design. Under this arrangement, the member will pay the following:

$10 for a generic prescription on the formulary
$20 for a brand prescription on the formulary
$35 for a non-formulary drug

If the member uses a brand prescription when a generic was available, s/he will have to pay the generic co-payment plus the difference in the cost of the two drugs.

The current benefit design for the PPO is:

$5 for a generic prescription on the formulary
$15 for a brand prescription on the formulary
$25 for a non-formulary drug

IV. ASSUMPTIONS

It is estimated that the change in coverage for this benefit will cost all state members approximately a total $6.635 million. This is based upon current utilization patterns and the resulting actuarial projections for next year using the revised plan design. Consequently, it is estimated that the portion attributable to PPO members is $332,000.

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options

PROPOSED AMENDMENT

22 CSR 10-2.045 Co-Pay Plan Summary of Medical Benefits. The board is amending section (9).

PURPOSE: The amendment includes changes made by the board of trustees regarding medical benefits for participants in the Missouri Consolidated Health Care Plan Co-Pay Plan.

(9) Prescription Drug Program—The co-pay plan provides coverage for *[maintenance and non-maintenance medications,]* **prescription drugs** as described in the following:

(A) Medications.

1. In-Network.

A. Ten dollar ($10) co-pay for thirty (30)-day supply for generic drug on the formulary.

B. *[Fifteen dollar ($15)]* **Twenty dollar ($20)** co-pay for thirty (30)-day supply for brand drug on the formulary.

C. *[Twenty-five dollar ($25)]* **Thirty-five dollar ($35)** co-pay for thirty (30)-day supply for non-formulary drug.

2. *[Non-Network—The deductible will apply. After satisfaction of the deductible, claims will be paid at fifty percent (50%) coinsurance. Charges will not be applied to the out-of-pocket maximum.]* **Prescriptions filled with a brand drug when a generic is available will be subject to the generic co-payment amount and the member must also pay the difference in the cost between the generic and brand drugs.**

3. Mail Order Program—Prescriptions may be filled through a mail order program for up to a ninety (90)-day supply for twice the regular co-payment *[for a drug on the maintenance list]*.

(B) Non-Network Pharmacies—If a member chooses to use a non-network pharmacy, s/he will be required to pay the full cost of the prescription, then file a claim with the prescription drug administrator. S/he will be reimbursed the amount that would have been allowed at an in-network pharmacy, less any applicable *[deductibles or coinsurance]* **co-payment**. Any difference between the amount paid by the member at a non-network pharmacy and the amount that would have been allowed at an in-network pharmacy will not be applied to the out-of-pocket maximum.

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 12, 2000, effective Jan. 1, 2001, expired June 29, 2001. Original rule filed Dec. 12, 2000, effective June 30, 2001. Emergency amendment filed Dec. 17, 2001, effective Jan. 1, 2002, expires June 29, 2002. Amended: Filed Dec. 17, 2001.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: There is a potential for some individual state members to incur additional costs in excess of five hundred dollars ($500) due to the changes in some of the co-payment levels for pharmacy services. However, it is impossible to accurately estimate the number of persons this would impact or the associated costs because it will be dependent upon the amount and type of individual health care needs that arise during this year. Additionally, higher co-payments could be offset in some cases if members switch to generic drugs when possible.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Consolidated Health Care Plan, Ron Meyer, PO Box 104355, Jefferson City, MO 65110. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COST

V. RULE NUMBER

Title: 22 – Missouri Consolidated Health Care Plan

Chapter: Chapter 10

Type of Rulemaking: Proposed Amendment to Rule

Rule Number and Name: 2.045 Co-pay Plan Summary of Medical Benefits

VI. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Percentage using pharmacy of the 8,270 members	Individuals enrolled in the MCHCP in the Co-pay Plan	$519,000

VII. WORKSHEET

The cost for pharmacy in the health benefit plan has been increasing at a far greater rate than any other benefit. Consequently, the plan design for many programs is being modified to counter an increase in the cost and utilization in this area.

The MCHCP will be implementing a revised three-tiered benefit design. Under this arrangement, the member will pay the following:

$10 for a generic prescription on the formulary
$20 for a brand prescription on the formulary
$35 for a non-formulary drug

If the member uses a brand prescription when a generic was available, s/he will have to pay the generic co-payment plus the difference in the cost of the two drugs.

The current benefit design for the Co-pay Plan is:

$10 for a generic prescription on the formulary
$15 for a brand prescription on the formulary
$25 for a non-formulary drug

VIII. ASSUMPTIONS

It is estimated that the change in coverage for this benefit will cost all state members approximately a total $6.635 million. This is based upon current utilization patterns and the resulting actuarial projections for next year using the revised plan design. Consequently, it is estimated that the portion attributable to Co-pay Plan members is $519,000.

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options

PROPOSED AMENDMENT

22 CSR 10-2.055 Co-Pay Plan Benefit Provisions and Covered Charges. The board is amending subsection (1)(BB).

PURPOSE: This amendment includes changes made by the board of trustees regarding benefit provisions and covered charges in the Missouri Consolidated Health Care Plan Co-Pay Plan.

(1) Covered Charges.

(BB) Prescription Drugs—Insulin, syringes, test strips and glucometers are included in this coverage. There is no out-of-pocket maximum. Member is responsible only for the lesser of the applicable co-payment or the cost of the drug.

1. Ten dollar ($10) co-pay for thirty (30)-day supply for generic drug on the formulary.

2. *[Fifteen dollar ($15)]* **Twenty dollar ($20)** co-pay for thirty (30)-day supply for brand drug on the formulary.

3. *[Twenty-five dollar ($25)]* **Thirty-five dollar ($35)** co-pay for thirty (30)-day supply for non-formulary drug.

4. Ninety (90)-day supply of *[maintenance]* medication for two (2) co-payments (mail order only).

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 12, 2000, effective Jan. 1, 2001, expired June 29, 2001. Original rule filed Dec. 12, 2000, effective June 30, 2001. Emergency amendment filed Dec. 17, 2001, effective Jan. 1, 2002, expires June 29, 2002. Amended: Filed Dec. 17, 2001.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: There is a potential for some individual state members to incur additional costs in excess of five hundred dollars ($500) due to the changes in some of the co-payment levels for pharmacy services. However, it is impossible to accurately estimate the number of persons this would impact or the associated costs because it will be dependent upon the amount and type of individual health care needs that arise during this year. Additionally, higher co-payments could be offset in some cases if members switch to generic drugs when possible.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Consolidated Health Care Plan, Ron Meyer, PO Box 104355, Jefferson City, MO 65110. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COST

IX. RULE NUMBER

Title: 22 – Missouri Consolidated Health Care Plan

Chapter: Chapter 10

Type of Rulemaking: Proposed Amendment to Rule

Rule Number and Name: 2.055 Co-pay Plan Benefit Provisions and Covered Charges

X. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Percentage using pharmacy of the 8,270 members	Individuals enrolled in the MCHCP in the Co-pay Plan	$519,000

XI. WORKSHEET

The cost for pharmacy in the health benefit plan has been increasing at a far greater rate than any other benefit. Consequently, the plan design for many programs is being modified to counter an increase in the cost and utilization in this area.

The MCHCP will be implementing a revised three-tiered benefit design. Under this arrangement, the member will pay the following:

$10 for a generic prescription on the formulary
$20 for a brand prescription on the formulary
$35 for a non-formulary drug

If the member uses a brand prescription when a generic was available, s/he will have to pay the generic co-payment plus the difference in the cost of the two drugs.

The current benefit design for the Co-pay Plan is:

$10 for a generic prescription on the formulary
$15 for a brand prescription on the formulary
$25 for a non-formulary drug

XII. ASSUMPTIONS

It is estimated that the change in coverage for this benefit will cost all state members approximately a total $6.635 million. This is based upon current utilization patterns and the resulting actuarial projections for next year using the revised plan design. Consequently, it is estimated that the portion attributable to Co-pay Plan members is $519,000.

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options

PROPOSED AMENDMENT

22 CSR 10-2.063 HMO/POS Premium Option Summary of Medical Benefits. The board is amending subsections (1)(X) and (1)(AA).

PURPOSE: The amendment includes changes made by the board of trustees regarding the medical benefits of the HMO/POS Premium Option in the Missouri Consolidated Health Care Plan.

(1) Covered Charges.

(X) Physical Therapy and Rehabilitation Services—Five dollar ($5) co-payment per visit for outpatient therapy. Limited to sixty (60) visits per incident. Additional visits *[subject to medical review]* **may be allowed if showing significant improvement and recommended by case management**.

(AA) Prescription Drugs—Insulin, syringes, test strips and glucometers are included in this coverage. There is no out-of-pocket maximum. Member is responsible only for the lesser of the applicable co-payment or the cost of the drug.

1. *[Five dollar ($5)]* **ten dollar ($10)** co-pay for thirty (30)-day supply for generic drug on the formulary.

2. *[Fifteen dollar ($15)]* **Twenty dollar ($20)** co-pay for thirty (30)-day supply for brand drug on the formulary.

3. *[Twenty-five dollar ($25)]* **Thirty-five dollar ($35)** co-pay for thirty (30)-day supply for non-formulary drug.

4. Ninety (90)-day supply of *[maintenance]* medication for two (2) co-payments through mail order.

5. Prescriptions filled with a brand drug when a generic is available will be subject to the generic co-payment amount and the member must also pay the difference in cost between the generic and brand drugs.

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 13, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 21, 1994, effective June 30, 1995. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Dec. 17, 2001, effective Jan. 1, 2002, expires June 29, 2002. Amended: Filed Dec. 17, 2001.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: There is a potential for some individual state members to incur additional costs in excess of five hundred dollars ($500) due to the changes in some of the co-payment levels for pharmacy services. However, it is impossible to accurately estimate the number of persons this would impact or the associated costs because it will be dependent upon the amount and type of individual health care needs that arise during this year. Additionally, higher co-payments could be offset in some cases if members switch to generic drugs when possible.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Consolidated Health Care Plan, Ron Meyer, PO Box 104355, Jefferson City, MO 65110. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COST

XIII. RULE NUMBER

Title: 22 – Missouri Consolidated Health Care Plan

Chapter: Chapter 10

Type of Rulemaking: Proposed Amendment to Rule

Rule Number and Name: 2.063 HMO/POS Premium Option Summary of Medical Benefits

XIV. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Percentage using pharmacy of the 56,993 members	Individuals enrolled in the MCHCP in an HMO/POS in the Premium option	$3.583 million

XV. WORKSHEET

The cost for pharmacy in the health benefit plan has been increasing at a far greater rate than any other benefit. Consequently, the plan design for many programs is being modified to counter an increase in the cost and utilization in this area.

The MCHCP will be implementing a revised three-tiered benefit design. Under this arrangement, the member will pay the following:

$10 for a generic prescription on the formulary
$20 for a brand prescription on the formulary
$35 for a non-formulary drug

If the member uses a brand prescription when a generic was available, s/he will have to pay the generic co-payment plus the difference in the cost of the two drugs.

The current benefit design for the Premium option is:

$5 for a generic prescription on the formulary
$15 for a brand prescription on the formulary
$25 for a non-formulary drug

XVI. ASSUMPTIONS

It is estimated that the change in coverage for this benefit will cost all state members approximately a total $6.635 million. This is based upon current utilization patterns and the resulting actuarial projections for next year using the revised plan design. Consequently, it is estimated that the portion attributable to HMO/POS Premium option members is $3.583 million.

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options

PROPOSED AMENDMENT

22 CSR 10-2.064 HMO/POS Standard Option Summary of Medical Benefits. The board is amending subsections (1)(X) and (1)(AA).

PURPOSE: This amendment includes changes made by the board of trustees regarding the medical benefits of the HMO/POS Standard Option in the Missouri Consolidated Health Care Plan.

(1) Covered Charges.

(X) Physical Therapy and Rehabilitation Services—Ten dollar ($10) co-payment per visit for outpatient therapy. Limited to sixty (60) visits per incident. Additional visits *[are subject to medical review]* **may be allowed if showing significant improvement and recommended by case management**.

(AA) Prescription Drugs—Insulin, syringes, test strips and glucometers are included in this coverage. There is no out-of-pocket maximum. Member is responsible only for the lesser of the applicable co-payment or the cost of the drug.

1. Ten dollar ($10) co-pay for thirty (30)-day supply for generic drug on the formulary.

2. Twenty dollar ($20) co-pay for thirty (30)-day supply for brand drug on the formulary.

3. *[Thirty dollar ($30)]* **Thirty-five dollar $35** co-pay for thirty (30)-day supply for non-formulary drug.

4. Ninety (90)-day supply of *[maintenance]* medication for two (2) co-payments.

5. Prescriptions filled with a brand drug when a generic is available will be subject to the generic co-payment amount and the member must also pay the difference in cost between the generic and brand drugs.

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 12, 2000, effective Jan. 1, 2001, expired June 29, 2001. Original rule filed Dec. 12, 2000, effective June 30, 2001. Emergency amendment filed Dec. 17, 2001, effective Jan. 1, 2002, expires June 29, 2002. Amended: Filed Dec. 17, 2001.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: There is a potential for some individual state members to incur additional costs in excess of five hundred dollars ($500) due to the changes in some of the co-payment levels for pharmacy services. However, it is impossible to accurately estimate the number of persons this would impact or the associated costs because it will be dependent upon the amount and type of individual health care needs that arise during this year. Additionally, higher co-payments could be offset in some cases if members switch to generic drugs when possible.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Consolidated Health Care Plan, Ron Meyer, PO Box 104355, Jefferson City, MO 65110. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COST

XVII. RULE NUMBER

Title: 22 – Missouri Consolidated Health Care Plan

Chapter: Chapter 10

Type of Rulemaking: Proposed Amendment to Rule

Rule Number and Name: 2.064 HMO/POS Standard Option Summary of Medical Benefits

XVIII. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Percentage using pharmacy of the 35,173 members	Individuals enrolled in the MCHCP in an HMO/POS in the Standard option	$2.201 million

XIX. WORKSHEET

The cost for pharmacy in the health benefit plan has been increasing at a far greater rate than any other benefit. Consequently, the plan design for many programs is being modified to counter an increase in the cost and utilization in this area.

The MCHCP will be implementing a revised three-tiered benefit design. Under this arrangement, the member will pay the following:

$10 for a generic prescription on the formulary
$20 for a brand prescription on the formulary
$35 for a non-formulary drug

If the member uses a brand prescription when a generic was available, s/he will have to pay the generic co-payment plus the difference in the cost of the two drugs.

The current benefit design for the Standard option is:

$10 for a generic prescription on the formulary
$20 for a brand prescription on the formulary
$30 for a non-formulary drug

XX. ASSUMPTIONS

It is estimated that the change in coverage for this benefit will cost all state members approximately a total $6.635 million. This is based upon current utilization patterns and the resulting actuarial projections for next year using the revised plan design. Consequently, it is estimated that the portion attributable to HMO/POS Standard option members is $2.201 million.

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options

PROPOSED RESCISSION

22 CSR 10-2.065 Staff Model Summary of Medical Benefits. This rule established the policy of the board of trustees regarding the summary of medical benefits of the Staff Model under the Missouri Consolidated Health Care Plan.

PURPOSE: This rule is being rescinded as this option is no longer available under the Missouri Consolidated Health Care Plan.

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 12, 2000, effective Jan. 1, 2001, expired June 29, 2001. Original rule filed Dec. 12, 2000, effective June 30, 2001. Emergency rescission filed Dec. 17, 2001, effective Jan. 1, 2002, expires June 29, 2002. Rescinded: Filed Dec. 17, 2001.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Consolidated Health Care Plan, Ron Meyer, PO Box 104355, Jefferson City, MO 65110. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options

PROPOSED AMENDMENT

22 CSR 10-2.067 *[Staff Model,]* **HMO and POS Limitations**. The board is amending the title and subsections (1)(J), (1)(S) and (1)(CC).

PURPOSE: The amendment includes changes made by the board of trustees regarding the limitations of the HMO/POS plans in the Missouri Consolidated Health Care Plan.

(1) Benefits shall not be payable for, or in connection with, any medical benefit, services or supplies which do not come within the definition of covered charges, or any of the following:

(J) Hearing aids*[:]*—

[1. HMO/POS—L] **l**imited to bilateral hearing aids every two (2) years;

[2. Staff Model—Limited to bilateral hearing aids every three (3) years;]

(S) Out-of-network services without the proper referrals in an HMO *[(including staff model)]* are not covered services;

(CC) Skilled nursing services are limited to *[one hundred (100) days annually (staff model),]* one hundred and twenty (120) days annually *[(HMO/POS)]*;

*AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 13, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 21, 1994, effective June 30, 1995. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Dec. 17, 2001, effective Jan. 1, 2002, expires June 29, 2002. Amended: Filed Dec. 17, 2001.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Consolidated Health Care Plan, Ron Meyer, PO Box 104355, Jefferson City, MO 65110. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options

PROPOSED AMENDMENT

22 CSR 10-2.075 Review and Appeals Procedure. The board is amending subsection (5)(B).

PURPOSE: The amendment includes changes made by the board of trustees regarding the review and appeals procedure of the Missouri Consolidated Health Care Plan.

(5) All insured members of the Missouri Consolidated Health Care Plan (MCHCP) shall use the claims and administration procedures established by the health maintenance organization (HMO), point-of-service (POS) or preferred provider organization (PPO) health plan contract applicable to the insured member. Only after these procedures have been exhausted may the insured appeal to the Missouri Consolidated Health Care Plan Board of Trustees to review the decision of the health plan contractor.

(B) The board may utilize a hearing officer, such as the Administrative Hearing Commission, to conduct a fact-finding hearing, make proposed findings of fact and conclusions of law.

1. The hearing will be scheduled by the MCHCP.

2. The parties to the hearing will be the insured and the applicable health plan contractor.

3. All parties shall be notified, in writing of the date, time and location of the hearing.

4. All parties shall have the right to appear at the hearing and submit written or oral evidence. **The appealing party shall be responsible for all copy charges incurred by MCHCP in connection with any documentation that must be obtained through the MCHCP. These fees will be reimbursed should the party prevail in his/her appeal.** They may cross-examine witnesses. They need not appear and may still offer written evidence. The strict rules of evidence shall not apply.

5. The party appealing to the board shall carry the burden of proof.

6. The independent hearing officer shall propose findings of fact and conclusions of law, along with its recommendation, to the board. Copies of the summary, findings, conclusions and recommendations shall be sent to all parties.

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995.

Emergency rule filed April 13, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 21, 1994, effective June 30, 1995. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Dec. 17, 2001, effective Jan. 1, 2002, expires June 29, 2002. Amended: Filed Dec. 17, 2001.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Consolidated Health Care Plan, Ron Meyer, PO Box 104355, Jefferson City, MO 65110. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*