

**U**nder this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

**E**ntirely new rules are printed without any special symbolology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

**A**n important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

**I**f an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

**A**n agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

**I**f an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

**Title 1—OFFICE OF ADMINISTRATION  
Division 20—Personnel Advisory Board and Division of  
Personnel  
Chapter 3—Personnel Selection, Appointment, Evaluation and Separation**

**PROPOSED AMENDMENT**

**1 CSR 20-3.070 Separation, Suspension and Demotion.** The Personnel Advisory Board is amending section (3) of this rule.

*PURPOSE: This amendment is for compliance with federal regulations allowing suspensions of exempt employees for one (1) workday.*

(3) Suspension. An appointing authority, for disciplinary purposes, may suspend without pay any employee in his/her division. A suspension may be made for a length of time as s/he considers appropriate,

not exceeding twenty (20) working days in any twelve (12)-month period except that this limitation shall not apply in the event of a terminal suspension given in conjunction with a dismissal; a suspension given in connection with a criminal offense involving the use of a controlled substance; or, with the approval of the director, a suspension made pending the investigation or trial of any charges against the employee (see section 36.370, RSMo). Employees enumerated in 1 CSR 20-5.010(1)(C) and (D) and designated as exempt from the overtime requirements of the Fair Labor Standards Act, shall not be suspended from duty without pay for disciplinary purposes unless the said suspension is for one (1) or more full *[workweeks]* workdays.

(6) Resignations from the classified service shall be governed by the following provisions:

(C) *[An employee who applies and is approved by the applicable state benefit system for long-term disability or retirement status shall be deemed to have voluntarily resigned in good standing. Employees in either of these situations retain the reemployment eligibility to which they are entitled under 1 CSR 20-3.030(6).]* **An employee who applies and is approved by the applicable state benefit system for long-term disability or retirement status shall be deemed to have voluntarily resigned (with reemployment eligibility) unless:**

**1. The appointing authority approves an application made by the employee for a leave of absence without pay pursuant to 1 CSR 20-5.020(7) based on the expectation that the employee may be rehabilitated and return to work; or**

**2. The employee is eligible to receive a partial disability benefit under the state's long-term disability program and the appointing authority can accommodate a part-time work schedule for the employee.**

*AUTHORITY: section 36.070, RSMo 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 15, 2004.*

*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: Anyone may file a statement in support of or in opposition to this proposed amendment with the Director of Personnel, Office of Administration, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 1:00 p.m., December 14, 2004, in Room 490 in the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, Missouri.*

**Title 1—OFFICE OF ADMINISTRATION  
Division 20—Personnel Advisory Board and Division of  
Personnel  
Chapter 5—Working Hours, Holidays and Leaves of  
Absence**

**PROPOSED AMENDMENT**

**1 CSR 20-5.025 ShareLeave.** The Personnel Advisory Board is amending subsection (1)(G) and section (2) of this rule.

**PURPOSE:** This amendment would allow for one-half of an employee's donation to the ShareLeave pool to be identified for use by a specific eligible employee of the agency.

(1) The state agencies that are covered under section 36.350, RSMo, may establish ShareLeave programs within their agencies for employees to donate leave to other employees. These programs may be established under the conditions set out within the following regulations:

(G) Donations shall *[not be made to individuals, but shall]* be made to a departmental or agency "pool" established for this purpose[;]. **Each agency may, at the time the donation is made, allow for up to one-half (1/2) of an employee's donation to the agency "pool" to be identified for use by a specific employee of the agency who has been approved for ShareLeave under the agency's program;**

(2) Each appointing authority that adopts a program under this *[program]* rule shall submit a formal written policy and updates to the Personnel Advisory Board for review.

**AUTHORITY:** sections 36.060 and 36.070, RSMo *[Supp 1998]* 2000. Original rule filed Oct. 31, 1996, effective May 30, 1996. Amended: Filed Sept. 15, 1999, effective April 30, 2000. Amended: Filed Sept. 15, 2004.

**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:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Director of Personnel, Office of Administration, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 1:00 p.m., December 14, 2004, in Room 490 in the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, Missouri.

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 110—Missouri Dental Board Chapter 2—General Rules

##### PROPOSED AMENDMENT

**4 CSR 110-2.170 Fees.** The board is proposing to amend paragraph (1)(E)1.

**PURPOSE:** This amendment establishes fees for the issuance and renewal of deep sedation/general anesthesia and conscious sedation permits and certificates.

(1) The following fees are established by the Missouri Dental Board:  
(E) Certification/Permit Fees.

##### 1. Dentists

##### A. Deep Sedation/General Anesthesia

(I) Individual Permit Fee <i>[(per person per site)]</i>	\$100
(II) <i>[Renewal Fee (per person per site)]</i>	
Site Certificate Permit Fee	\$100
(III) Individual Permit Renewal Fee	<b>\$100</b>
(IV) Site Certificate Renewal Fee	<b>\$100</b>

##### B. *[Parenteral Conscious Sedation]*

##### Conscious Sedation (Enteral and/or Parenteral)

(I) Individual Permit Fee *[(per person per site)]* \$100

(II) *[Renewal Fee (per person per site)]*

    Site Certificate Permit Fee \$100

(III) Individual Permit Renewal Fee **\$100**

(IV) Site Certificate Renewal Fee **\$100**

##### 2. Dental Hygienists

A. Administration of Nitrous Oxide Analgesia \$ 10

B. Local Anesthesia \$ 10

##### 3. Dental Assistants

A. Monitoring Nitrous Oxide Analgesia \$ 10

**AUTHORITY:** section 332.031.3, RSMo 2000. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 6, 1981. Original rule filed June 30, 1981, effective Oct. 11, 1981. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 15, 2004.

**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 Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by faxing (573) 751-8216 or via e-mail at dental@pr.mo.gov. 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 110—Missouri Dental Board Chapter 2—General Rules

##### PROPOSED RESCISSION

**4 CSR 110-2.180 General Anesthesia.** This rule defined and established rules for the administration of general anesthesia.

**PURPOSE:** The board is proposing to rescind this rule and add proposed rule 4 CSR 110-4.040 that will regulate deep/sedation general anesthesia.

**AUTHORITY:** section 332.031.2, RSMo Supp 1997. Original rule filed April 14, 1982, effective Oct. 11, 1982. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed Sept. 15, 2004.

**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 Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102. 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 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 110—Missouri Dental Board  
Chapter 2—General Rules**

**PROPOSED RESCISSION**

**4 CSR 110-2.181 Parenteral Conscious Sedation.** This rule provided for the regulation of the administration of parenteral conscious sedation.

*PURPOSE:* The board is proposing to rescind this rule and add proposed rules 4 CSR 110-4.020 and 4 CSR 110-4.030 that will regulate conscious sedation.

*AUTHORITY:* section 332.031, RSMo Supp. 1997. Original rule filed April 16, 1985, effective Aug. 26, 1985. Amended: Filed Aug. 4, 1986, effective Oct. 27, 1986. Amended: Filed May 3, 1988, effective July 28, 1988. Amended: Filed Nov. 2, 1989, effective Feb. 25, 1990. Amended: Filed Aug. 12, 1991, effective Jan. 13, 1992. Rescinded and readopted: Filed Sept. 15, 1998, effective April 30, 1999. Rescinded: Filed Sept. 15, 2004.

*PUBLICITY 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 Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by faxing (573) 751-8216 or via e-mail at dental@pr.mo.gov. 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 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 110—Missouri Dental Board  
Chapter 4—Sedation**

**PROPOSED RULE**

**4 CSR 110-4.010 Definitions**

*PURPOSE:* This rule defines terms used throughout the rules of Chapter 4.

(1) The following words and terms, when used in this rule, shall have the following meanings.

(A) Anxiolysis—the diminution or elimination of anxiety without diminishing in any manner the patient's ability to think, speak, or respond. Anxiolysis is not conscious sedation.

(B) Conscious sedation—a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, and that is produced by a pharmacologic or non-pharmacologic method, or a combination thereof. Conscious sedation is not deep sedation or general anesthesia.

(C) Conscious sedation permit—a document issued by the Missouri Dental Board to a dentist that allows the dentist to administer enteral and/or parenteral conscious sedation.

(D) Conscious sedation site certificate—a document issued by the Missouri Dental Board to a specific dental office where conscious sedation is administered.

(E) Deep sedation—a controlled state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond purposefully to verbal command, and is produced by a pharmacologic or non-pharmacologic method or a combination thereof.

(F) Deep sedation/general anesthesia permit—a document issued by the Missouri Dental Board to a dentist that allows the dentist to administer deep sedation/general anesthesia.

(G) Deep sedation/general anesthesia site certificate—a document issued by the Missouri Dental Board to a specific dental office where deep sedation/general anesthesia is administered.

(H) Dentist-in-charge—a dentist duly licensed by the board to practice at a facility in which sedation anesthesia services are to be offered and who assumes the responsibility to assure that the facility is properly equipped and the sedation team is properly trained.

(I) Dental office—a facility where dentistry is practiced in accordance with the provisions of section 332.071, RSMo.

(J) Dentist—one who is currently licensed to practice as a dentist in Missouri and is ultimately responsible for the sedation procedure of a dental patient under his/her care.

(K) Enteral conscious sedation—a technique of administration in which the drug is absorbed through the gastrointestinal tract or oral mucosa (i.e. oral, rectal, or sublingual). Enteral conscious sedation is not parenteral conscious sedation, deep sedation or general anesthesia.

(L) Facility inspection—an inspection confirming the adequacy of the dental office to provide enteral and/or parenteral conscious sedation by consultants appointed by the board to insure public safety.

(M) General anesthesia—a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including the inability to independently and continuously maintain an airway and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacologic or non-pharmacologic method or a combination thereof.

(N) Nurse anesthetist—a nurse recognized or licensed by the Missouri State Board of Nursing, who is certified to administer anesthesia by a nationally recognized certifying body approved by the Missouri State Board of Nursing in accordance with Chapter 335, RSMo.

(O) On-site evaluation—a performance evaluation of the competency of the sedation team by consultants appointed by the board to insure public safety.

(P) Parenteral conscious sedation—a technique of administration in which the drug bypasses the gastrointestinal tract, i.e. routes of administration: intravenous (I.V.), intramuscular (I.M.), intranasal (I.N.), subcutaneous (S.C.), intraocular (I.O). Parenteral conscious sedation is not deep sedation or general anesthesia.

(Q) Physician anesthesiologist—a physician licensed by the Missouri State Board of Registration for the Healing Arts in accordance with Chapter 334, RSMo, with privileges in general anesthesia at an institution accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or the American Osteopathic Association (AOA).

(R) Sedation team—those individuals qualified pursuant to 4 CSR 110-4.030(7)(B) and employed by the dental office involved with the treatment and/or monitoring of a sedation patient.

(S) Qualified sedation provider—any of the following who have satisfied the provisions of this rule:

1. A currently licensed dentist in Missouri with a valid permit to administer enteral and/or parenteral conscious sedation;
2. A currently licensed physician anesthesiologist; or
3. A currently licensed nurse anesthetist.

*AUTHORITY:* sections 332.031, RSMo 2000, 332.071, RSMo Supp. 2003 and 332.361 as amended by HCS/HB 1422 2004. Original rule filed Sept. 15, 2004.



*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 TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by faxing (573) 751-8216 or via e-mail at dental@pr.mo.gov. 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 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 110—Missouri Dental Board  
Chapter 4—Sedation**

**PROPOSED RULE**

**4 CSR 110-4.020 Conscious Sedation**

*PURPOSE:* This rule provides for the regulation of the administration of conscious sedation in a dental office.

(1) No dentist shall administer enteral and/or parenteral conscious sedation unless the dentist possesses a conscious sedation permit issued by the Missouri Dental Board. (A dentist is not required to possess a permit for the prescription or administration of Schedule II drugs prescribed for anxiolysis and/or pain control.) This permit shall be renewed by June 1 every five (5) years from the year of issuance.

(2) No dentist shall prescribe sedative agents for enteral sedation unless the dentist possesses an enteral or parenteral conscious sedation permit issued by the Missouri Dental Board. No dentist shall prescribe parenteral conscious sedation agents unless the dentist possesses a parenteral conscious sedation permit issued by the Missouri Dental Board.

(3) No dentist shall administer enteral and/or parenteral conscious sedation at a dental office unless the office has been issued a site certificate by the Missouri Dental Board. No dental office shall be the site for the administration of enteral and/or parenteral conscious sedation without being issued a site certificate by the Missouri Dental Board. This site certificate shall be renewed by June 1 every five (5) years from the year of issuance. The dentist-in-charge is responsible for submitting the application and maintaining the documentation as required in sections (8) and (10) of this rule.

(4) If the primary administrator of enteral and/or parenteral conscious sedation in a dental office is a physician anesthesiologist or a nurse anesthetist, the dentist must order the anesthesia services, is responsible for the readiness of the dental office, preoperative patient evaluation and appropriate medical consultations, the coordination of and emergency preparedness of the sedation team, and the maintenance of appropriate records. The dentist must evaluate the patient prior to the procedure, remain in the dental office, and evaluate the patient prior to discharge.

(5) To qualify for an enteral conscious sedation permit, a dentist shall:

(A) Document satisfactory completion of:

1. Training consistent with Part I and Part III of the American Dental Association (ADA) Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry; or

2. An ADA accredited post-doctoral training program that affords training necessary to administer enteral conscious sedation; or

3. An enteral conscious sedation course approved by the Missouri Dental Board; and

(B) Document completion during the past five (5) years of—

1. An Advanced Cardiac Life Support (ACLS) course; or

2. A minimum of fifteen (15) hours of other board-approved continuing education pertaining to medical emergencies, anesthesia complications, or patient management while under sedation.

3. Additional hours, not to exceed five (5), acquired beyond the required number may be carried forward into the renewal cycle.

(6) To qualify for a permit to administer enteral and parenteral conscious sedation, a dentist shall:

(A) Document satisfactory completion of a postgraduate program which is approved or accredited to teach postgraduate dental or medical education by the ADA, the Accreditation Council for Graduate Medical Education of the American Medical Association (AMA), or the Education Committee of the AOA. This program shall include:

1. Sixty (60) hours of didactic training in pain and anxiety control and related subjects in accordance with the guidelines of the ADA;

2. Successful management of parenteral conscious sedation in twenty (20) patients;

3. General anesthesia training in which there is documented clinical experience in managing compromised airways;

4. Certification of competency by the course director in airway management; and

5. Certification of competency by the course director in parenteral conscious sedation;

(B) Document completion during the past five (5) years of—

1. An Advanced Cardiac Life Support (ACLS) course; or

2. A minimum of fifteen (15) hours of other board-approved continuing education pertaining to medical emergencies, anesthesia complications, or patient management while under sedation.

3. Additional hours, not to exceed five (5), acquired beyond the required number may be carried forward into the renewal cycle.

(C) Successfully complete an on-site evaluation by consultants appointed by the board. On-site evaluations shall be conducted in accordance with 4 CSR 110-4.030.

(7) To qualify for a conscious sedation site certificate:

(A) The dentist-in-charge of the dental office shall document that:

1. The primary administrator of enteral and/or parenteral conscious sedation is a qualified sedation provider as set forth in 4 CSR 110-4.010(1)(S);

2. All conscious sedation team members (two (2) minimum) and the dentist, possess and maintain current certification in cardiopulmonary resuscitation (CPR), basic life support (BLS), or ACLS;

3. All conscious sedation team members, including the dentist, possess certification from a board approved course provider in monitoring conscious sedation;

4. The dental office is properly maintained and equipped as set forth in 4 CSR 110-4.030; and

5. The dental office has written protocols for sedation of dental patients as set forth in 4 CSR 110-4.030 including but not limited to the following:

A. Preoperative patient evaluation and selection prior to conscious sedation;

B. Informed consent procedures;

C. Sedation monitoring procedures;

D. Maintaining appropriate records during sedation procedures;

E. Patient discharge assessment; and

F. Responding to emergencies incident to the administration of enteral and/or parenteral conscious sedation.

(B) The dental office shall undergo a facility inspection as set forth in 4 CSR 110-4.030 to confirm the adequacy of the dental office and the competency of the sedation team.

(8) The board shall issue an enteral and/or parenteral conscious sedation permit upon receipt of a completed application form, payment of the appropriate fee specified in 4 CSR 110-2.170, proof of having met the requirements of sections (5) and/or (6) of this rule, and determination that the applicant is a licensee in good standing. To be in good standing the licensee's dental license(s) must be current and not under restriction or discipline in any state. The requirements of this section must be completed within one (1) year of the date of submission of the application form.

(9) The board shall issue a conscious sedation site certificate upon receipt of a completed application form, payment of the appropriate fee specified in 4 CSR 110-2.170, and proof of having met the requirements of section (7) of this rule. The requirements of this section must be completed within one (1) year of the date of submission of the application form.

(10) To renew a permit to administer enteral and/or parenteral conscious sedation a dentist shall, at least ninety (90) days prior to the expiration of the current permit:

(A) Submit a completed renewal application form provided by the board;

(B) Submit the renewal fee specified in 4 CSR 110-2.170 payable to the Missouri Dental Board; and

(C) Document completion during the past five (5) years of—

1. An Advanced Cardiac Life Support (ACLS) course; or,

2. A minimum of fifteen (15) hours of other board-approved continuing education pertaining to medical emergencies, anesthesia complications, or patient management while under sedation.

3. Additional hours, not to exceed five (5), acquired beyond the required number may be carried forward into the renewal cycle.

(11) To renew a site certificate for enteral and/or parenteral conscious sedation the dentist-in-charge shall, at least ninety (90) days prior to the expiration of the current site certificate:

(A) Submit a completed renewal application form provided by the board;

(B) Submit the renewal fee specified in 4 CSR 110-2.170 payable to the Missouri Dental Board;

(C) Attest that the primary administrator of enteral and/or parenteral conscious sedation is a qualified sedation provider as set forth in 4 CSR 110-4.010(1)(S);

(D) Document that the sedation team, as well as the permitted dentist, possess and maintain current certification in CPR, BLS, or ACLS;

(E) Submit to the board a minimum of five (5) unedited, complete patient records of the permitted dentist, physician anesthesiologist, or nurse anesthetist administering conscious sedation in the dental office that may be chosen by the board from the preceding five (5) years, documenting management of conscious sedation patients in accordance with the criteria set forth in 4 CSR 110-4.030; and

(F) Undergo a facility inspection as set forth in 4 CSR 110-4.030 to confirm the adequacy of the dental office and the competency of the sedation team.

(12) A dentist holding a current intravenous conscious sedation (IVCS) permit or a parenteral conscious sedation permit on or before the effective date of this rule, shall be authorized to perform all means of parenteral conscious sedation set forth in 4 CSR 110-4.010(1)(P).

(13) A dentist holding a current IVCS permit or a parenteral conscious sedation permit on or before the effective date of this rule shall, upon renewal, receive a permit to administer enteral and parenteral conscious sedation upon compliance with the renewal requirements set forth in section (10) of this rule.

(14) A dentist holding a permit of authorization for the administration of deep sedation/general anesthesia under 4 CSR 110-4.040 may use conscious sedation without a permit for conscious sedation.

(15) The dentist-in-charge of a dental office in receipt of a conscious sedation site certificate must insure that the conscious sedation team meet the clinical requirements and the dental office meets the standards for utilization as set forth in 4 CSR 110-4.030.

(16) At any time, the board may inspect a dental office where conscious sedation is administered in order to verify compliance with the minimum requirements of this rule.

(17) If at any time the board learns that a dentist who holds a permit to administer enteral and/or parenteral conscious sedation, or a site certificate where enteral and/or parenteral conscious sedation is administered, has failed to meet the minimum qualifications set out in this rule, the board may pursue disciplinary action in accordance with section 332.321, RSMo.

(18) Due to narrow therapeutic dose ranges for conscious sedation, use of thiopental, methohexital, and propofol for conscious sedation of dental patients will be restricted to qualified deep sedation/general anesthesia providers as defined in 4 CSR 110-4.040.

(19) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction.

*AUTHORITY: section 332.031, RSMo 2000 and 332.071 (SB 1122) and 332.361 (HB 1422) amended 2004. Original rule filed Sept. 15, 2004.*

*PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated twenty-three thousand four hundred eighty-three dollars and seventy-five cents (\$23,483.75) in FY06; three thousand six hundred five dollars and thirty-two cents (\$3,605.32) in FY07; three thousand seven hundred eleven dollars and fifty-two cents (\$3,711.52) in FY08; three thousand six hundred fifty-eight dollars and forty-two cents (\$3,658.42) in FY09; three thousand five hundred eighty-four dollars and three cents (\$3,584.03) in FY10; twenty-five thousand two hundred thirty-five dollars and forty-seven cents (\$25,235.47) in FY11; seven thousand five hundred twenty-nine dollars and sixty-four cents (\$7,529.64) in FY12; nine thousand nine hundred twenty-nine dollars and twenty-four cents (\$9,924.24) in FY13; eight thousand one hundred fifty-six dollars and nine cents (\$8,156.09) in FY14; seven thousand two hundred seventy-nine dollars and six cents (\$7,279.06) in FY15; and eight thousand nine hundred three dollars and ninety-two cents (\$8,903.92) in FY16. Because the board issues permits and certificates on a five (5)-year cycle, a continuous annual growth rate will occur based on the assumption of issuing twenty (20) permits and twenty-eight (28) certificates for the life of the rule. It is anticipated that the cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.*

*PRIVATE COST: This proposed rule will cost private entities an estimated thirty-five thousand seven hundred forty-three dollars and thirty cents (\$35,743.30) in FY06; five thousand eight hundred seventy*

dollars and seventy-two cents (\$5,870.72) in FY07; six thousand eight hundred seventy-four dollars and forty-two cents (\$6,874.42) in FY08; six thousand three hundred seventy-two dollars and fifty-seven cents (\$6,372.57) in FY09; five thousand six hundred sixty-nine dollars and ninety-eight cents (\$5,669.98) in FY10; thirty-nine thousand nine hundred ninety-six dollars and fifty-two cents (\$39,996.52) in FY11; eleven thousand four hundred eight-one dollars and eighty cents (\$11,481.08) in FY12; fourteen thousand four hundred eighty-eight dollars and forty-eight cents (\$14,488.48) in FY13; twelve thousand four hundred ninety-five dollars and fourteen cents (\$12,495.14) in FY14; eleven thousand eighty-nine dollars and ninety-six cents (\$11,089.96) in FY15; and forty-five thousand two hundred fifteen dollars and seventy-six cents (\$45,215.76) in FY16. Because the board issues permits and certificates on a five (5)-year cycle, a continuous annual growth rate will occur based on the assumption of issuing twenty-four (24) permits and twenty-eight (28) certificates for the life of the rule. It is anticipated that the cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by faxing (573) 751-8216 or via e-mail at dental@pr.mo.gov. 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.

PUBLIC ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 110 - Missouri Dental Board

Chapter 4 - Sedation

Proposed Amendment - 4 CSR 110-4.020 Conscious Sedation

Prepared September 9, 2004 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT TO THE MISSOURI DENTAL BOARD

FISCAL YEAR	PROCESS	NUMBER OF APPLICATIONS	ESTIMATED COST OF COMPLIANCE
FY06	Renewal - Current Individual Parenteral Conscious Sedation Permit - \$10.62	1	\$10.62
	Initial Conscious Sedation Permit - \$14.67	154	\$2,259.18
	Initial Site Certificate - \$114.67	185	\$21,213.95
Estimated FY06 Cost			\$23,483.75
FY07	Renewal - Current Individual Parenteral Conscious Sedation Permit - \$10.62	4	\$42.48
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
Estimated FY07 Cost			\$3,605.32
FY08	Renewal - Current Individual Parenteral Conscious Sedation Permit - \$10.62	14	\$148.68
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
Estimated FY08 Cost			\$3,711.52
FY09	Renewal - Current Individual Parenteral Conscious Sedation Permit - \$10.62	9	\$95.58
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
Estimated FY09 Cost			\$3,658.42
FY10	Renewal - Current Individual Parenteral Conscious Sedation Permit - \$10.62	2	\$21.24
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
Estimated FY10 Cost			\$3,584.08
FY11	Renewal - Conscious Sedation Permit - \$10.62	155	\$1,646.10
	Renewal - Current Site Certificates - \$114.67	189	\$21,672.63
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
Estimated FY11 Cost*			\$25,235.47
FY12	Renewal - Conscious Sedation Permit - \$10.62	28	\$297.36
	Renewal - Current Site Certificates - \$114.67	32	\$3,669.44
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
Estimated FY12 Cost*			\$7,529.64

FY13	Renewal - Conscious Sedation Permit - \$10.62	38	\$403.56
	Renewal - Current Site Certificates - \$114.67	52	\$5,962.84
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
<b>Estimated FY13 Cost*</b>			<b>\$9,929.24</b>

FY14	Renewal - Conscious Sedation Permit - \$10.62	33	\$350.46
	Renewal - Current Site Certificates - \$114.67	37	\$4,242.79
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
<b>Estimated FY14 Cost*</b>			<b>\$8,156.09</b>

FY15	Renewal - Conscious Sedation Permit - \$10.62	26	\$276.12
	Renewal - Current Site Certificates - \$114.67	30	\$3,440.10
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
<b>Estimated FY15 Cost*</b>			<b>\$7,279.06</b>

FY16	Renewal - Conscious Sedation Permit - \$10.62	179	\$1,900.98
	Renewal - Current Site Certificates - \$114.67	30	\$3,440.10
	Initial Conscious Sedation Permit - \$14.67	24	\$352.08
	Initial Site Certificate - \$114.67	28	\$3,210.76
<b>Estimated FY16 Cost*</b>			<b>\$8,903.92</b>

**III. WORKSHEET**

See Table Above.

**IV. ASSUMPTIONS**

Fiscal Year	Individual Permits to be Renewed	Site Certificates to be Renewed	Individual Permits Issued	Site Certificate Issued
FY06	1	0	154	185
FY07	4	0	24	28
FY08	14	0	24	28
FY09	9	0	24	28
FY10	2	0	24	28
FY11	155	189	24	28
FY12	28	32	24	28
FY13	38	52	24	28
FY14	33	37	24	28
FY15	26	30	24	28
FY16	179	30	24	28

1. Pursuant to 4 CSR 110-2.181, the board currently issues a permit for a specific dentist to administer parenteral conscious sedation at a specific dental office that has been certified by the board. For those licensees holding a parenteral conscious sedation permit and who also meet the requirements 4 CSR 110-4.020, they will now be issued a conscious sedation permit. Under the new rule, the permit and certificate are issued separately allowing the dentist to administer conscious sedation at any site that has been certified by the board.

The conscious sedation permits and certificates will be issued on a 5 year cycle. The board expects by FY11, all parenteral conscious sedation permits will have expired and those individuals will be issued a conscious sedation permit and certificate pursuant to 4 CSR 110-4.020. The table above shows the number of permits and certificates issued and renewed during the fiscal years of FY06-FY16. For fiscal years that follow FY16 and for the purpose of this fiscal note, the board is assuming after the first year of implementation, 24 permits and 28 certificates will be issued annually.



2. CALCULATION OF EXPENSE AND EQUIPMENT AND PERSONAL SERVICE COSTS:

Salaries for the Executive Director, Executive I and Licensure Technician II are shared with another board. The .05 Licensure Technician II position is supported entirely by the Missouri State Dental Board. The figures below represent the personal service costs supported by the Missouri Dental Board.

Employee's salaries were calculated using their annual salary multiplied by 40.47% for fringe benefits and then were divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications or renewals.

STAFF	ANNUAL SALARY	ANNUAL SALARY WITH FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME	COST PER APPLICATION
Executive Director	\$43,344.00	\$60,885.32	\$29.27	\$0.49	5	\$2.44
Executive I	\$28,682.40	\$40,290.17	\$19.37	\$0.32	15	\$4.84
Licensure Technician II	\$20,702.40	\$29,080.66	\$13.98	\$0.23	2.5	\$0.58
Office Support Assistant	\$20,349.00	\$28,584.24	\$13.74	\$0.23	5	\$1.15
Total Personal Service Cost for Board Staff Per Application/Renewal						\$11.21

It is estimated that the following staff time will be devoted on each initial application and/or renewal for the following duties:

Executive Director - Reviews problem permit applications, brings information to the board to be discussed at next meeting, answers technical questions, prepares technical correspondence, prepares rule language, tracks and testifies on legislation relating to General Anesthesia and Conscious Sedation, discusses policies and procedures with Board Members and staff. Estimated time per initial application and/or renewal - 5 minutes

Executive I - Answers technical questions regarding permits and assist Licensing Tech II with the processing and renewal of the permits, assist in the preparation of rules. Estimated time per initial application and/or renewal - 5 minutes

Licensing Tech II - Receives and processes request for permit application packets, processes applications and accompanying documentation, arranges on site visits, monitors current permit holders for renewal dates, prepares and sends renewal applications, receives renewal applications and accompanying documentation, prepares documents for site evaluator. If evaluator approves, processes the renewal or prepares correspondence to applicant identifying deficiencies and/or arranges an on-site evaluation. Estimated time per initial application and/or renewal - 15 minutes

Licensing Tech II - Receives money, reconciles and deposits all fees. Processes per diem requests received from consultants conducting site inspections. Estimated time per initial application and/or renewal - 2.5 minutes

Office Support Assistant (5 minutes) - Opens mail, records money, sets up preliminary file in the division licensing system. Estimated time per initial application and/or renewal - 5 minutes

Board Consultants - Licensees approved by the board to conduct site inspections and receive \$50.00 per day per diem for those services. A team of 2 consultants evaluate the dental office to confirm the adequacy of the facility and competency of the personnel.

**Expense and Equipment and Personal Service Dollars for Initial Applications**

Application Printing	\$0.25
Evaluation Form Printing	\$0.19
Practice Act Printing	\$1.93
Letterhead Printing	\$0.15
Envelope for Mailing Application	\$0.16
Postage for Mailing Application	\$2.21
Printing Permit	\$0.35
Envelope for Mailing Permit	\$0.16
Postage for Mailing Permit	\$0.35
<b>Total Expense and Equipment Cost:</b>	<b>\$5.75</b>

**Expense and Equipment and Personal Service Dollars for Renewal of Permits/Certificates**

Application Printing	\$0.15
Evaluation Form Printing	\$0.19
Envelope for Mailing Application	\$0.16
Postage for Mailing Application	\$0.34
Printing Permit	\$0.35
Envelope for Mailing Permit	\$0.16
Postage for Mailing Permit	\$0.35
<b>Total Expense and Equipment Cost:</b>	<b>\$1.70</b>

Based on the above figures the following estimates represent the cost of each application/renewal process:

## - Initial Conscious Sedation Permits:

Expense and Equipment	\$5.75
Personal Services	\$11.21
<b>Total Cost</b>	<b>\$16.96</b>

## - Initial Site Certificate Application Costs:

Expense and Equipment	\$5.75
Personal Services	\$111.21
<b>Total Cost</b>	<b>\$116.96</b>

## - Renewal of Conscious Sedation Permit:

Expense and Equipment	\$1.70
Personal Services	\$11.21
<b>Total Cost</b>	<b>\$12.91</b>

## - Renewal of Site Certificate:

Expense and Equipment	\$1.70
Personal Services	\$111.21
<b>Total Cost</b>	<b>\$112.91</b>

3. Because the board issues permits and certificates on a five year cycle, a continuous growth rate will occur based on the assumption of issuing 24 permits and 28 certificates annually.
4. The figures for FY06-10 are based on the current number of permits issued by the board. The estimated growth rate is based merely on data gathered by the board for this fiscal note and is merely an estimate of future activity.
5. The total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

**PRIVATE ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 4 -Department of Economic Development**

**Division 110 - Missouri Dental Board**

**Chapter 4 - Sedation**

**Proposed Amendment - 4 CSR 110-4.020 Conscious Sedation**

Prepared September 9, 2004 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Fiscal Year	Classification by types of entities likely to be affected	Estimated number of entities affected	Estimated Cost of Compliance
FY06	Renewal - Parenteral Conscious Sedation Permit - \$100	1	\$100.00
	Initial Conscious Sedation Permit - \$100	154	\$15,400.00
	Initial Site Certificate - \$100	185	\$18,500.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	154	\$770.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	339	\$847.50
	Postage (Applications for and Renewal of Permits and Certificates)	340	\$125.80

**Estimated FY06 Cost \$35,743.30**

FY07	Renewal - Parenteral Conscious Sedation Permit - \$100	4	\$400.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	56	\$20.72

**Estimated FY07 Cost \$5,870.72**

FY08	Renewal - Parenteral Conscious Sedation Permit - \$100	14	\$1,400.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	66	\$24.42

**Estimated FY08 Cost \$6,874.42**

FY09	Renewal - Parenteral Conscious Sedation Permit - \$100	9	\$900.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	61	\$22.57

Estimated FY09 Cost      \$6,372.57

FY10	Renewal - Parenteral Conscious Sedation Permit - \$100	2	\$200.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	54	\$19.98

Estimated FY10 Cost      \$5,669.98

FY11	Renewal - Conscious Sedation Permit - \$100	155	\$15,500.00
	Renewal - Site Certificates - \$100	189	\$18,900.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	396	\$146.52

Estimated FY11 Cost      \$39,996.52

FY12	Renewal - Conscious Sedation Permit - \$100	28	\$2,800.00
	Renewal - Site Certificates - \$100	32	\$3,200.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	84	\$31.08

Estimated FY12 Cost      \$11,481.08



FY13	Renewal - Conscious Sedation Permit - \$100	38	\$3,800.00
	Renewal - Site Certificates - \$100	52	\$5,200.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	104	\$38.48

**Estimated FY13 Cost \$14,488.48**

FY14	Renewal - Conscious Sedation Permit - \$100	33	\$3,300.00
	Renewal - Site Certificates - \$100	37	\$3,700.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	122	\$45.14

**Estimated FY14 Cost \$12,495.14**

FY15	Renewal - Conscious Sedation Permit - \$100	26	\$2,600.00
	Renewal - Site Certificates - \$100	30	\$3,000.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	108	\$39.96

**Estimated FY15 Cost \$11,089.96**

FY16	Renewal - Conscious Sedation Permit - \$100	179	\$17,900.00
	Renewal - Site Certificates - \$100	217	\$21,700.00
	Initial Conscious Sedation Permit - \$100	24	\$2,400.00
	Initial Site Certificate - \$100	28	\$2,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	24	\$120.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	52	\$130.00
	Postage (Applications for and Renewal of Permits and Certificates)	448	\$165.76

**Estimated FY16 Cost \$45,215.76**

## III. WORKSHEET

See Table Above.

## IV. ASSUMPTIONS

	Individual Permits to be Renewed	Site Certificates to be Renewed	Individual Permits Issued	Site Certificate Issued
FY06	1	0	154	185
FY07	4	0	24	28
FY08	14	0	24	28
FY09	9	0	24	28
FY10	2	0	24	28
FY11	155	189	24	28
FY12	28	32	24	28
FY13	38	52	24	28
FY14	33	37	24	28
FY15	26	30	24	28
FY16	179	217	24	28

1. Pursuant to 4 CSR 110-2.181, the board currently issues a permit for a specific dentist to administer parenteral conscious sedation at a specific dental office that has been certified by the board. For those licensees holding a parenteral conscious sedation permit and who also meet the requirements 4 CSR 110-4.020, they will now be issued a conscious sedation permit. Under the new rule, the permit and certificate are issued separately allowing the dentist to administer conscious sedation at any site that has been certified by the board.

The conscious sedation permits and certificates will be issued on a 5 year cycle. The board expects by FY11, all parenteral conscious sedation permits will have expired and those individuals will be issued a conscious sedation permit and certificate pursuant to 4 CSR 110-4.020. The table above shows the number of permits and certificates issued and renewed during the fiscal years of FY06-FY16. For fiscal years that follow FY16 and for the purpose of this fiscal note, the board is assuming after the first year of implementation, 24 permits and 28 certificates will be issued annually.

2. The figures for FY06-10 are based on the current number of parenteral conscious sedation permits issued by the board. The estimated rate for the new conscious sedation permits and site certificates is based merely on data gathered by the board for this fiscal note and is merely an estimate of future activity.
4. The total annual will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Chapter 332, RSMo. Pursuant to Section 332.031, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 332, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 332, RSMo.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 110—Missouri Dental Board  
Chapter 4—Sedation**

**PROPOSED RULE**

**4 CSR 110-4.030 Guidelines for Administration of Conscious Sedation**

*PURPOSE: This rule provides for the requirements and guidelines dentists are required to follow in the administration of sedative drugs.*

(1) Introduction.

(A) These guidelines are provided to certificate holders in the administration of enteral or parenteral conscious sedation.

(B) Implicit in the administration of sedative drugs is the dictum that they be used in a safe and effective manner.

(C) The goals of conscious sedation are:

1. Sufficient control of patient behavior to enable the practitioner to provide quality treatment;
2. Prompt recovery so that the patient leaves the office in a state of consciousness as close to normal for that patient as possible; and
3. Promotion of a positive psychological response to treatment.

(2) Patient Records.

(A) The patient's record shall provide a legible database that aids in treatment planning and selection of the sedation technique and shall furnish the following:

1. Database:

- A. Full name;
- B. Address (home and work);
- C. Telephone number (home and work);
- D. Date of birth and sex;
- E. Height and weight;
- F. Name of parent or guardian, if applicable;
- G. Name and telephone number of person to notify in event of emergency; and
- H. Patient's physician's name and telephone number.

2. Medical history:

A. Chief complaint followed by history of the present illness or a brief statement about the patient's problem; and

B. Past medical history and systems review including, but not limited to:

- (I) Physician(s) of record;
- (II) Hospitalizations within the last five (5) years;
- (III) Allergies;
- (IV) Present medications (prescription, nonprescription, homeopathic): dosages, intervals, and recent changes;
- (V) Major medical illnesses, disorders or abnormalities;
- (VI) Prior anesthetic complications;
- (VII) Breathing or respiratory difficulties;
- (VIII) Previous hospitalizations;
- (IX) Review of the following with interrogative clarification of positive responses:

- (a) Myocardial infarction;
- (b) Hepatitis or liver disease;
- (c) Hypertension;
- (d) Renal disease;
- (e) Dysrhythmias;
- (f) Anemia;
- (g) Angina;
- (h) Bleeding dyscrasias;
- (i) Heart murmur;
- (j) Human immunodeficiency virus (HIV);
- (k) Congestive heart failure;
- (l) Mitral valve prolapse;
- (m) Rheumatic fever;

- (n) Artificial joint; and
- (o) Diabetes.

3. Core physical examination:

- A. Observation of patient's physical stature, posture, and relative ambulatory ability;
- B. Observation of patient's attentiveness, responsiveness, and verbal ability;
- C. Oral examination;
- D. Potential airway problems;
- E. Baseline blood pressure, heart rate and rhythm, and respiration rate;
- F. Temperature—only if necessary for present problem.

(3) Pre-Operative Patient Evaluation and Selection.

(A) Patients who are administered enteral or parenteral conscious sedation must be suitably evaluated to include, but not be limited to the following:

1. An appropriate review of the patient's database by the dentist to determine that data pertaining to all of the following are present:

- A. Patient age;
- B. Patient weight;
- C. Individual responsible for informed consent; and
- D. Emergency contact person and telephone number;

2. An appropriate review of the medical history with opportunity for interrogative clarification by the dentist. The record must indicate that the dentist reviewed the medical history;

3. An appropriate review of the core physical examination. The record must indicate the dentist reviewed the findings;

4. An appropriate review of all medications used by the patient, both prescription and non-prescription. The record must indicate the dentist reviewed the medication inventory;

5. Documented American Society of Anesthesiologist classification; and

6. Documented consultation with physicians of record when indicated.

(4) American Society of Anesthesiologists (ASA) Classifications must be documented and substantiated.

(A) American Society of Anesthesiologists (ASA) classifications:

1. Class I—There is no organic, physiologic, biochemical, or psychiatric disturbance. The pathological process for which the operation is to be performed is localized and is not a systemic disturbance. The patient has no limits on his/her activity level, and in general is to be considered in good or excellent health.

2. Class II—Mild-to-moderate systemic disturbance caused either by the condition to be treated surgically or by other pathophysiological processes. The disease processes are stable or medically controlled and they are not functionally limiting. Examples: tightly-controlled insulin or non-insulin dependent diabetes; stable asthma; symptomatic hypertension; controlled thyroid disease; smoker; obesity; or severe anxiety.

3. Class III—Severe systemic disturbance or disease from whatever cause, even though it may not be possible to define the degree of disability with finality. Activity is significantly limited by the disease, but is not totally incapacitating. The patient may easily decompensate under stress. Examples: severe asthma; poorly controlled diabetes mellitus; angina, especially if unstable or frequent; status post (S/P) myocardial infarction of cerebral vascular accident (CVA) less than six (6) months ago.

4. Class IV—Indicative of the patient with severe systemic disorder that is a constant threat to life and not always correctable by the operative procedure. Functionally incapacitating; a totally unstable patient who is in and out of lethal states. Examples: unstable angina; congestive heart failure/chronic obstructive pulmonary disease (CHF/COPD) requiring supplemental oxygen (O<sub>2</sub>) or wheelchair confinement, uncontrolled systemic disease (diabetes mellitus); or symptomatic dysrhythmias.

5. Class V—The moribund patient who has little chance of survival but is submitted to operation in desperation. A hospitalized patient of the expectant category.

(B) Healthy or medically stable individuals (ASA Class I or II) require a review of the patient's current medical history and medications.

(C) Patients who may not be medically stable or who have a significant health disability (ASA III) require a medical consultation from a physician. ASA III patients who are treated in the office setting must have evidence of the dentist's consultation with the treating physician (written or oral) in the record. Such consultation should elicit the physician's concurrence with decision to utilize the proposed office sedative technique.

(D) ASA III, IV, and V patients are not candidates for enteral sedation.

(E) ASA IV and V patients are not candidates for parenteral sedation outside a hospital setting.

#### (5) Informed Consent.

(A) Appropriate informed consent must be obtained prior to administration of enteral or parenteral conscious sedation.

(B) All of the following requirements for informed consent must be satisfied and documented prior to administration of conscious sedation:

1. The patient and/or guardian must be advised of the specific procedure inducing enteral or parenteral conscious sedation;

2. The patient and/or guardian must be advised of the risks associated with the delivery of enteral or parenteral conscious sedation;

3. The patient and/or guardian must be advised of the options to the delivery of the enteral or parenteral conscious sedation;

4. The patient or the guardian must be advised that unforeseen circumstances do occur and the dentist and the sedation team need permission in advance to change the plan of treatment if it is deemed in their professional judgement to be in the best interest of the patient;

5. The patient and/or guardian must be afforded the opportunity to have concerns and questions addressed by the dentist; and

6. The patient and/or guardian's consent must be documented.

(C) Refer to section (16) for a sample conscious sedation informed consent.

#### (6) Sedation Documentation Requirements.

(A) A time oriented anesthesia record must be documented including the dosage and administration of drugs and physiologic data obtained during patient monitoring.

(B) At a minimum, the anesthetic record must contain the following:

1. Names of the qualified sedation provider and sedation team members (dentist, anesthetist, assistants);

2. Date;

3. Documentation of nothing by mouth;

4. Vital signs recorded (blood pressure, pulse rate, and percent of O<sub>2</sub> saturation):

A. Preoperatively;

B. After delivery of initial medications (to include the local anesthesia); and

C. At a minimum every fifteen (15) minutes throughout the procedure;

5. Start and finish times for the anesthesia procedure and the operative procedure;

6. Agents delivered (name, dosage, route of administration, and flow rates);

7. Local anesthetics;

8. Inhalation agents;

9. Sedatives;

10. When medications are prescribed or dispensed, a copy of the prescription or a notation describing the medication should be in the patient's chart with the instructions for use;

11. Complications or unusual reactions (all pertinent data, vital signs, and/or medications, etc.); and

12. Discharge status.

(C) Monitoring data must be documented by qualified personnel capable of physical assessment of a sedated patient.

#### (7) Monitoring Procedures.

(A) Conscious sedation patients shall be monitored under the direct and continuous supervision of a sedation team member.

(B) For the purpose of supervising and monitoring a consciously sedated patient members of the sedation team shall be:

1. Capable of physical assessment of a sedated patient;

2. Certified in Basic Life Support (BLS), Cardiopulmonary Resuscitation (CPR), or Advanced Cardiopulmonary Life Support (ACLS);

3. Certified in monitoring conscious sedation from a board approved course provider; and

4. Knowledgeable about medical emergency response incident to the use of enteral and parenteral conscious sedation, including the use of resuscitation equipment and emergency medications.

(C) Strict reliance on measuring a single physiologic parameter may be not only misleading but also potentially hazardous. As a rule, no single symptom may be diagnostic of a particular condition, but rather the total patient must be evaluated.

(D) Monitoring criteria include:

1. Oxygenation. Color of mucosa, skin or blood shall be continually evaluated. Oxygen saturation must be evaluated continuously by pulse oximetry;

2. Ventilation. Observation of chest excursions and/or auscultation of breath sounds; and

3. Circulation. Record initial blood pressure and pulse and thereafter, as appropriate.

(E) Monitoring methods can be divided into mechanical and non-mechanical means.

1. Non-mechanical means shall include:

A. Patient and blood color;

B. Respiratory rate, depth and rhythm;

C. Patient's response to verbal conversation is an excellent gauge to depth of sedation. Is it quick, appropriate, and clear, or is it difficult to obtain, inappropriate and markedly slurred;

D. Body posturing; and

E. Skin status.

2. Mechanical means shall include:

A. Blood pressure and pulse rate;

B. Pulse oximetry; and

C. Pretracheal stethoscope, electrocardiogram (ECG) and temperature monitor, if appropriate.

(F) A consciously sedated patient must have direct and continuous supervision and monitoring until oxygenation, respiration, and circulation are stable and the patient is appropriately responsive for discharge from the facility.

#### (8) Discharge Assessment and Procedures.

(A) The final responsibility for determining whether a patient is appropriately responsive and stable for discharge rests solely with the dentist. This may be done in consultation with a nurse anesthetist or physician anesthesiologist.

(B) Patients who have unusual reactions to enteral or parenteral conscious sedation shall be assisted and monitored until stable for discharge. Recovery must be documented.

(C) The patient must be continually observed during the recovery period and discharged only when the following criteria are met:

1. Cardiovascular function is satisfactory and stable;

2. Airway patency is uncompromised and satisfactory;

3. Patient is easily arousable and protective reflexes intact;



4. Patient's state of hydration is adequate;
5. Patient can verbalize appropriately;
6. Patient can sit unaided;
7. Patient can ambulate with minimal precautionary assistance;
8. For a very young child or disabled patient, the pre-sedated level of responsiveness should be achieved;
9. Appropriate post-discharge supervision confirmed; and
10. Post-operative instructions reviewed with individual responsible for post-discharge supervision.

(9) Personnel.

(A) The minimum number of individuals available to support a sedated patient shall be three (3): the dentist and two (2) members of the sedation team, which may include a nurse anesthetist or physician anesthesiologist.

(B) All individuals that may be called upon to be responsible for supervising and monitoring sedated patients shall be qualified as set forth in (7)(B).

(10) Facilities and Equipment.

(A) Access and egress to the dental facility and the operatories used for conscious sedation shall meet the requirements of the Americans with Disabilities Act (ADA) and allow access for emergency medical personnel and equipment.

(B) The operatory should be large enough to permit personnel to move freely about the patient. Monitors shall be positioned for easy visualization.

(C) The operating table or dental chair should be positioned to permit personnel to maintain the airway, allow quick alteration of patient position, provide a firm platform for the management of cardiopulmonary resuscitation, and provide access to the patient's oral cavity.

(D) The recovery area, whether the operatory or a separate area, shall allow continuous patient visualization by personnel and have sufficient room to treat any emergency. Further, it shall be equipped with systems to allow appropriate monitoring, for providing oxygen under pressure and suction, and provide adequate lighting and electrical outlets.

(E) Equipment shall include:

1. A suction system allowing tonsillar (enteral sedation) and catheter suction (parenteral sedation);
2. A positive pressure oxygen delivery system accommodating both adult and pediatric patients (if pediatric patients are treated);
3. Inhalation anesthetic systems coded to prevent accidental administration of the wrong gas and equipped with a fail-safe mechanism;
4. A portable oxygen unit with appropriate accessories;
5. A pulse oximetry monitor;
6. A defibrillator (an automatic defibrillator is recommended).

(F) An electrocardiograph is recommended equipment if the primary administrator of enteral and/or parenteral conscious sedation is competent in its use and interpretation.

(G) Backup systems shall include:

1. A protocol for obtaining emergency assistance;
2. Battery-powered lighting of sufficient intensity to complete any procedure; and
3. Backup suction sufficient to complete any procedure.

(11) Resuscitation Equipment.

(A) An emergency kit should be readily accessible and portable. It should contain drugs and equipment of appropriate sizes to resuscitate a non-breathing, unconscious patient who may also be suffering varying degrees of cardiovascular collapse to sustain life until responsibility for the patient's care is assumed by appropriate medical personnel (e.g., emergency medical technicians (EMTs), physician, emergency room personnel).

(B) Resuscitation equipment shall be immediately accessible and appropriate for the route of administration of the permit holder:

(C) All conscious sedation permit holders should have immediate access to:

1. Airway and ventilation equipment;
  - A. Oxygen;
  - B. Full face masks of appropriate sizes to accommodate all sedated patients;
  - C. Mechanism to deliver O<sub>2</sub> with positive pressure;
  - D. Equipment for performing an emergency cricothyroidotomy; and
  - E. Nasopharyngeal and oral airways;
2. Tonsillar suction;
3. Syringes and needles for intravenous (IV) drug administration; and
4. Unexpired medications as set forth in section (15).

(D) In addition, parenteral conscious sedation permit holders should have immediate access to:

1. IV solutions and equipment for establishment of an IV route, and appropriate fluids;
2. Sterile water for injection and/or mixing or dilution of drugs;
3. Catheter suction; and
4. Syringes and needles for IV drug administration.

(12) Site Certificate.

(A) No facility shall be the site for the administration of enteral and/or parenteral conscious sedation without being issued a site certificate pursuant to 4 CSR 110-4.020.

(B) The board may require a facility requesting a site certificate for conscious sedation undergo a facility inspection. Facility inspections will be conducted by board appointed consultants from the Conscious Sedation Evaluation Committee of the Missouri Dental Board. A facility inspection will be deemed satisfactory when all criteria in subsections (12)(C) and (D) of this rule have been satisfactorily met.

1. All parenteral sedation permit applicants shall receive an on-site evaluation;
  2. Enteral conscious sedation permit applicants may receive an on-site evaluation; and
  3. The board may, at any time, inspect a facility where conscious sedation is administered in order to verify compliance with the minimum requirements of the conscious sedation rule.
- (C) The facility shall be properly maintained and equipped. The dentist-in-charge shall verify via notarized affidavit the following exists and is in good working order:
1. Adequate access and egress for emergency medical personnel to dental facility and operatories used for sedation;
  2. Operatory and recovery room design enables appropriate monitoring and emergency response;
  3. Emergency kit is accessible, portable, and contains drugs and equipment of appropriate sizes to resuscitate a non-breathing, unconscious patient;
  4. Positive pressure oxygen and appropriate face masks;
  5. Portable oxygen;
  6. Tonsillar vacuum;
  7. Pulse oximetry;
  8. Pretracheal stethoscope;
  9. Nasopharyngeal and oral airways;
  10. Battery-powered lighting of sufficient intensity to complete any procedure;
  11. Backup suction to complete any procedure; and
  12. Defibrillator.

(D) Sedation team members shall be capable of safely executing procedures associated with enteral and/or parenteral conscious sedation. The dentist-in-charge shall verify the following via notarized affidavit:

1. The primary administrator of enteral and/or parenteral conscious sedation is a qualified sedation provider as defined in subsection (1)(Q) of 4 CSR 110-4.010 who maintains current certification and licensure in their field of practice;

2. Appropriate patient records are maintained as set forth in section (2) of this rule.

3. Appropriate patient selection criteria are employed as set forth in sections (3) and (4) of this rule. The dentist-in-charge and permitted dentists should be prepared to demonstrate knowledge of physical evaluation of patients, ASA classifications, and their application to appropriate patient selection;

4. Appropriate informed consent is utilized as set forth in section (5) of this rule;

5. Time oriented anesthesia records are appropriately maintained as set forth in section (6) of this rule;

6. Direct and continuous monitoring of sedated patients is accomplished by sedation team members through recovery until discharge as set forth section (7) of this rule;

7. Appropriate documentation occurs for the management and treatment of sedated patients; and

8. Appropriate criteria are in place to determine when a patient can be safely discharged and appropriate post-operative instructions are given to responsible individuals who will supervise the sedated patient after discharge as set forth in section (8) of this rule.

(E) The sedation team shall be capable of responding to emergencies incident to the administration of enteral and/or parenteral conscious sedation. The sedation team should be prepared for the following emergencies and be competent in simulated responses:

1. General emergency response protocol;
2. Laryngospasm;
3. Acute airway obstruction;
4. Cardiopulmonary arrest;
5. Allergic reaction to drugs;
6. Hypotension;
7. Angina pectoris;
8. Possible myocardial infarction;
9. Emesis and aspiration of vomitus; and
10. Convulsions.

#### (13) Board Approved Courses.

(A) A course satisfying the educational requirements for an enteral conscious sedation permit shall include, but not be limited to:

1. Appropriate definitions;
2. Appropriate patient records;
3. Review of history and physical evaluation;
4. ASA classification;
5. Indications for medical consultations;
6. Appropriate patient selection;
7. Properly maintained and equipped facilities;
8. Informed consent;
9. Pharmacological review of common sedatives and reversal agents;
10. Time oriented anesthesia record;
11. Monitoring and assessment of the sedated patient during treatment and recovery;

12. Appropriate documentation of the management and treatment of sedated patients;

13. Appropriate discharge criteria;

14. Post-sedation instructions;

15. Response to most common emergencies incident to administration of conscious sedation; and

16. An examination measuring knowledge required of a dentist essential for safe and efficient conscious sedation of dental patients.

(B) The sedation monitoring course content shall include, but not be limited to:

1. Appropriate definitions;
2. Appropriate patient records;
3. Reviewing patient records for essential data and screening medical histories;
4. ASA classification and appropriate patient selection;
5. Properly maintained and equipped facilities;
6. Informed consent;

7. Time oriented anesthesia record;

8. Monitoring and assessment of the sedated patient during treatment and recovery;

9. Appropriate documentation of the management and treatment of sedated patients;

10. Appropriate discharge criteria;

11. Auxiliary roles in response to most common emergencies incident to administration of conscious sedation; and

12. An examination measuring knowledge necessary for safe, effective monitoring of a sedated dental patient.

#### (14) References.

##### (A) *Office Anesthesia Evaluation Manual*

American Association of Oral and Maxillofacial Surgeons  
9700 West Bryn Mawr Ave  
Rosemont, IL 60018

##### (B) *Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists*

American Dental Association  
211 East Chicago Avenue  
Chicago, IL 60611-2678

#### (15) Emergency Drugs.

##### (A) Minimum required emergency drugs for enteral sedation.

1. Ammonia carpules;
2. Antihistamines;
3. Benzodiazepine antagonist;
4. Bronchodilator inhaler;
5. Concentrated glucose fifty percent (50%), cake icing, candy, orange juice);
6. Epinephrine (1:1,000 at a minimum); and
7. Nitroglycerin.

##### (B) Minimum required emergency drugs for parenteral sedation.

1. Ammonia carpules;
2. Antihistamines;
3. Atropine (or related drugs);
4. Benzodiazepine antagonist;
5. Bronchodilator inhaler;
6. Concentrated glucose fifty percent (50%), cake icing, candy, orange juice);
7. Corticosteroid;
8. Epinephrine (1:1,000 at a minimum);
9. Narcotic antagonist; and
10. Nitroglycerin.

##### (C) Suggested but not required emergency drugs.

1. Aminophylline;
2. Hyperstat or Lobatalol (or related drugs);
3. Lidocaine (one hundred (100) mg injectables);
4. Sodium bicarbonate; and
5. Succinylcholine chloride.

#### (16) Sample Informed Consent for Conscious Sedation.

The purpose of this document is to provide an opportunity for patients to understand and give permission for conscious sedation when provided along with dental treatment. Each item should be checked off after the patient has the opportunity for discussion and questions.

\_\_\_\_\_ 1. I understand that the purpose of conscious sedation is to more comfortably receive necessary care. Conscious sedation is not required to provide the necessary dental care. (See #4 options.)

\_\_\_\_\_ 2. I understand that conscious sedation is a drug-induced state of reduced awareness and decreased ability to respond. Conscious sedation is not sleep from which I can be easily awakened. My ability to respond normally returns when the effects of the sedative wear off.

\_\_\_\_\_ 3. I understand that my conscious sedation will be achieved by the following route:

\_\_\_\_\_ Oral Administration: I will take a pill approximately \_\_\_\_\_ minutes before my appointment. The sedation will last approximately \_\_\_\_\_ to \_\_\_\_\_ hours. Patients like oral sedation because they do not need an "IV" line. However the level of sedation is less predictable than with "IV" sedation.

\_\_\_\_\_ Intravenous (IV) Administration: The doctor will inject the sedative in a tube connected to a vein in my arm. The length of sedation may be shorter and the level more predictable than with oral sedation. The IV sedation will last approximately \_\_\_\_\_ to \_\_\_\_\_ hours.

\_\_\_\_\_ 4. I understand that the options to conscious sedation are:  
a. No sedation: The necessary procedure is performed under local anesthetic with the patient fully aware.

b. Nitrous oxide sedation: Commonly called laughing gas, nitrous oxide provides relaxation but the patient is still generally aware of surrounding activities. Its effects can be reversed in five (5) minutes with oxygen.

c. General anesthetic: Commonly called deep sedation, a patient under general anesthetic has no awareness and must have their breathing temporarily supported. General anesthesia is more appropriate for longer procedures lasting three (3) or more hours.

\_\_\_\_\_ 5. I understand that there are risks or limitations to all procedures. For sedation these include:

\_\_\_\_\_ (Oral Sedation) Inadequate sedation with initial dosage may require the patient to undergo the procedure without full sedation or delay the procedure for another time. Due to unpredictable patient response, it is not recommended that oral sedatives be given in successive or additive doses.

\_\_\_\_\_ An atypical reaction to sedative drugs that may require emergency medical attention and/or hospitalization.

\_\_\_\_\_ Inability to discuss treatment options with the doctor should the circumstance require a change in treatment plan.

\_\_\_\_\_ 6. If, during the procedure, a change in treatment is required, I authorize the dentist and the sedation team to make whatever change they deem in their professional judgment is necessary.

\_\_\_\_\_ 7. I have had the opportunity to discuss conscious sedation and have my questions answered by sedation team members including the dentist, if I so desire.

\_\_\_\_\_ 8. I hereby consent to conscious sedation in conjunction with my dental care.

\_\_\_\_\_ Patient/Guardian                  \_\_\_\_\_ Date                  \_\_\_\_\_ Witness

*AUTHORITY: sections 332.031, RSMo 2000 and 332.071 (SB 1122) and 332.361 (HB 1422) amended 2004. Original rule filed Sept. 15, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivision 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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by faxing to (573) 751-8216 or via e-mail at dental@pr.mo.gov. 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 110—Missouri Dental Board  
Chapter 4—Sedation**

**PROPOSED RULE**

**4 CSR 110-4.040 Deep Sedation/General Anesthesia**

*PURPOSE: This rule provides for the regulation of the administration of deep sedation/general anesthesia.*

(1) No dentist shall administer deep sedation/general anesthesia unless the dentist possesses a permit issued by the Missouri Dental Board. This permit shall be renewed by June 1 every five (5) years from the date of issuance.

(2) No dental office shall be the site for the administration of deep sedation/general anesthesia without being issued a site certificate issued by the Missouri Dental Board. The site certificate shall be renewed by June 1 every five (5) years from the date of issuance. The dentist-in-charge is responsible for submitting the application and maintaining the documentation as required in sections (6) and (8) of this rule.

(3) No dentist shall prescribe deep sedation/general anesthesia agents unless the dentist possesses a deep sedation/general anesthesia permit.

(4) If the primary administrator of deep sedation/general anesthesia in a dental office is a physician anesthesiologist or a nurse anesthetist, the dentist must order the anesthesia services, is responsible for the readiness of the dental office, preoperative patient evaluation and appropriate medical consultations, the coordination of and emergency preparedness of the anesthesia team, and the maintenance of appropriate records. The dentist must evaluate the patient prior to the procedure, remain in the dental office, and evaluate the patient prior to discharge.

(5) To qualify for a permit to administer deep sedation/general anesthesia, a dentist shall:

- (A) Document satisfactory completion of:
  1. A post-doctoral training program in anesthesia and related subjects that satisfies the requirements described in Part II of the American Dental Association (ADA) *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry* at the time the training was commenced; or
  2. An ADA accredited post-doctoral training program in oral and maxillofacial surgery; or
  3. An anesthesia training program that is approved and accredited to teach postgraduate medical education by the Accreditation Council for Graduate Medical Education of the American Medical Association (AMA), or the Education Committee of the American Osteopathic Association (AOA); and
- (B) Document completion of an Advanced Cardiac Life Support (ACLS) course or board-approved equivalent during the past five (5) years or a minimum of fifteen (15) hours of other board-approved continuing education pertaining to medical emergencies, anesthetic complications, or patient management while under deep sedation/general anesthesia. Additional hours, not to exceed five (5), acquired beyond the required number may be carried forward into the renewal cycle;
- (C) Successfully complete an on-site evaluation as defined in subsection (6)(C) of this rule; and
- (D) Document that the facility to be used for deep sedation/general anesthesia has been issued a deep sedation/general anesthesia site certificate.



(6) To qualify for a deep sedation/general anesthesia site certificate the dental office must—

(A) Be properly equipped in accordance with the American Association of Oral and Maxillofacial Surgeons (AAOMS) *Office Anesthesia Evaluation Manual*, including but not limited to the capability of delivering positive pressure oxygen, blood pressure and electrocardiographic (ECG) monitoring and pulse oximetry;

(B) Have and maintain personnel capable of handling procedures and emergencies incident to the administration of deep sedation/general anesthesia;

(C) Undergo and successfully complete an on-site evaluation by consultants appointed by the board to confirm the adequacy of the facility and competency of the personnel. On-site evaluations shall be conducted in accordance with guidelines in the current AAOMS *Office Anesthesia Evaluation Manual*; and

(D) The dentist in charge of the dental office shall document that:

1. The administrator of deep sedation/general anesthesia is a qualified sedation provider as defined in 4 CSR 110-4.030; and

2. All anesthesia team members, including the operating dentist, possess and maintain current certification in cardiopulmonary resuscitation (CPR) or basic life support (BLS).

(7) The board shall issue a deep sedation/general anesthesia permit upon receipt of a completed application form provided by the board, payment of the appropriate fee, proof of having met the requirements of section (5) of this rule and determination that the applicant is a licensee in good standing. To be in good standing the licensee's dental license(s) must be current and not under restriction or discipline in any state. The requirements of this section and the on-site evaluation must be completed within one (1) year of the date of submission of the application form.

(8) The board shall issue a deep sedation/general anesthesia site certificate upon receipt of a completed application form provided by the board, payment of the appropriate fee, and proof of having met the requirements of section (6) of this rule. The requirements of this section and the on-site evaluation for each site to be authorized must be completed within one (1) year of the date of submission of the application form.

(9) The board may authorize a dentist initially applying for a deep sedation/general anesthesia permit to administer deep sedation/general anesthesia pending an on-site evaluation according to subsection (6)(C) of this rule providing all other requirements outlined in sections (5) and (7) have been met. Such authorization shall be in writing and in effect for a period not to exceed ninety (90) days.

(10) When the primary administrator of anesthesia at a dental office is not a dentist with a valid deep sedation/general anesthesia permit, the board may authorize the dentist initially applying for a deep sedation/general anesthesia site certificate to allow the primary administrator to administer deep sedation/general anesthesia pending an on-site evaluation according to subsection (6)(C) of this rule providing all other requirements outlined in sections (6) and (8) have been met. Such authorization shall be in writing and in effect for a period not to exceed ninety (90) days.

(11) Subsequent to an on-site evaluation as outlined in subsection (6)(C) of this rule, the board, at its discretion, may issue a temporary authorization to administer deep sedation/general anesthesia to any dental office, providing all other provisions of this rule have been met. Such authorization shall be in writing and in effect for a period not to exceed ninety (90) days. A reevaluation may be undertaken prior to the issuance of a site certificate. The fee for the reevaluation shall be the same as the initial evaluation.

(12) To renew a deep sedation/general anesthesia permit a dentist shall, at least ninety (90) days prior to the expiration of the current permit:

(A) Submit a completed renewal application form provided by the board;

(B) Submit the renewal fee specified in 4 CSR 110-2.170 payable to the Missouri Dental Board;

(C) Document completion during the past five (5) years of

1. An Advanced Cardiac Life Support (ACLS) course; or—

2. A minimum of fifteen (15) hours of other board-approved continuing education pertaining to medical emergencies, anesthesia complications, or patient management while under sedation.

3. Additional hours, not to exceed five (5), acquired beyond the required number may be carried forward into the renewal cycle.

(D) Successfully complete an on-site evaluation as defined in subsection (6)(C) of this rule.

(13) To renew a site certificate for deep sedation/general anesthesia the dentist-in-charge shall, at least ninety (90) days prior to the expiration of the current site certificate:

(A) Submit a completed renewal application form provided by the board;

(B) Submit the renewal fee specified in 4 CSR 110-2.170 payable to the Missouri Dental Board;

(C) Attest that the primary administrator of deep sedation/general anesthesia is a qualified sedation provider as set forth in 4 CSR 110-4.010(1)(S);

(D) Document that anesthesia team members, including the operating dentist, possess and maintain current certification in CPR or BLS; and

(E) Successfully complete an on-site evaluation as defined in subsection (6)(C) of this rule.

(14) A dentist holding a permit for authorization for the administration of deep sedation/general anesthesia under the provisions of this rule may administer enteral and/or parenteral conscious sedation without a permit for enteral and/or parenteral conscious sedation as required under 4 CSR 110-4.020.

(15) At any time, the board may inspect sites where deep sedation/general anesthesia is administered in order to verify compliance with the minimum requirements of this rule.

(16) If at any time the board learns that a dentist who holds a deep sedation/general anesthesia permit, or a deep sedation/general anesthesia site certificate, has failed to meet the minimum qualifications set out in this rule, the board may pursue disciplinary action in accordance with section 332.321, RSMo.

(17) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction.

*AUTHORITY: sections 332.031, RSMo 2000 and 332.071 (SB 1122) and 332.361 (HB 1422) amended 2004. Original rule filed Sept. 15, 2004.*

*PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated eight thousand five hundred eighty-three dollars and eleven cents (\$8,583.11) in FY06; seven thousand forty nine dollars and ninety-two cents (\$7,049.92) in FY07; six thousand seven hundred five dollars and ninety-one cents (\$6,705.91) in FY08; eight thousand five hundred seventy-four dollars and sixty-four cents (\$8,574.64) in FY09; two thousand five hundred ninety-four dollars and seventy-three cents (\$2,594.73) in FY10; ten thousand six hundred eleven dollars and one cent (\$10,611.01) in FY11; nine thousand four hundred seventy dollars and seventy-six cents (\$9,470.76) in FY12; nine thousand one hundred twenty-six dollars*



and seventy-five cents (\$9,126.75) in FY13; ten thousand nine hundred ninety-five dollars and forty-eight cents (\$10,995.48) in FY14; five thousand fifteen dollars and fifty-seven cents (\$5,015.57) in FY15; and thirteen thousand three hundred eighteen dollars and fifty-nine cents (\$13,318.59) in FY16. Because the board issues permits and certificates on a five (5)-year cycle, a continuous annual growth rate will occur based on the assumption of issuing twelve (12) permits and twenty (20) certificates for the life of the rule. It is anticipated that the cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

**PRIVATE COST:** This proposed rule will cost private entities an estimated eleven thousand one hundred seven dollars and forty-six cents (\$11,107.46) in FY06; nine thousand three hundred sixty-eight dollars and sixty-seven cents (\$9,368.67) in FY07; nine thousand sixty dollars and six cents (\$9,060.06) in FY08; twelve thousand eight dollars and twenty-nine cents (\$12,008.29) in FY09; three thousand five hundred fifty-five dollars and eight cents (\$3,555.08) in FY10; thirteen thousand one hundred eighty-eight dollars and ten cents (\$13,188.10) in FY11; twelve thousand four hundred seventy-three dollars and thirty cents (\$12,473.30) in FY12; twelve thousand one hundred seventy-two dollars and nineteen cents (\$12,172.19) in FY13; fifteen thousand ninety-five dollars and thirteen cents (\$15,095.13) in FY14; six thousand seven hundred sixty-four dollars and forty-two cents (\$6,764.42) in FY15; and sixteen thousand three hundred ninety-nine dollars and ninety-four cents (\$16,399.94) in FY16. Because the board issues permits and certificates on a five (5)-year cycle, a continuous annual growth rate will occur based on the assumption of issuing twelve (12) permits and twenty (20) certificates for the life of the rule. It is anticipated that the cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by faxing (573) 751-8216 or via e-mail at dental@pr.mo.gov. 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.

## PUBLIC ENTITY FISCAL NOTE

## I. RULE NUMBER

Title 4 - Department of Economic Development

Division 110 - Missouri Dental Board

Chapter 4 - Sedation

Proposed Amendment - 4 CSR 110-4.040 Deep Sedation/General Anesthesia

Prepared September 9, 2004 by the Division of Professional Registration

## II. SUMMARY OF FISCAL IMPACT TO THE MISSOURI DENTAL BOARD

FISCAL YEAR	PROCESS	NUMBER OF APPLICATIONS	ESTIMATED COST OF COMPLIANCE
FY06	Renewal - Current Individual General Anesthesia Permit - \$10.62	25	\$265.50
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	71	\$8,141.57
Estimated FY06 Cost			\$8,583.11
FY07	Renewal - Current Individual General Anesthesia Permit - \$10.62	21	\$223.02
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	58	\$6,650.86
Estimated FY07 Cost			\$7,049.92
FY08	Renewal - Current Individual General Anesthesia Permit - \$10.62	21	\$223.02
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	55	\$6,306.85
Estimated FY08 Cost			\$6,705.91
FY09	Renewal - Current Individual General Anesthesia Permit - \$10.62	35	\$371.70
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	70	\$8,026.90
Estimated FY09 Cost			\$8,574.64
FY10	Renewal - Current Individual General Anesthesia Permit - \$10.62	1	\$10.62
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	21	\$2,408.07
Estimated FY10 Cost			\$2,594.73
FY11	Renewal - Current Individual General Anesthesia Permit - \$10.62	27	\$286.74
	Renewal - Current Site Certificates - \$114.67	71	\$8,141.57
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	20	\$2,293.40
Estimated FY11 Cost*			\$10,611.01
FY12	Renewal - Current Individual General Anesthesia Permit - \$10.62	33	\$350.46
	Renewal - Current Site Certificates - \$114.67	58	\$6,650.86
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	20	\$2,293.40
Estimated FY12 Cost*			\$9,470.76

FY13	Renewal - Current Individual General Anesthesia Permit - \$10.62	33	\$350.46
	Renewal - Current Site Certificates - \$114.67	55	\$6,306.85
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	20	\$2,293.40

Estimated FY13 Cost\* \$9,126.75

FY14	Renewal - Current Individual General Anesthesia Permit \$10.62	47	\$499.14
	Renewal - Current Site Certificates - \$114.67	70	\$8,026.90
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	20	\$2,293.40

Estimated FY14 Cost\* \$10,995.48

FY15	Renewal - Current Individual General Anesthesia Permit - \$10.62	13	\$138.06
	Renewal - Current Site Certificates - \$114.67	21	\$2,408.07
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	20	\$2,293.40

Estimated FY15 Cost\* \$5,015.57

FY16	Renewal - Current Individual General Anesthesia Permit \$10.62	39	\$414.18
	Renewal - Current Site Certificates - \$114.67	91	\$10,434.97
	Initial Conscious Sedation Permit - \$14.67	12	\$176.04
	Initial Site Certificate - \$114.67	20	\$2,293.40

Estimated FY16 Cost\* \$13,318.59

III. WORKSHEET

See Table Above.

IV. ASSUMPTIONS

1. The number of individuals by class are based on actual figures from: FY02, FY03 and F04 and projected figures in FY05-FY16.

Fiscal Year	Individual Permits to be Renewed	Site Certificates to be Renewed	Individual Permits Issued	Site Certificate Issued
FY06	25	0	12	71
FY07	21	0	12	58
FY08	21	0	12	55
FY09	35	0	12	70
FY10	1	0	12	21
FY11	27	71	12	20
FY12	33	58	12	20
FY13	33	55	12	20
FY14	47	70	12	20
FY15	13	21	12	20
FY16	39	91	12	20

Currently the board issues a permit for a specific dentist to administer deep sedation/general anesthesia at a specific dental office that has been certified by the board. Under the new rule, a dentist who has received specialized education and training will receive an individual permit to administer deep sedation/general anesthesia at any site that holds a site certificate. The table above describes the number of current permits and certificates to be renewed by the board during a specific fiscal year and estimates in the number of permits and certificates to be issued through FY015. Furthermore, based on FY02, FY03 and FY04 actuals the board anticipates issuing 12 permits and 20 certificates annually for the life of the rule.

2. CALCULATION OF EXPENSE AND EQUIPMENT AND PERSONAL SERVICE COSTS:

Salaries for the Executive Director, Executive I and Licensure Technician II are shared with another board. The .05 Licensure Technician II position is supported entirely by the Missouri State Dental Board. The figures below represent the personal service costs supported by the Missouri Dental Board.

Employee's salaries were calculated using their annual salary multiplied by 40.47% for fringe benefits and then were divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications or renewals.

STAFF	ANNUAL SALARY	ANNUAL SALARY WITH FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME	COST PER APPLICATION
Executive I	\$28,112.40	\$39,489.49	\$18.99	\$0.32	5	\$1.58
Licensure Technician II	\$19,779.00	\$27,783.56	\$13.36	\$0.22	15	\$3.34
Licensure Technician II	\$24,111.00	\$33,868.72	\$16.28	\$0.27	2.5	\$0.68
Office Support Assistant	\$19,779.00	\$27,783.56	\$13.36	\$0.22	5	\$1.11
Total Personal Service Cost for Board Staff Per Application/Renewal						\$8.92

It is estimated that the following staff time will be devoted on each initial application and/or renewal for the following duties:

Executive Director - Reviews problem permit applications, brings information to the board to be discussed at next meeting, answers technical questions, prepares technical correspondence, prepares rule language, tracks and testifies on legislation relating to General Anesthesia and Conscious Sedation, discusses policies and procedures with Board Members and staff. Estimated time per initial application and/or renewal - 5 minutes

Executive I - Answers technical questions regarding permits and assist Licensing Tech II with the processing and renewal of the permits, assist in the preparation of rules. Estimated time per initial application and/or renewal - 5 minutes

Licensing Tech II - Receives and processes request for permit application packets, processes applications and accompanying documentation, arranges on site visits, monitors current permit holders for renewal dates, prepares and sends renewal applications, receives renewal applications and accompanying documentation, prepares documents for site evaluator. If evaluator approves, processes the renewal or prepares correspondence to applicant identifying deficiencies and/or arranges an on-site evaluation. Estimated time per initial application and/or renewal - 15 minutes

Licensing Tech II - Receives money, reconciles and deposits all fees. Processes per diem requests received from consultants conducting site inspections. Estimated time per initial application and/or renewal - 2.5 minutes

Office Support Assistant (5 minutes) - Opens mail, records money, sets up preliminary file in the division licensing system. Estimated time per initial application and/or renewal - 5 minutes

Board Consultants - Licensees approved by the board to conduct site inspections and receive \$50.00 per day per diem for those services. A team of 2 consultants evaluate the dental office to confirm the adequacy of the facility and competency of the personnel.

**Expense and Equipment and Personal Service Dollars for Initial Applications**

Application Printing	\$0.25
Evaluation Form Printing	\$0.19
Practice Act Printing	\$1.93
Letterhead Printing	\$0.15
Envelope for Mailing Application	\$0.16
Postage for Mailing Application	\$2.21
Printing Permit	\$0.35
Envelope for Mailing Permit	\$0.16
Postage for Mailing Permit	\$0.35
<b>Total Expense and Equipment Cost:</b>	<b>\$5.75</b>

**Expense and Equipment and Personal Service Dollars for Renewal of Permits/Certificates**

Application Printing	\$0.15
Evaluation Form Printing	\$0.19
Envelope for Mailing Application	\$0.16
Postage for Mailing Application	\$0.34
Printing Permit	\$0.35
Envelope for Mailing Permit	\$0.16
Postage for Mailing Permit	\$0.35
<b>Total Expense and Equipment Cost:</b>	<b>\$1.70</b>



Based on the above figures the following estimates represent the cost of each application/renewal process:

- Initial Deep Sedation/General Anesthesia Individual Permits:		
Expense and Equipment	\$5.75	
Personal Services	\$8.92	
<b>Total Cost</b>		<b>\$14.67</b>
- Initial Site Certificate Application Costs:		
Expense and Equipment	\$5.75	
Personal Services	\$108.92	
<b>Total Cost</b>		<b>\$114.67</b>
- Renewal of Deep Sedation/General Anesthesia Individual Permit:		
Expense and Equipment	\$1.70	
Personal Services	\$8.92	
<b>Total Cost</b>		<b>\$10.62</b>
- Renewal of Site Certificate:		
Expense and Equipment	\$1.70	
Personal Services	\$108.92	
<b>Total Cost</b>		<b>\$110.62</b>

4. \*Because the board issues permits and certificates on a five (5) year cycle, a continuous growth rate will occur based on the assumption of issuing 12 permits and 20 certificates annually.
5. The figures for FY06-10 are based on the current number of permits issued by the board. The estimated growth rate is based merely on data gathered by the board for this fiscal note and is merely an estimate of future activity.
6. The total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

## PRIVATE ENTITY FISCAL NOTE

## I. RULE NUMBER

Title 4 -Department of Economic Development

Division 110 - Missouri Dental Board

Chapter 4 - Sedation

Proposed Amendment - 4 CSR 110-4.040 Deep Sedation/General Anesthesia

Prepared September 9, 2004 by the Division of Professional Registration

## II. SUMMARY OF FISCAL IMPACT

Fiscal Year	Classification by types of entities likely to be affected	Estimated number of entities affected	Estimated Cost of Compliance
FY06	Renewal - Deep Sedation/General Anesthesia Permit - \$100	25	\$2,500.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	71	\$7,100.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	83	\$207.50
	Postage (Applications for and Renewal of Permits and Certificates)	108	\$39.96

Estimated FY06 Cost \$11,107.46

FY07	Renewal - Deep Sedation/General Anesthesia Permit - \$100	21	\$2,100.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	58	\$5,800.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	70	\$175.00
	Postage (Applications for and Renewal of Permits and Certificates)	91	\$33.67

Estimated FY07 Cost \$9,368.67

FY08	Renewal - Parenteral Conscious Sedation Permit - \$100	21	\$2,100.00
	Initial Conscious Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	55	\$5,500.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	67	\$167.50
	Postage (Applications for and Renewal of Permits and Certificates)	88	\$32.56

Estimated FY08 Cost \$9,060.06

FY09	Renewal - Deep Sedation/General Anesthesia Permit - \$100	35	\$3,500.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	70	\$7,000.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	82	\$205.00
	Postage (Applications for and Renewal of Permits and Certificates)	117	\$43.29

Estimated FY09 Cost \$12,008.29

FY10	Renewal - Deep Sedation/General Anesthesia Permit - \$100	1	\$100.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	21	\$2,100.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	33	\$82.50
	Postage (Applications for and Renewal of Permits and Certificates)	34	\$12.58

Estimated FY10 Cost \$3,555.08

FY11	Renewal - Deep Sedation/General Anesthesia Permit - \$100	27	\$2,700.00
	Renewal - Site Certificates - \$100	71	\$7,100.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	20	\$2,000.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	32	\$80.00
	Postage (Applications for and Renewal of Permits and Certificates)	130	\$48.10

Estimated FY11 Cost \$13,188.10

FY12	Renewal - Deep Sedation/General Anesthesia Permit - \$100	33	\$3,300.00
	Renewal - Site Certificates - \$100	58	\$5,800.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	20	\$2,000.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	32	\$80.00
	Postage (Applications for and Renewal of Permits and Certificates)	90	\$33.30

Estimated FY12 Cost \$12,473.30

FY13	Renewal - Deep Sedation/General Anesthesia Permit - \$100	33	\$3,300.00
	Renewal - Site Certificates - \$100	55	\$5,500.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	20	\$2,000.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	32	\$80.00
	Postage (Applications for and Renewal of Permits and Certificates)	87	\$32.19

**Estimated FY13 Cost      \$12,172.19**

FY14	Renewal - Deep Sedation/General Anesthesia Permit - \$100	47	\$4,700.00
	Renewal - Site Certificates - \$100	70	\$7,000.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	20	\$2,000.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	32	\$80.00
	Postage (Applications for and Renewal of Permits and Certificates)	149	\$55.13

**Estimated FY14 Cost      \$15,095.13**

FY15	Renewal - Deep Sedation/General Anesthesia Permit - \$100	13	\$1,300.00
	Renewal - Site Certificates - \$100	21	\$2,100.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	20	\$2,000.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	32	\$80.00
	Postage (Applications for and Renewal of Permits and Certificates)	66	\$24.42

**Estimated FY15 Cost      \$6,764.42**

FY16	Renewal - Deep Sedation/General Anesthesia Permit - \$100	39	\$3,900.00
	Renewal - Site Certificates - \$100	91	\$9,100.00
	Initial Deep Sedation Permit - \$100	12	\$1,200.00
	Initial Site Certificate - \$100	20	\$2,000.00
	Transcript (ACLS or board-approved continuing education course for initial conscious sedation permits) - \$5.00	12	\$60.00
	Notary (Applications for Initial Conscious Sedation Permits and Site Certificates) - \$2.50	32	\$80.00
	Postage (Applications for and Renewal of Permits and Certificates)	162	\$59.94

**Estimated FY16 Cost      \$16,399.94**

**III. WORKSHEET**  
See Table Above.



IV. ASSUMPTIONS

1. The number of individuals by class are based on actual figures from FY02, FY03 and F04 and projected figures in FY05-FY16.

Fiscal Year	Individual Permits to be Renewed	Site Certificates to be Renewed	Individual Permits Issued	Site Certificate Issued
FY06	25	0	12	71
FY07	21	0	12	58
FY08	21	0	12	55
FY09	35	0	12	70
FY10	1	0	12	21
FY11	27	71	12	20
FY12	33	58	12	20
FY13	33	55	12	20
FY14	47	70	12	20
FY15	13	21	12	20
FY16	39	91	12	20

1. Pursuant to 4 CSR 110-2.181, the board currently issues a permit for a specific dentist to administer parenteral conscious sedation at a specific dental office that has been certified by the board. For those licensees holding a parenteral conscious sedation permit and who also meet the requirements 4 CSR 110-4.020, they will now be issued a conscious sedation permit. Under the new rule, the permit and certificate are issued separately allowing the dentist to administer conscious sedation at any site that has been certified by the board.

The conscious sedation permits and certificates will be issued on a 5 year cycle. The board expects by FY11, all parenteral conscious sedation permits will have expired and those individuals will be issued a conscious sedation permit and certificate pursuant to 4 CSR 110-4.020. The table above shows the number of permits and certificates issued and renewed during the fiscal years of FY06-FY16. For fiscal years that follow FY16 and for the purpose of this fiscal note, the board is assuming after the first year of implementation, 24 permits and 28 certificates will be issued annually.

2. The figures for FY06-10 are based on the current number of parenteral conscious sedation permits issued by the board. The estimated rate for the new conscious sedation permits and site certificates is based merely on data gathered by the board for this fiscal note and is merely an estimate of future activity.

4. The total annual will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Chapter 332, RSMo. Pursuant to Section 332.031, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 332, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 332, RSMo.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 120—State Board of Embalmers and Funeral  
Directors**

**Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**4 CSR 120-2.060 Funeral Directing.** The director is amending section (21).

*PURPOSE: This amendment clarifies language in section (21) referring to a deceased and/or disabled Missouri licensed funeral director.*

(21) No temporary Missouri funeral director license authorized under section 333.041.7, RSMo will be issued until the board has been advised as to the location of the Missouri licensed funeral establishment at which the temporary funeral director's license will be used. The holder of the temporary license shall be authorized to only work at the Missouri licensed funeral establishment(s) where the deceased **and/or disabled Missouri licensed funeral director** was authorized to work. Violation of this rule will be deemed unauthorized practice of funeral directing.

*AUTHORITY: sections 333.041 and 333.042, RSMo Supp. 2003 and 333.091, 333.III and 333.121, RSMo 2000. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 15, 2004.*

*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 State Board of Embalmers and Funeral Directors, Becky Dunn, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1155 or via e-mail to: embalm@pr.mo.gov. 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 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 267—Office of Tattooing, Body Piercing and  
Branding**

**Chapter 4—Temporary Establishments**

**PROPOSED RULE**

**4 CSR 267-4.020 Temporary Practitioner License**

*PURPOSE: This rule outlines the requirements for a temporary practitioner's license in the event of a state or national convention being held in the state of Missouri.*

(1) The director of the Division of Professional Registration shall issue a temporary license to practice tattooing, body piercing and/or branding under the following requirements:

(A) The applicant for temporary licensure is entering the state of Missouri for the sole purpose of participating in a state or national

convention wherein the applicant will be practicing the profession of tattooing, body piercing and/or branding;

(B) The applicant files a completed application with the division at or prior to the official start of the portion of the convention wherein the practice of tattooing, body piercing and/or branding takes place and tenders a fee of fifty dollars (\$50); and

(C) The applicant is otherwise qualified for licensure pursuant to sections 324.520 through 324.526, RSMo, and the rules and regulations promulgated thereunder.

(2) A temporary license to practice tattooing, body piercing and/or branding issued pursuant to this rule shall be valid for a period not to exceed fourteen (14) days and shall not be renewable.

(3) Out-of-state applicants receiving a temporary license pursuant to this rule shall agree to designate the division as its agent for the purpose of service of process in the event such person is named in a lawsuit pertaining to his or her temporary licensure in the state of Missouri.

*AUTHORITY: section 324.526, as established in SB 1122 (2004) and 324.522, RSMo Supp. 2003. Emergency rule filed April 15, 2003, effective April 25, 2003, expired Oct. 24, 2003. Original rule filed Sept. 10, 2004.*

*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 cost private entities an estimated five thousand five hundred fifty-one dollars and thirty-five cents (\$5,551.35) annually for the life of the rule. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of Tattooing, Body Piercing and Branding, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489 or via e-mail to tattoo@pr.mo.gov. 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.*

Private Entity Fiscal Note

I. Rule Number

Title 4 - Department of Economic Development

Division 267 - Office of Tattooing, Body Piercing and Branding

Chapter 4 - Temporary Establishments

Type of Rulemaking - Proposed Rule

Rule Number and Name - 4 CSR 267-4.020 Temporary Practitioner License

Prepared September 10, 2004 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
105	Applicants (\$50 temporary practitioner)	\$5,250.00
105	Applicants (\$2.50 notary)	\$262.50
105	Applicants (\$.37 postage)	\$38.85
<b>Estimated Annual Cost of Compliance for the Life of the Rule</b>		<b>\$5,551.35</b>

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The estimates listed above are based on the number of temporary practitioner
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the

NOTE: The board is statutorily obligated to enforce and administer the provisions of section 324.524, RSMo. Pursuant to Section 324.524, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 324.524, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 324.524, RSMo.

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 10—Director, Department of Mental Health  
Chapter 31—Reimbursement for Services**

**PROPOSED RULE**

**9 CSR 10-31.014 Waiver of Standard Means Test for Children in Need of Mental Health Services**

*PURPOSE: This rule implements a revision to section 630.210, RSMo requiring the department to promulgate a rule waiving the Standard Means Test for a child in need of mental health services.*

(1) Definitions.

(A) The terms defined in 9 CSR 10-31.011 Standard Means Test are incorporated by reference as though set out in this rule.

(B) A “child in need of mental health services,” as used in this rule, is any child who qualifies to receive services from the Department of Mental Health under Chapters 630, 631, 632 or 633, RSMo.

(2) Request for Waiver. At the time of initial application of the Standard Means Test (SMT) for a child in need of mental health services, and at the time of any subsequent reapplication, the provider shall inform the financially responsible person that the SMT may be waived.

(A) The provider shall make available to the financially responsible person information on how to submit a request for SMT waiver.

(B) The financially responsible person shall submit the request in writing to the department director, with a copy to the provider.

(C) The provider shall not charge the monthly rate as determined by the provider’s application of the SMT to the financially responsible person for services provided to the child during the time the request is under review.

(D) A waiver may be approved, or approved with conditions, for up to one (1) year. It is the responsibility of the financially responsible person to notify the provider of any significant change in financial status. A waiver may be reevaluated at the initiative of the department director due to any significant change in financial status.

(3) Review of Request for Waiver. Upon receipt of a request for SMT waiver the department director shall designate an individual or individuals to review the request. The designee or designees shall approve, approve with conditions, or deny the request within seven (7) working days of receipt of the written request. The designee or designees shall provide notice of the decision to the requestor by certified mail with copy to the provider.

(4) Consideration of Request. In making the decision to approve, approve with conditions, or deny the request, the designee or designees must consider the following, as presented by the requestor:

(A) The recommendation of the local care team, or other designated local or regional children’s mental health authority that waiving the SMT will contribute to the therapeutic needs of the child by allowing the child to remain in the custody of the parent or custodian;

(B) History of the child being in state custody due exclusively to the need for mental health services where no substantiated reports of abuse or neglect exist;

(C) Statement from the financially responsible person that their primary motivation for requesting the waiver is to avoid loss of custody because they are unable to pay the monthly amount as determined by application of the Standard Means Test;

(D) Past efforts of the financially responsible person to obtain needed medical care, and expenses incurred by the financially responsible person for the treatment of the mental health condition or for the physical health of the child necessitated by the onset of the

mental health condition;

(E) The parent or custodian’s history of insurance benefits expended for physical and mental health treatment of the child and their current attempts to obtain commercial or government-sponsored insurance coverage; and

(F) The parent or custodian’s overall wherewithal to pay for the child’s mental health treatment needs at the time of requesting the waiver, including gross income, medical expenses, assets, liabilities, and financial responsibility for other dependents in the home.

(5) Denial of Request. A request for waiver shall be denied when the request for waiver—

(A) Is not submitted in writing;

(B) Does not raise factual issues sufficient to show that inappropriate transfer of custody to the Children’s Division is likely to occur absent the waiver; or

(C) Does not present persuasive, factual evidence that the financially responsible person cannot afford to pay the monthly amount required by the application of the Standard Means Test.

(6) Appeal of Denial. Within seven (7) working days of receipt of notice of approval with conditions or denial of a request, the financially responsible person may appeal the approval with conditions or denial in writing to the department director, with copy to the provider.

(7) Review of Appeal. Within seven (7) working days of receipt of the written appeal, and upon completion of review, the department director shall issue a decision which may alter the approval with conditions or denial. The department director shall provide notice of the decision by certified mail to the financially responsible person with copy to the provider. The decision of the department director shall be the final decision of the department.

*AUTHORITY: sections 630.050, RSMo 2000 and 630.210, RSMo Supp. 2004. Emergency rule filed Sept. 2, 2004, effective Sept. 15, 2004, expires March 13, 2005. Original rule filed Sept. 2, 2004.*

*PUBLIC COST: The projected cost of this proposed rule is one hundred seventy-eight thousand eight hundred twenty-eight dollars (\$178,828) during the first year, and fifty-three thousand seven hundred dollars (\$53,700) in the second year and subsequent years with inflationary increases of 2.5% for each year over the twenty (20)-year life of the rule. Please see fiscal note.*

*PRIVATE COST: This proposed rule 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 rule by writing to Randy Hodill, Reimbursement Administrator, Office of Administration, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. 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  
Public Entity Cost**

**I. RULE NUMBER.** (All of the information in Part I comes from the header of the rule.)

Title: 9 – Department of Mental Health

Division: 10 Director

Chapter: 31 – Reimbursement for Services

Type of Rulemaking: New

Rule Number and Name: 9 CSR 10-31.014 Waiver of Standard Means Test for Children in Need of Mental Health Services

**II. SUMMARY OF FISCAL IMPACT** (Present a summary of fiscal impact. Use a separate row for each public agency or political subdivision affected.)

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Mental Health	\$178,828 first year
Department of Mental Health	\$53,700 per year for subsequent years

**III. WORKSHEET** (Present more detailed fiscal information.)

The projected cost of implementation will be \$178,828 during the first year, and \$53,700 in the second year and subsequent years with inflationary increases of 2.5 % for each year over the twenty year life of the rule.

	Clients served	Monthly income at 300 % FPL	Fam. size	SMT amount per month	No. of mos. of svc.	Amt billed	Percent collected	Potential revenue loss
1 <sup>st</sup> year	333	\$3,918	3	\$358	6	\$1,008,000	25%	\$178,828
2 <sup>nd</sup> year	100	\$3,918	3	\$358	6	\$1,008,000	25%	\$53,700
Rate								2.5%
2 <sup>nd</sup> yr. with inflation								\$ 55,043

**IV. ASSUMPTIONS AND METHODOLOGY.** (Present assumptions, references and methods of acquiring information that underlie the conclusions in the fiscal note. Examples of information that might be included here are the sources of information presented in the fiscal note, why those sources were chosen and eventualities that might cause the fiscal impact to be different from your estimate.)

The department determines how much each client pays for services in accordance with the Standard Means Test (SMT). Families with incomes below 300 % of the federal poverty level (FPL) are eligible for Medicaid and are not subject to the SMT. Senate Bill No. 1003 made changes in section 630.210 RSMo permitting a waiver of the SMT for children in need of mental health services to avoid inappropriate custody transfers to the children’s division. Families with incomes above 300 % of the FPL are not eligible for Medicaid and would have been subject to the SMT prior to the passage of Senate Bill No. 1003. Consequently, the sole fiscal impact of this rule is loss of private pay revenue generated from the SMT for the clients who receive waivers.

We estimate there could be as many as 500 clients currently placed voluntarily in the care of the Children's Division exclusively for mental health needs. This is the total number affected by this legislation who could apply for a waiver in the first year. We further estimate that no more than two-thirds of this number will apply for waivers and be approved in the first year. In subsequent years we estimate that the number of waivers granted will not exceed 100 clients. The income of a three member household at 300 % FPL is \$3,918 per month. The SMT charge would be \$358 per month. The fiscal impact assumes billing for six months of mental health services with a collection rate of 25%.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 23—Motor Vehicle**

**PROPOSED AMENDMENT**

**12 CSR 10-23.335 Issuance of Title to a Surviving Spouse or Unmarried Minor Children of a Decedent.** The director proposes to amend sections (1) and (2).

*PURPOSE:* This proposed amendment clarifies both the requirements and the units that qualify for titling pursuant to section 474.250, RSMo.

(1) When a decedent has not disposed of an automobile or other passenger motor vehicle by will, the surviving spouse, or in the event there is no surviving spouse, the unmarried minor children may equally take title to one (1) automobile or other passenger motor vehicle **including a pickup truck** without the issuance of a probate court order. The surviving spouse or unmarried minor children shall submit the following documents to the Department of Revenue in order to obtain a certificate of title:

(E) Proof that the applicant was legally married to the decedent or **is an unmarried minor child of the decedent**, if [the application is being submitted by the surviving spouse] **applicable**; and

(2) For the purposes of obtaining a certificate of ownership, one (1) automobile or other passenger motor vehicle, as provided in section 474.250, RSMo, shall include any motor vehicle which is titled in the name of the decedent or assigned to the decedent. The ownership of [trailers] **non-passenger vehicles such as recreational vehicles, all-terrain vehicles, trailers, commercial trucks (trucks licensed for over eighteen thousand (18,000) pounds), buses and boats and outboard motors** shall not be transferred by the Department of Revenue to a surviving spouse or unmarried minor children without presenting an appropriate court order.

*AUTHORITY:* section 474.250, RSMo [1986] 2000. Original rule filed July 25, 1986, effective Nov. 28, 1986. Amended: Filed July 17, 1989, effective Oct. 27, 1989. Amended: Filed Sept. 16, 2004.

*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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 23—Motor Vehicle**

**PROPOSED RESCISSION**

**12 CSR 10-23.375 Fire Department License Plates.** This rule established procedures for issuance of fire department license plates to Missouri's fire marshal and three (3) members of the fire mar-

shal's staff which s/he shall designate.

*PURPOSE:* This rule is being rescinded because it is no longer applicable.

*AUTHORITY:* sections 301.144.2 and 301.444, RSMo 1986. Original rule filed Jan. 5, 1987, effective April 11, 1987. Rescinded: Filed Sept. 16, 2004.

*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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 23—Motor Vehicle**

**PROPOSED RULE**

**12 CSR 10-23.465 Issuance of Biennial Salvage Business Licenses**

*PURPOSE:* This rule provides for issuing biennial salvage business licenses on a staggered basis to equalize the Department of Revenue's workload and for the corresponding fees that are required.

(1) Salvage business licenses expire June 30 of the designated expiration year. The renewal period begins April 1 in the year of their expiration.

(A) New applicants for salvage business licensure processed on or after August 28, 2004, will be issued a two (2)-year license expiring June 30 of the appropriate year. The cost for licensure shall be one hundred thirty dollars (\$130) for each type of business activity indicated on the application, except that only one (1) one hundred thirty dollar (\$130) fee shall be collected if the applicant applies for licensure as a used parts dealer and a salvage dealer or dismantler. If the licensure period is for less than a two (2)-year period, the licensure fee shall be prorated for each type of business activity on a quarterly basis based on application receipt date as follows:

1. July 1 to September 30—one hundred thirty dollars (\$130)
2. October 1 to December 31—one hundred thirteen dollars and seventy-five cents (\$113.75)
3. January 1 to March 31—ninety-seven dollars and fifty cents (\$97.50)
4. April 1 to June 30—eighty-one dollars and twenty-five cents (\$81.25)

(B) Late renewal applicants who submitted their application for a salvage business license before August 28, 2004, but who are not approved until on or after August 28, 2004, will receive a one (1)-year license expiring June 30, 2005, at a cost of sixty-five dollars (\$65) for each type of business activity conducted.

(C) Late renewal applicants who submit their application for a salvage business license on or after August 28, 2004, have the option of receiving a one (1)-year or two (2)-year license. These applicants

must obtain a certification from authorized law enforcement as required by section 301.219, RSMo.

(D) Renewal applicants for salvage business licensure who renew during the renewal cycle beginning April 1, 2005, and who have an even-numbered license number, will be issued a one (1)-year license expiring June 30, 2006, at a cost of sixty-five dollars (\$65) for each business activity conducted. During the renewal cycle beginning April 1, 2006, these renewal applicants will be issued a two (2)-year license expiring June 30, 2008.

(E) Renewal applicants for salvage business licensure who renew during the renewal cycle beginning April 1, 2005, and who have an odd-numbered license number, will be issued a two (2)-year license expiring June 30, 2007, at a cost of one hundred thirty dollars (\$130) for each business activity conducted.

(2) Each application for a salvage business license must be accompanied by a five-dollar (\$5) fee for a criminal record check for each owner, partner, or corporate officer listed on the application. The deposited fees are forwarded to the Missouri State Highway Patrol. The patrol shall provide the director with the results of the applicant's criminal record check to assist the director in determining the applicant's qualifications as provided in section 301.221, RSMo.

(3) In the event that owners, partners, or principal officers (if a corporation) are residents of a state other than Missouri or another country, they must obtain a current criminal record check from their state highway patrol or corresponding law enforcement agency and submit that record check with new and renewal applications. The five-dollar (\$5) fee referenced in section (2) of this rule is inapplicable to this circumstance.

*AUTHORITY: sections 301.219, 301.221 and 301.229, RSMo 2000. Original rule filed Sept. 16, 2004.*

*PUBLIC COST: This proposed rule will cost state agencies and political subdivisions three thousand nine hundred eighty-one dollars (\$3,981) the first year and four thousand seven hundred seventy-eight dollars (\$4,778) each year thereafter.*

*PRIVATE COST: This proposed rule 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 rule with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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  
 PUBLIC COST**

**I. RULE NUMBER**

<b>Rule Number and Name:</b>	12 CSR 10-23.465 Issuance of Biennial Salvage Business Licenses
<b>Type of Rulemaking:</b>	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

<b>Affected Agency or Political Subdivision</b>	<b>Estimated Cost of Compliance in the Aggregate</b>
Missouri Department of Revenue	\$4,778.00 Annually

**III. WORKSHEET**

Decrease in Revenue	\$4,778				
	Highway	Cities	Counties	Total	
FY 05	\$2,986	\$597	\$398	\$3,981	
FY 06	\$3,583	\$717	\$478	\$4,778	
FY 07	\$3,583	\$717	\$478	\$4,778	

Decrease in revenue is a result of pro-rating of fees for new licenses.

**IV. Assumptions**

This rule provides for issuing biennial salvage business licenses on a staggered basis to equalize the Department of Revenue's workload and for the corresponding fees that are required.

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 26—Dealer Licensure**

**PROPOSED RESCISSION**

**12 CSR 10-26.130 Review of License Denial or Disciplinary Action.** This rule established procedures for review of a license denial or the imposition of discipline.

*PURPOSE: This rule is being rescinded because it is no longer applicable due to the passage of House Bill 1259, which requires dealer hearings to be conducted by the Administrative Hearing Commission.*

*AUTHORITY: sections 301.553 and 301.562, RSMo Supp. 1998. Original rule filed Nov. 1, 1999, effective May 30, 2000. Rescinded: Filed Sept. 16, 2004.*

*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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 26—Dealer Licensure**

**PROPOSED RESCISSION**

**12 CSR 10-26.140 Hearing Procedures.** This rule outlined the procedure for conducting hearings.

*PURPOSE: This rule is being rescinded because it is no longer applicable due to the passage of House Bill 1259, which requires dealer hearings to be conducted by the Administrative Hearing Commission.*

*AUTHORITY: section 301.553, RSMo Supp. 1998. Original rule filed Nov. 1, 1999, effective May 30, 2000. Rescinded: Filed Sept. 16, 2004.*

*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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 26—Dealer Licensure**

**PROPOSED RESCISSION**

**12 CSR 10-26.150 Designated Hearing Officer.** This rule established the duties and powers of a hearing officer.

*PURPOSE: This rule is being rescinded because it is no longer applicable due to the passage of House Bill 1259, which requires dealer hearings to be conducted by the Administrative Hearing Commission.*

*AUTHORITY: section 301.553, RSMo Supp. 1998. Original rule filed Nov. 1, 1999, effective May 30, 2000. Rescinded: Filed Sept. 16, 2004.*

*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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 26—Dealer Licensure**

**PROPOSED RESCISSION**

**12 CSR 10-26.160 Waiver of Hearing.** This rule set forth the requirements which must be met for a waiver of hearing.

*PURPOSE: This rule is being rescinded because it is no longer applicable due to the passage of House Bill 1259, which requires dealer hearings to be conducted by the Administrative Hearing Commission.*

*AUTHORITY: section 301.553, RSMo Supp. 1998. Original rule filed Nov. 1, 1999, effective May 30, 2000. Rescinded: Filed Sept. 16, 2004.*

*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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 26—Dealer Licensure**

**PROPOSED RESCISSION**

**12 CSR 10-26.170 Prehearing Conferences and Stipulations.** This rule established specific requirements needed to set prehearing conferences.

*PURPOSE:* This rule is being rescinded because it is no longer applicable due to the passage of House Bill 1259, which requires dealer hearings to be conducted by the Administrative Hearing Commission.

*AUTHORITY:* section 301.553, RSMo Supp. 1998. Original rule filed Nov. 1, 1999, effective May 30, 2000. Rescinded: Filed Sept. 16, 2004.

*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 Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 103—Sales/Use Tax—Imposition of Tax**

**PROPOSED RULE**

**12 CSR 10-103.210 Auctioneers and Other Agents Selling Tangible Personal Property**

*PURPOSE:* This rule interprets the sales and use tax law as it applies to sales of tangible personal property when an auctioneer or other agent is involved in the sale.

(1) In general, an auctioneer who does not disclose the principal will be considered the seller of the tangible personal property and will be required to collect and remit sales tax on the gross receipts of the property sold. The principal is liable for collecting and remitting the tax if the auctioneer discloses the principal to the purchasers at the auction. An organization exempt from tax on its sales (see 12 CSR 10-110.955) acting as an agent to sell tangible personal property to raise funds for the exempt organization is not required to collect and remit tax; the principal must collect and remit the tax. All other agents selling tangible personal property, by consignment or otherwise, must collect and remit tax even if the principal is disclosed.

(2) Definition of Terms.

(A) Agent—a person who acts on behalf of a principal.

(B) Auctioneer—an agent licensed as an auctioneer who sells tangible personal property belonging to another at public or private auction and who receives compensation for conducting the sale.

(C) Principal—a person who empowers another to act on his/her behalf.

(3) Basic Application of Tax.

(A) The principal is liable for collecting and remitting the tax if the auctioneer discloses the principal to the purchasers at the auction. An auctioneer may disclose the principal by written or oral communication to the purchasers.

(B) Tangible personal property sold at public or private auction in the course of the partial or complete liquidation of a household, farm or non-business enterprise is not subject to tax. See 12 CSR 10-103.200.

(C) Tangible personal property, except inventory of the seller, sold at public or private auction in the course of a liquidation of a business is not subject to tax. The sale of inventory is subject to tax.

(4) Examples.

(A) An auctioneer conducts a weekly auction in which the auctioneer sells various items obtained from numerous undisclosed principals. The auctioneer must collect and remit sales tax on these sales.

(B) An auctioneer conducts an auction on behalf of a disclosed principal. The principal is responsible for collecting and remitting the sales tax on the sales.

(C) A retired farmer contracts with an auctioneer to sell the assets of the family farm. The receipts from these sales are not subject to tax because the assets are sold in the course of a partial or complete liquidation of a household, farm or non-business enterprise.

(D) A grocery store is going out of business and contracts with an auctioneer to sell the fixtures and inventory of the store. The sales of the cash registers, display counters and refrigeration equipment are not subject to sales tax as a liquidation of a business. The sales of inventory items such as groceries are subject to sales tax.

(E) An antique store sells some goods on consignment from the owners. The store agrees with the owners to split the proceeds of the sale, 60% to the owner and 40% to the store. The store must collect and remit tax on the entire sale price even if it discloses the owners of the consigned goods.

(F) An art gallery sells works by artists for a commission. The gallery must collect and remit tax on the entire sale price even though the artists are disclosed.

(G) A parent teacher organization (PTO) agrees with a candy company to sell candy as a fundraiser for a public elementary school. The PTO buys the candy from the company and has the right to return any unsold candy over the minimum agreed amount. The sale is not subject to tax because the PTO is the seller of the candy and its sales are exempt from tax as sales by a public elementary school.

(H) A parent teacher organization agrees with a wrapping paper company to sell wrapping paper as a fundraiser for a public elementary school. The PTO takes orders for the wrapping paper and forwards the orders to the company. The PTO never takes title to the wrapping paper—it merely takes the orders and delivers the paper. The company must collect and remit tax because the company is the seller of the wrapping paper.

*AUTHORITY:* section 144.270, RSMo 2000. Original rule filed Sept. 9, 2004.

*PUBLIC COST:* This proposed rule is estimated to cost the Missouri Department of Revenue two thousand eight hundred fifty-four dollars (\$2,854) with that cost recurring annually over the life of the rule.

*PRIVATE COST:* This proposed rule is estimated to cost private entities thirty-two thousand two hundred fifty dollars (\$32,250) in the aggregate of the estimated duration of the rule.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. 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  
PUBLIC COST**

**I. RULE NUMBER**

Rule Number and Name:	12 CSR 10-103.210 Auctioneers and Other Agents Selling Tangible Personal Property
Type of Rulemaking:	Proposed Rule

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Revenue	\$2,854

**III. WORKSHEET**

It costs the Department of Revenue \$2.25 to process a typical sales tax return. Based on an estimated 1,075 returns filed by auctioneers in a given year, the costs to process are  $1,075 \times \$2.25 = \$2,148.75$ . The Department of Revenue's costs to print and mail returns to auctioneers are \$.405 per return. The calculation for these costs are  $1,075 \times \$0.405 = \$435.38$ .

**IV. Assumptions**

The costs assume no postal discounts for mailing are realized.

**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**

Rule Number and Name:	12 CSR 10-103.210 Auctioneers and Other State Agents Selling Tangible Personal Property
Type of Rulemaking:	Proposed Rule

**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:
244	Auctioneers - \$30 in cost to prepare and file a sales tax return.	\$32,250

**III. WORKSHEET**

The Department of Revenue receives approximately 1,075 returns per year from approximately 244 auctioneers. The estimated cost to prepare and file a return per business is \$30 per filed return. The cost to businesses to comply then is 1,075 X \$30.

**IV. ASSUMPTIONS**

The rule doesn't change existing practice. The department cannot determine the actual costs of preparing and filing a return for each auctioneer. For purposes of this fiscal note, the department assumes that the cost is \$30 and that every auctioneer makes at least one sale per reporting period. The department believes these assumptions are reasonable because this fiscal note was circulated for comment to the Missouri Professional Auctioneers Association and to everyone that subscribes to the department's sales/use tax regulations listserve and we did not receive any comment disputing this fiscal note or its assumptions.