

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management,
Design and Construction
Chapter 5—Minority/Women Business Enterprises**

ORDER OF RULEMAKING

By the authority vested in the commissioner of administration under section 8.320, RSMo 2000, the commissioner amends a rule as follows:

1 CSR 30-5.010 Minority/Women Business Enterprise Participation in State Construction Contracts **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2005 (30 MoReg 2476-2478). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 1—OFFICE OF ADMINISTRATION
Division 35—Division of Facilities Management
Chapter 1—Facility Maintenance and Operation**

ORDER OF RULEMAKING

By the authority vested in the commissioner of administration under sections 8.110, 8.320, 34.030, 37.005 and 536.025, RSMo 2000 and

536.023.3, RSMo Supp. 2005, the commissioner amends a rule as follows:

1 CSR 35-1.050 Public Use of State Facilities **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2005 (30 MoReg 2478). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 1—OFFICE OF ADMINISTRATION
Division 35—Division of Facilities Management
Chapter 2—Leasing**

ORDER OF RULEMAKING

By the authority vested in the commissioner of administration under sections 8.110, 8.320, 34.030, 37.005 and 536.025, RSMo 2000 and 536.023.3, RSMo Supp. 2005, the commissioner amends a rule as follows:

1 CSR 35-2.030 Administration of the Leasing Process **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2005 (30 MoReg 2478-2479). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 4—Wildlife Code: General Provisions**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-4.135 Transportation **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 3, 2006 (31 MoReg 7). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 100—Division of Credit Unions
Chapter 2—State-Chartered Credit Unions**

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Credit Unions under section 370.100, RSMo 2000, the director rescinds a rule as follows:

4 CSR 100-2.045 Member Business Loans is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on December 1, 2005 (30 MoReg 2479). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 23—Geological Survey and Resource
Assessment Division
Chapter 3—Well Construction Code**

ORDER OF RULEMAKING

By the authority vested in the department's Well Installation Board under section 256.606, RSMo 2000, the board amends a rule as follows:

10 CSR 23-3.100 Sensitive Areas is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2005 (30 MoReg 2241–2248). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 23—Geological Survey and Resource
Assessment Division
Chapter 5—Heat Pump Construction Code**

ORDER OF RULEMAKING

By the authority vested in the department's Well Installation Board under section 256.606, RSMo Supp. 2005, the board amends a rule as follows:

10 CSR 23-5.050 Construction Standards for Closed-Loop Heat Pump Wells is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2005 (30 MoReg 2249–2251). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 34—Homeless, Dependent and
Neglected Children**

ORDER OF RULEMAKING

By the authority vested in the Children's Division under section 210.560, RSMo 2000, the director adopts a rule as follows:

13 CSR 35-34.080 Children's Income Disbursement System (KIDS) is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 15, 2005 (30 MoReg 2399–2400). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 14—DEPARTMENT OF CORRECTIONS
Division 80—State Board of Probation and Parole
Chapter 5—Intervention Fee**

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Corrections under sections 217.040 and 217.755, RSMo 2000 and 217.690, RSMo Supp. 2005, the board adopts a rule as follows:

14 CSR 80-5.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 15, 2005 (30 MoReg 2400). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Corrections, State Board of Probation and Parole received one (1) comment from the Missouri Association for Social Welfare on the proposed rule.

COMMENT: The Missouri Association for Social Welfare commented that the rule did not include a definition for indigent. RESPONSE AND EXPLANATION OF CHANGE: All references made to "indigency" have been removed from the rule. This term has been replaced with "insufficient income." Section (1) has been changed to include (E), a definition of "income" and (F), a definition of "family member."

14 CSR 80-5.010 Definitions for Intervention Fee

(1) For the purpose of 14 CSR 80-5:

(C) The term "waiver" means an offender is relieved of an obligation to pay all or part of the intervention fee, as authorized by the supervising officer and the district administrator;

(D) "Willful nonpayment" means the offender refuses to pay the intervention fee despite having sufficient financial assets to pay the fee;

(E) The term "income" refers to gross earnings, unemployment compensation, worker's compensation, Social Security, Supplemental Security Income, public assistance, veteran's payments, survivor benefits, pension and retirement income, interest, dividends, rents, royalties, income from estates, trusts, educational

assistance, alimony, child support, assistance from outside the household, and other miscellaneous sources. Non-cash benefits, such as food stamps and housing subsidies, are not considered income; and

(F) The term "family member" means any relative, by blood or marriage, who resides in the same household. Non-relatives, such as housemates, are not included.

**Title 14—DEPARTMENT OF CORRECTIONS
Division 80—State Board of Probation and Parole
Chapter 5—Intervention Fee**

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Corrections under sections 217.040 and 217.755, RSMo 2000 and 217.690, RSMo Supp. 2005, the board adopts a rule as follows:

14 CSR 80-5.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 15, 2005 (30 MoReg 2400-2405). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Corrections, State Board of Probation and Parole received eight (8) comments from the Missouri Association for Social Welfare and Probation and Parole staff made changes for clarification purposes to the proposed rule.

COMMENT: The Missouri Association for Social Welfare commented that a means test be established for determining an ability to pay standard.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (1)(H) has been changed to include the means to determine if an offender meets the criteria of being deemed to have insufficient income. The "Request for Waiver of Intervention Fees" form has been added as well. The form includes the tool used to determine insufficient income.

COMMENT: The Missouri Association for Social Welfare commented that there should be a three (3) to six (6) month grace period from the time an individual is released from a correctional center prior to the implementation of the fee.

RESPONSE: Offenders are required to obtain and maintain full-time employment according to the conditions of release (unless disabled, etc). If their income is insufficient per the criteria, the offender is eligible for a waiver until their income exceeds the threshold. The changes in subsection (1)(H) address the criteria needed to verify insufficient income. No changes were made to the rule as a result of this specific comment.

COMMENT: The Missouri Association for Social Welfare commented that the geographical location of an offender's residence regarding cost of living should be taken into consideration regarding assessment of income and ability to pay.

RESPONSE AND EXPLANATION OF CHANGE: The State Board of Probation and Parole recognizes the difference in the cost of living and disparity of wages throughout the state's geographic locations. Therefore, the U.S. Department of Health and Human Services Poverty Guidelines were used which are believed to be fair and consistent. The changes in subsection (1)(H) address the criteria needed to verify inability to pay.

COMMENT: The Missouri Association for Social Welfare recommended that an assessment regarding income be conducted when an

individual is initially placed on supervision instead of waiting for an instance of nonpayment.

RESPONSE: The supervising officer will conduct an initial assessment as well as ongoing assessments throughout the supervision period regarding the offender's financial means. Financial obligations among many other issues are continually addressed and discussed between the officer and offender. No changes were made to the rule as a result of this comment.

COMMENT: The Missouri Association for Social Welfare recommended that a policy be established determining what constitutes the removal of an offender from indigent status.

RESPONSE AND EXPLANATION OF CHANGE: The changes in subsection (1)(H) address the issue that if the supervising officer, at any time, determines that the offender is again capable of paying monthly intervention fees, the waiver alleviating the offender from paying (based upon insufficient income criteria) may be rescinded.

COMMENT: The Missouri Association for Social Welfare was concerned that if an offender becomes three (3) months in arrears on payments, in the cumulative, during a longer time period, a violation report will be issued. They felt this did not take into consideration a person's history of good payment or positive intentions.

RESPONSE: A violation report is used as a supervision tool to address an offender's issues. If an offender misses three (3) payments, in the cumulative, the officer will address the nonpayment with the offender and document such in a violation report. No changes were made to the rule as a result of this comment.

COMMENT: The Missouri Association for Social Welfare commented that there are no rules as to what occurs after the offender is directed to attend specific programs or services that will assist him/her in addressing their inability to pay. The issue of concern was that the program or service may not be easily available or accessible to the offender.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (1)(I) has been changed to include the word "should" instead of "will" when referring to an officer's responsibility of directing offenders to specific programs or services. The supervising officer will continually assess the offender's situation and will only direct the offender to programs that are reasonably accessible to him/her. The probation and parole officer is a responsible and trained professional position that is given the responsibility of employing strategies utilizing community resources to ensure effective supervision. No changes were made to the rule as a result of this specific comment.

COMMENT: The Missouri Association for Social Welfare recommended that the term "welfare" be replaced with "Temporary Assistance for Needy Families" on the Offender Financial Assessment form.

RESPONSE AND EXPLANATION OF CHANGE: The Offender Financial Assessment form has been deleted from the proposed rule.

COMMENT: State Board of Probation and Parole staff noted these additional changes to the wording of the rule for clarification purposes.

RESPONSE AND EXPLANATION OF CHANGES: Subsection (1)(B) has been changed to add the effective date of April 30, 2006, of the rule in both paragraphs 1 and 2. In addition, the word "written" has been deleted from paragraph 2. when referring to the type of directive an offender will be issued. Subsection (1)(C) has been changed to add the phrase "cashier's check" regarding what type of payment will be accepted. Subsection (1)(D) has been changed to include that if the case is active on or after the first day of the month in which the case is suspended and closed, the fee will be assessed for that month when determining fees owed by absconders. Subsection (1)(E) has been changed to correct the word "offender" to "offenders" in paragraph 1. Subsection (1)(E) has been changed to

add the phrase “drug court” as a program that is exempt from paying the intervention fee. Subsection (1)(F) has been changed to include when “offender departs Missouri for the receiving state” instead of when the “receiving state submits a Notice of Arrival” to clarify when fees will be terminated for interstate transfer cases. Subsection (1)(I) has been changed to add the word “that” when referring to the offender in paragraph 1. Subsection (1)(I) has been changed to add the phrase “supervising officer shall contact the” and delete the phrase “will be contacted” in paragraph 1. Subsection (1)(I) has been changed to add the word “willful” when referring to the nonpayment of intervention fees sanctions. Subsection (1)(I) has been changed to remove “Asset interception and/or wage garnishment” from the sanctions for nonpayment of intervention fees.

14 CSR 80-5.020 Intervention Fee Procedure

(1) The following procedures apply to the collection of an offender intervention fee.

(B) Offenders shall be notified of the intervention fee in the following ways:

1. Offenders assigned to supervision on or after April 30, 2006, shall sign the revised Order of Probation/Parole which includes the condition requiring payment of the intervention fee; or

2. Offenders under supervision before April 30, 2006, shall be issued a directive pursuant to Written Directive Condition #8, included herein, requiring payment of the intervention fee.

(C) Fees will be collected as follows:

1. Offenders shall be provided instructions on payment methods and procedures. Staff shall not accept money in any form from an offender;

2. The intervention fee shall be due on the first day of the first full month following placement under board supervision on probation, parole, or conditional release;

3. Payments shall be deemed delinquent after the fifteenth day of the month, including the final month of supervision;

4. Pre-printed envelopes, payment vouchers, and payment instructions will be provided to the offender; and

5. Payment instructions to the offender will indicate the following:

A. Payments must be submitted directly to the designated collection authority. Probation and parole staff will not accept payments;

B. Only money orders and cashier's checks will be accepted. Personal checks and cash will not be accepted;

C. The completed payment voucher shall accompany the payment; and

D. Payments may not be made in advance and shall be submitted on or after the first working day of the month for which the payment is being made.

(D) Should an offender be declared an absconder, intervention fees will continue to accrue until such time as the case is closed. If the case is active on or after the first day of the month in which the case is suspended and closed, the fee will be assessed for that month.

(E) Offenders will be exempted from paying intervention fees under the following circumstances:

1. In that offenders in community release centers, residential facilities, and in the Electronic Monitoring Program already pay a daily maintenance or program fee, intervention fees will be exempt in these cases. Intervention fees will start or resume on the first day of the month following release from these facilities or programs; and

2. Pre-trial, drug court and deferred prosecution cases are exempted from paying the intervention fee.

(F) If the case is an interstate transfer, once the offender departs Missouri for the receiving state collection of intervention fees will be terminated.

(H) If an offender is unable to pay because of having insufficient income, fees may be waived in whole or in part. In these cases the following steps shall be taken:

1. Offenders, whose total verified income is at or below the insufficient income criteria, may be considered for a waiver. Unemployed offenders capable of being gainfully employed are not eligible for a waiver. An offender's income is considered insufficient if it is at or below the amount shown in the Insufficient Income Criteria chart included in the Request for Waiver of Intervention Fees, included herein. Income from all family members in the household is used to calculate whether the waiver is appropriate. If a person lives with a family, the combined income of all family members will be used (non-relatives, such as housemates, do not count). For a waiver to be considered, the offender must provide appropriate records to document household income.

2. Once the officer verifies the offender meets one of the waiver criteria above, the officer will complete the Request for Waiver of Intervention Fees form and submit it to the district administrator for approval.

3. If approved, waivers are valid for a maximum of ninety (90) days. The district administrator shall make the waiver entry into the computer system. If the officer determines the waiver should be renewed beyond that point, a new Request for Waiver of Intervention Fees form must be submitted for approval. However, at any point the officer determines that the offender is again capable of paying monthly intervention fees, supervisory approval is not necessary to rescind the waiver.

(I) The following process for sanctions regarding nonpayment shall be applied:

1. Within ten (10) working days of becoming aware that an offender has failed to submit the intervention fee, the supervising officer shall contact the offender in writing, by phone, or in person to remind them of the payment obligation;

2. The supervising officer should direct the offender to specific programs or services that will assist him/her in addressing their inability to pay (i.e., financial management program, employment counseling and/or job seeking classes, substance abuse counseling, mental health counseling, etc.);

3. The supervising officer shall establish a payment plan, via a written directive, with the offender, to address any arrearage within a reasonable time, given the offender's individual circumstances;

4. Should the offender become three (3) months in arrears on intervention fee payments, either consecutively or in the cumulative, or it is determined the offender is willfully failing to submit the required payments, the supervising officer shall submit a violation report;

5. Offenders who are not current on their intervention fee payments shall not be eligible for transfer to minimum supervision, interstate transfer or early discharge consideration;

6. Sanctions for willful nonpayment of intervention fees include, but are not limited to the following:

A. Written reprimand from district administrator or parole board;

B. Travel restriction;

C. Community service;

D. Increased level of supervision; and

E. Shock detention; and

7. Unpaid intervention fees owed by offenders committed to the Division of Adult Institutions (DAI) will be collected from the inmate's account.



REQUEST FOR WAIVER OF INTERVENTION FEES

OFFENDER NAME	DOC NUMBER	DATE
NUMBER OF ADULTS IN HOUSEHOLD	NUMBER OF ADULTS WITH INCOME	NUMBER OF DEPENDENTS

REASON FOR WAIVER REQUEST

<input type="checkbox"/> CONFINED	DATE CONFINED	ANTICIPATED RELEASE DATE
<input type="checkbox"/> EMP, CRC, RF	DATE BEGAN	PROJECTED COMPLETION DATE
<input type="checkbox"/> INSUFFICIENT INCOME		

INSUFFICIENT INCOME CRITERIA

CHECK WHICH APPLIES	PERSONS IN FAMILY UNIT	ANNUAL INCOME	MONTHLY INCOME	VERIFIED TOTAL INCOME
<input type="checkbox"/>	1	\$9,570	\$798	
<input type="checkbox"/>	2	\$12,830	\$1,069	
<input type="checkbox"/>	3	\$16,090	\$1,341	
<input type="checkbox"/>	4	\$19,350	\$1,613	
<input type="checkbox"/>	5	\$22,610	\$1,884	
<input type="checkbox"/>	6	\$25,870	\$2,156	
<input type="checkbox"/>	7	\$29,130	\$2,428	
<input type="checkbox"/>	8	\$32,390	\$2,699	
	Each additional person, add	\$3,260	\$272	

(Figures are based on 2005 U.S. Dept. of Health and Human Services Poverty Guidelines)

NOTE: Hourly wage may be multiplied by 168 to compute the approximate monthly income.

OFFICER / NUMBER	DATE
DISTRICT ADMINISTRATOR	DATE
<input type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED
WAIVER EFFECTIVE DATE:	WAIVER EXPIRATION DATE:

Title 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System
of Missouri
Chapter 5—Retirement, Options and Benefits

ORDER OF RULEMAKING

By the authority vested in the board of trustees under section 169.020, RSMo Supp. 2005, the board of trustees hereby amends a rule as follows:

16 CSR 10-5.030 Beneficiary is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2005 (30 MoReg 2498–2499). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System
of Missouri
Chapter 6—The Public Education Employee Retirement
System of Missouri

ORDER OF RULEMAKING

By the authority vested in the board of trustees under section 169.610, RSMo Supp. 2005, the board of trustees hereby amends a rule as follows:

16 CSR 10-6.090 Beneficiary is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2005 (30 MoReg 2499). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 20—Hospitals

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 192.006 and 197.080, RSMo 2000 and 197.154 and 197.293, RSMo Supp. 2005, the department amends a rule as follows:

19 CSR 30-20.011 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 17, 2005 (30 MoReg 2177–2179). The sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received two (2) comments on the proposed amendment.

COMMENT: A state association of nurse anesthetists commented that they believed the proposed amendment to 19 CSR 30-20.011 is premature. The association stated that the “initial rules” that HB 390, First Regular Session, 92nd General Assembly, required to be promulgated by the Board of Registration for Healing Arts have not “become effective” and have never been promulgated or published for comment. The association further believes that no “specific appropriation” for the purpose of administering HB 390 has ever been made. The association stated that because neither of the conditions set forth by the legislature for commencement of “licensing activity or other statutory requirements” have been met, that the proposed amendment lacks statutory authority. The association further believes that this rule amendment omits reference to statutory limitations regarding the practice of anesthesiologist assistants as contained in HB 390.

The association also indicated that they find the public and private costs of the proposed amendments included in the fiscal notes to be questionable. They believe the proposed amendments will cost state agencies, political subdivisions and private entities no more than five hundred dollars (\$500) in the aggregate would be true only if the proposed amendments are withdrawn. The association suggested that if the proposed amendments are finalized, the costs should be more carefully analyzed to develop the actual costs. The association believes that the statement that there is no cost because ambulatory surgical centers and hospitals are not required by the regulations to hire anesthesiology assistants is specious.

RESPONSE AND EXPLANATION OF CHANGE: Based on the association’s comments, department program staff and legal counsel reviewed the provisions of HB 390 again. Department staff also talked with Board of Healing Arts staff regarding the status of their anesthesiologist assistant rules. The department is withdrawing the definition of anesthesiologist assistant from the amended rule pending the Board of Healing Arts completion of their rules and promulgation of those rules. After the Board of Healing Arts rules are promulgated, the department will determine, based on those rules, what changes should be made to the hospital rules.

The department does not believe there to be a cost to any entities for the establishment of standardized definitions of terms. No fiscal note accompanied the proposed amendment. The withdrawal of the definition of anesthesiologist assistant does not impact that analysis.

COMMENT: A hospital system infection control and epidemiology consortium submitted a comment about the definition of an infection control practitioner. The consortium believes the definition may be misleading and suggests that the wording be changed to prevent the misinterpretation that a nurse must have a bachelor’s degree in laboratory science.

RESPONSE: The wording of the definition was developed by the Infection Control Advisory Panel. During the development of the definition, the panel attempted to reflect current practice. The panel realized that in dealing with both large and small facilities, the infection control officers have a variety of backgrounds. There was no intent to require a nurse to have a bachelor’s degree in laboratory science. The department reviewed the wording of the definition and believes that it is not misleading. No change is being made to the definition.

19 CSR 30-20.011 Definitions Relating to Hospitals

(2) Anesthetizing location—An area or room in which it is intended to administer any flammable or nonflammable inhalation anesthetic agents in the course of examination or treatment.

(3) APLS—The American College of Emergency Physician’s advanced pediatric life support program. APLS may be used interchangeably with PALS where required.

(4) ATLS—The American College of Surgeon's advanced trauma life support program.

(5) Authenticate—To prove authorship, for example, by written signature, identifiable initials or computer key. The use of rubber stamp signatures is acceptable only under the following conditions:

(A) The individual whose signature the rubber stamp represents is the only one who has possession of the stamp and is the only one who uses it; and

(B) The individual places in the administrative office of the hospital, with a copy to the medical records director, a signed statement to the effect that s/he is the only one who has the stamp and is the only one who will use it.

(6) Biological safety cabinet—A containment unit suitable for the preparation of low to moderate risk agents where there is a need for protection of the product, personnel and environment, according to National Safety Foundation, Standard 49.

(7) Board-admissible—That a physician has applied to a specialty board and has received a ruling that s/he has fulfilled the requirements to take the certification examinations. Board certification must be obtained within five (5) years after completion of the residency.

(8) Board-certified—That a physician has fulfilled all requirements, has satisfactorily completed all written and oral examinations and has been awarded a board diploma in a specialty field.

(9) Certified registered nurse anesthetist—A registered nurse who has graduated from a school of nurse anesthesia accredited by the Council on Accreditation of Educational Programs of Nurse Anesthesia or its predecessor and has been certified or is eligible for certification as a nurse anesthetist by the Council on Certification of Nurse Anesthetists.

(10) Chief executive officer—The individual appointed by the governing body to act in its behalf in the overall management of the hospital. Job titles may include administrator, superintendent, director, executive director, president, vice president and executive vice president.

(11) Chief operating officer—The individual appointed by the chief executive officer on behalf of the governing body or the individual who is responsible for the management of one (1) hospital in a multi-hospital organization under the direction of the chief executive officer of the organization.

(12) Class II biological safety cabinet—A ventilated cabinet for personnel, product and environmental protection having an open front with inward airflow for personnel protection, high-efficiency-particulate-air (HEPA)-filtered laminar airflow for product protection and HEPA-filtered exhausted air for environmental protection.

(13) Class 100 environment—An atmospheric environment which contains less than one hundred (100) particles five-tenths (0.5) microns or larger in diameter per cubic foot of air, according to federal standard 209E.

(14) Dentist—An individual who has received a Doctor of Dental Surgery or Doctor of Dental Medicine degree and is currently licensed to practice dentistry in Missouri.

(15) Department—Missouri Department of Health and Senior Services.

(16) Hospital emergency transfer policy—A document that represents the usual and customary practices of a hospital with respect to the transfer of patients. The department uses objective indicators of

patient status in relation to hospital capabilities to identify general classifications of patients who should be considered for transfer to a hospital with the necessary capabilities, and indicates the general classifications of patients the hospital has the capabilities to receive through emergency transfer from another hospital. The hospital emergency transfer policy does not supersede the authority of a physician to determine whether patients should be transferred on a case-by-case basis, but serves as an institutional baseline to assist physician staff in providing consistent care decisions and is utilized for quality assurance review.

(17) Independent licensed practitioner—An individual who is a graduate of a professional school and is licensed to practice as a health care provider in Missouri.

(18) Infection control officer—An individual who is a licensed physician, licensed registered nurse, has a bachelor's degree in laboratory science or has similar qualifications and has additional training or education preparation in infection control, infectious diseases, epidemiology and principles of quality improvement.

(19) Infectious waste—Waste capable of producing an infectious disease. For a waste to be infectious, it must contain pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible host could result in an infectious disease. Infectious waste shall include the following categories:

(A) Blood and blood products—All human blood and blood products including serum, plasma and other components known or suspected to be contaminated with a transmissible infectious agent;

(B) Contaminated surgical, dialysis and laboratory wastes—Wastes generated by surgery, dialysis and laboratory departments in the process of caring for hospital patients who have communicable diseases capable of being transmitted to others via those wastes;

(C) Cultures and stocks of infectious agents and associated biologicals—Cultures and stocks of infectious agents shall be designated as infectious waste because of the high concentrations of pathogenic organisms typically present in these materials. Included in this category are all cultures and stocks of infectious organisms as well as culture dishes and devices used to transfer, inoculate and mix cultures. Also included are animal carcasses, body parts and bedding from animals contaminated with infectious agents;

(D) Isolation wastes—Wastes generated by hospitalized patients who have communicable diseases capable of being transmitted to others via those wastes;

(E) Pathology wastes—Autopsy wastes which consist of tissues, organs, body parts and body fluids that are removed during surgery and autopsy. All these wastes shall be considered infectious waste; and

(F) Sharps—All discarded sharps including hypodermic needles, syringes and scalpel blades. Broken glass or other sharp items that have come in contact with material defined as infectious are included.

(20) Inpatient—A person admitted into a hospital by a member of the medical staff for diagnosis, treatment or care.

(21) Medical services—Those preventive, diagnostic and therapeutic measures performed by, or at the request of, members of the medical staff or an independent licensed practitioner in outpatient services.

(22) Operator—Shall mean any person as defined by section 197.020, RSMo who is licensed or required to be licensed under the provisions of sections 197.020–197.120, RSMo to establish, conduct or maintain a hospital. The term person shall mean any person determined by the department to have the following:

(A) Ultimate responsibility for making and implementing decisions regarding the operation of the hospital; and

(B) Ultimate financial control of the operation of the hospital.

(23) PALS—The American Heart Association’s pediatric advanced life support program. PALS may be used interchangeably with APLS where required.

(24) Pharmacist—An individual who is a graduate of a school or college of pharmacy and is currently licensed to practice pharmacy in Missouri.

(25) Physician—An individual who has received a Doctor of Medicine or Doctor of Osteopathy degree and is currently licensed to practice medicine in Missouri.

(26) Podiatrist—An individual who has received a Doctor of Podiatric Medicine degree and is currently licensed to practice podiatry in Missouri.

(27) Psychologist—An individual who is currently licensed by the State Committee of Psychologists under the provisions of Chapter 337, RSMo.

(28) Qualified dietitian—An individual who is registered by the Commission on Dietetic Registration of the American Dietetic Association or who has the documented equivalent in education, training and experience, with evidence of relevant continuing education.

(29) Qualified medical record administrator—A registered record administrator who has successfully passed an appropriate examination conducted by the American Medical Record Association or who has the document equivalent in education and training.

(30) Qualified medical record technician—An accredited record technician who has successfully passed the appropriate accreditation examination conducted by the American Medical Record Association or who has the documented equivalent in education and training.

(31) Qualified occupational therapist—An individual who is a graduate of an occupational therapy program approved by a nationally recognized accrediting body, or who currently holds certification by the American Occupational Therapy Association as an occupational therapist or who has the documented equivalent in training or experience and is currently competent in the field.

(32) Qualified physical therapist—An individual who is licensed to practice professional physical therapy in Missouri.

(33) Qualified radiologic technologist—An individual who is a graduate of a program in radiologic technology approved by the Council on Medical Education of the American Medical Association or who has the documented equivalent in education and training.

(34) Qualified social worker—A licensed clinical social worker or a person who has a bachelor’s degree in social work or a master’s degree in social work.

(35) Registered nurse—An individual who is a graduate of an approved school of nursing and who is licensed to practice as a registered nurse in Missouri.

(36) Registered or certified respiratory therapist—An individual who has been registered or certified by the National Board for Respiratory Therapy, Inc. after successfully completing all education, experience and examination requirements or an individual who has been registered or certified prior to November 11, 1982, by an organization acceptable to the Department of Health and Senior Services.

(37) Root cause analysis—A process for identifying the basic or causal factor(s) that underlie variation in performance, including the occurrence or possible occurrence of a sentinel event.

(38) Sentinel event—An unexpected occurrence involving death or serious physical or psychological injury, or the risk thereof. Serious injury specifically includes loss of limb or function. The phrase “or the risk thereof” includes any process variation for which a recurrence would carry a significant chance of a serious adverse outcome.

(39) Special care unit—An appropriately equipped area of the hospital where there is a concentration of physicians, nurses and others who have special skills and experience to provide optimal medical care for critically-ill patients.

(40) Transfer agreement—A document which sets forth the rights and responsibilities of two (2) hospitals regarding the interhospital transfer of patients.

(41) Unit—A functional division or facility of the hospital.

(42) Diversion—A plan to temporarily close a hospital emergency department to ambulance traffic. This may be due to the emergency department being overwhelmed with significantly critically ill or injured patients, or an overwhelming number of minor emergency patients, to the extent that the hospital is unable to provide quality care or protect the health or welfare of the patients it serves. A diversion also may be implemented if the hospital has resource limitations, such as, no available beds in specialty care units or general acute care, no surgical suites or shortages of equipment or personnel.

(A) Defined service area—The geographic area served by a defined group of hospitals and emergency services. In areas where there is a community-based emergency medical services diversion plan, the service area(s) defined as the catchment area by the plan will be the defined service area(s). In areas where there is not a community-based emergency medical services diversion plan, the defined service area will be a twenty (20)-mile radius from a hospital.

(43) Immediate and serious threat—Having caused, or is likely to cause, serious injury, harm, impairment, or death to a patient.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 30—Ambulatory Surgical Centers**

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 197.225, RSMo 2000 and 197.154, RSMo Supp. 2005, the department amends a rule as follows:

19 CSR 30-30.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 17, 2005 (30 MoReg 2179–2181). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received one (1) comment on the proposed amendment:

COMMENT: A state association of nurse anesthetists provided several comments about the rule:

1. The association indicated that they believed the proposed amendment at 19 CSR 30-30.010 as it pertains to anesthesiologist assistants is premature. The association stated that the “initial rules” that HB 390, First Regular Session, 92nd General Assembly, required to be promulgated by the Board of Registration for Healing Arts have not “become effective” and have never been promulgated or published for comment. The association further believes that no “specific appropriation” for the purpose of administering HB 390 has ever been made. The association stated that because neither of the conditions set forth by the legislature for commencement of “licensing activity or other statutory requirements” have been met, that the proposed amendment lacks statutory authority and the proposed amendment should be withdrawn.

2. The association stated that HB 390 only deals with anesthesiologist assistant practice in hospitals and made no reference to ambulatory surgical centers. The association specifically cited section 334.426 of HB 390 as indicating that practice in hospitals only was authorized. The association therefore concluded that there was no statutory basis for the proposed amendment regarding anesthesiologist assistants. They suggest that the department withdraw the proposed amendment.

3. The association further believes that this rule amendment omits reference to statutory limitations regarding the practice of anesthesiologist assistants as contained in HB 390. The association stated that HB 390 only allows anesthesiologist assistants to assist the supervising anesthesiologist with spinal, epidural and other regional anesthesia. The association suggests that the proposed amendment be withdrawn.

4. The association also indicated that they find the public and private costs of the proposed amendments included in the fiscal notes to be questionable. They believe the statement that the proposed amendments will cost state agencies, political subdivisions and private entities no more than five hundred dollars (\$500) in the aggregate would be true only if the proposed amendments are withdrawn. The association suggested that if the proposed amendments are finalized, the costs should be more carefully analyzed to develop the actual costs. The association believes that the statement that there is no cost because ambulatory surgical centers and hospitals are not required by the regulations to hire anesthesiologist assistants is specious.

RESPONSE AND EXPLANATION OF CHANGE: Based on the association’s comments, department program staff and legal counsel reviewed the provisions of HB 390 again. Department staff also talked with Board of Healing Arts staff regarding the status of their anesthesiologist assistant rules. The department is withdrawing the definition of anesthesiologist assistant from the amended rule pending the Board of Healing Arts completion of their rules and promulgation of those rules. After the Board of Healing Arts rules are promulgated, the department will determine, based on those rules, what changes should be made to the hospital rules.

The department does not believe there to be a cost to any entities for the establishment of standardized definitions of terms. No fiscal note accompanied the proposed amendment. The withdrawal of the definition of anesthesiologist assistant does not impact that analysis.

EXPLANATION OF ADDITIONAL CHANGE: In the proposed amendment to this rule, the department proposed to amend existing subsection (1)(G) to redefine the department as the Department of Health and Senior Services. In its final order of rulemaking filed December 27, 2005, the definition of department (now found in subsection (1)(F)) was inadvertently reverted back to “Department of Health.”

19 CSR 30-30.010 Definitions and Procedures for Licensing Ambulatory Surgical Centers

(1) Definitions.

(A) Administrator means a person who is delegated the responsibility of carrying out the policies and programs established by the governing body.

(B) Ambulatory surgical center. Any public or private establishment operated primarily for the purpose of performing surgical procedures or primarily for the purpose of delivering newborns, and which does not provide services or other accommodations for patients to stay more than twelve (12) hours within the establishment. However, nothing in this definition shall be construed to include the offices of dentists currently licensed under Chapter 332, RSMo.

1. A facility operated primarily for the purpose of performing surgical procedures is one that provides surgical services to fifty-one percent (51%) or more of the patients treated or seen for any health condition, or one that derives fifty-one percent (51%) or more of its revenues from the provision of surgical services or related procedures.

2. The term ambulatory surgical center does not apply to any facility licensed as part of a hospital or any facility used as an office or clinic for the private practice of a physician, dentist or podiatrist.

3. A facility licensed as an ambulatory surgical center shall not use the term hospital in the name of the facility without approval of the Department of Health and Senior Services.

(C) Anesthesiologist. A physician licensed under Chapter 334, RSMo who has successfully completed a postgraduate medical education program in anesthesiology approved by the Accreditation Council on Graduate Medical Education or the American Osteopathic Association.

(D) Certified nurse anesthetist. A registered nurse licensed under Chapter 335, RSMo who has been graduated from a school of nurse anesthesia accredited by the Council on Accreditation of Educational Programs of Nurse Anesthesia or its predecessor, and is certified or is eligible for certification as a nurse anesthetist by the Council on Certification of Nurse Anesthetists.

(E) Dentist means a person licensed to practice dentistry pursuant to Chapter 332, RSMo.

(F) Department means the Department of Health and Senior Services.

(G) Governing body means an individual owner, partnership, corporation or other legally established authority in whom the ultimate authority and responsibility for management of the ambulatory surgical center is vested.

(H) Governmental unit means any city, county or other political subdivision of this state, or any department, division, board or other agency of any political subdivision of this state.

(I) Infection control officer. An individual who is a licensed physician, licensed registered nurse, has a bachelor’s degree in laboratory science, or has similar qualifications and has additional training or educational preparation in infection control, infectious diseases, epidemiology and principles of quality improvement.

(J) Licensed practical nurse (LPN). A person who holds a valid license issued by the State Board of Nursing pursuant to Chapter 335, RSMo.

(K) Medical staff. A formal organization of physicians which may include dentists and podiatrists who are appointed by the governing body to attend patients within the ambulatory surgical center.

(L) Patient. A person admitted to the ambulatory surgical center by and upon the order of a physician, or dentist, or podiatrist in accordance with the orders of a physician.

(M) Person. Any individual, firm, partnership, corporation, company or association, or the legal successors of any of them.

(N) Physician means a person licensed to practice medicine pursuant to Chapter 334, RSMo and who has active or associate staff membership and privileges in a licensed hospital in the community.

(O) Physician with training or experience in the administration of anesthetics. A person licensed to practice medicine under Chapter 334, RSMo whose training and experience (credentials) have been evaluated by the medical staff and privileges granted to direct the anesthesia service or to administer anesthetics or both.

(P) Podiatrist means a person licensed to practice podiatry pursuant to Chapter 330, RSMo.

(Q) Qualified anesthesia personnel. An anesthesiologist who is a physician with training or experience in the administering of anesthetics or a certified registered nurse anesthetist.

(R) Registered nurse (RN). A person who holds a valid license issued by the State Board of Nursing pursuant to Chapter 335, RSMo.

(S) Root cause analysis. A process for identifying the basic or causal factor(s) that underlie variation in performance, including the occurrence or possible occurrence of a sentinel event.

(T) Sentinel event. An unexpected occurrence involving death or serious physical or psychological injury, or the risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or the risk thereof" includes any process variation for which a recurrence would carry a significant chance of a serious adverse outcome.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 30—Ambulatory Surgical Centers**

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 197.225, RSMo 2000 and 197.154, RSMo Supp. 2005, the department amends a rule as follows:

19 CSR 30-30.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 17, 2005 (30 MoReg 2181–2186). The sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received three (3) comments on the proposed amendment.

COMMENT: An association representing physicians throughout the state objected to the proposed paragraph 19 CSR 30-30.020(1)(C)9. regarding the use of overtime for nurses. The association believes the proposed paragraph is arbitrary and capricious and beyond the department's statutory authority. The association believes the paragraph establishes arbitrary overtime restrictions. The association further commented that they do not believe the department's authority and duty to adopt regulations to assure quality care and patient safety extends into the realm of contractual arrangements and labor relations. The association stated that they are unaware of any quality of care issue or threat to patient safety that needs to be addressed in the proposed manner. The association also questioned why the same regulations would not also be applied to hospitals. The association recommended that the paragraph be stricken from the final order of rulemaking.

RESPONSE AND EXPLANATION OF CHANGE: Section 197.225, RSMo, gives the Department of Health and Senior Services authority to adopt reasonable rules, regulations and standards to assure quality patient care and patient safety. The department believes that the proposed amendment regarding overtime by nurses is needed to assure quality patient care and safety. There is published evidence indicating that the quality of care provided by nurses diminishes after a certain number of hours of work, which can be a danger to patient safety. (Examples: *The Working Hours of Hospital Staff Nurses and Patient Safety* by Ann E. Rogers, et al, 2004; *Keeping Patients Safe: Transforming the Work Environment of Nurses*, Institute of Medicine, 2003.) The same language regarding overtime of nurses was also proposed as an amendment to the regulations for hospitals (19 CSR 30-20.021 Organization and

Management for Hospitals). It was printed in the *Missouri Register* on October 3, 2005 (30 MoReg 2070–2083). No changes to the rule amendment are being made based on this comment. However, the department did receive comments about the nurse overtime in a corresponding proposed amendment to 19 CSR 30-20.021 Organization and Management for Hospitals. To ensure consistency between these two (2) rules, the same changes are being made to this rule as are being made to 19 CSR 30-20.021. Those changes include changing 19 CSR 30-30.020(1)(C)9.A.(IV) to indicate that multiple contracted temporary agencies can be used and changing 19 CSR 30-30.020(1)(C)9.B. to specifically reference the reasonable effort standard used in 9.A.

COMMENT: A professional nurses association submitted a comment in support of the proposed rules regarding nurses' overtime.

RESPONSE: None required.

COMMENT: A state association of nurse anesthetists provided several comments about the rule:

1. The association indicated that they believed the proposed amendment at 19 CSR 30-30.020 is premature. The association stated that the "initial rules" that HB 390, First Regular Session, 92nd General Assembly, required to be promulgated by the Board of Registration for Healing Arts have not "become effective" and have never been promulgated or published for comment. The association further believes that no "specific appropriation" for the purpose of administering HB 390 has ever been made. The association stated that because neither of the conditions set forth by the legislature for commencement of "licensing activity or other statutory requirements" have been met, that the proposed amendment lacks statutory authority.

2. The association stated that HB 390 only deals with anesthesiologist assistant practice in hospitals and made no reference to ambulatory surgical centers. The association specifically cited section 334.426 of HB 390 as indicating that practice in hospitals only was authorized. The association therefore concluded that there was no statutory basis for the proposed amendment regarding anesthesiologist assistants. They suggest that the department withdraw the proposed amendment.

3. The association further believes that this rule amendment omits reference to statutory limitations regarding the practice of anesthesiologist assistants as contained in HB 390. The association stated that HB 390 only allows anesthesiologist assistants to assist the supervising anesthesiologist with spinal, epidural and other regional anesthesia. The association suggests that the proposed amendment be withdrawn.

4. The association also indicated that they find the public and private costs of the proposed amendments included in the fiscal notes to be questionable. They believe the statement that the proposed amendments will cost state agencies, political subdivisions and private entities no more than five hundred dollars (\$500) in the aggregate would be true only if the proposed amendments are withdrawn. The association suggested that if the proposed amendments are finalized, the costs should be more carefully analyzed to develop the actual costs. The association believes that the statement that there is no cost because ambulatory surgical centers and hospitals are not required by the regulations to hire anesthesiology assistants is specious.

RESPONSE AND EXPLANATION OF CHANGE: Based on the association's comments, department program staff and legal counsel reviewed the provisions of HB 390 again. Department staff also talked with Board of Healing Arts staff regarding the status of their anesthesiologist assistant rules. The department is withdrawing the provisions of the proposed amendment related to anesthesiologist assistants. After the Board of Healing Arts completes and promulgates their rules regarding anesthesiologist assistants, the department will determine, based on those rules, what changes should be made to the ambulatory surgical center rules.

Fiscal notes related to the proposed rules were developed with input from statewide associations representing both hospitals and ambulatory surgical centers. We believe the amounts to be appropriate estimates of cost. The part of the rule amendment related to anesthesiologist assistants that is being deleted by the department would not require ambulatory surgical centers to use the services of anesthesiologist assistants. The department was merely providing facilities with the option if they wanted to use anesthesiologist assistants. Since it was not a requirement, our belief is that there would have been no associated costs, as was reflected in the fiscal note. Because the anesthesiologist assistant portion of the rule amendment is being deleted, the private entity fiscal note is being modified to remove any references to anesthesiologist assistants.

EXPLANATION OF ADDITIONAL CHANGES: The department did not receive any comments on the infection control provisions in the proposed amendment. However, the department did receive comments about the infection control provisions in a corresponding proposed amendment to 19 CSR 30-20.021 Organization and Management for Hospitals. To ensure consistency between these two (2) rules, the same changes are being made to this rule as are being made to 19 CSR 30-20.021. The changes in this rule include modifying 19 CSR 30-30.020(1)(K)4. to require that health care workers wash or sanitize his/her hands immediately before and immediately after each and every episode of patient care, rather than immediately before and immediately after each and every patient contact. Another change to the same paragraph was made to require the facility's procedures regarding surveillance to be in accordance with section 197.150, RSMo. The sentence regarding surveillance without the individual's knowledge was removed from the paragraph. A final change to the same paragraph was made to require the mechanism for reporting and monitoring infections to be approved by the ambulatory surgical center infection control committee.

EXPLANATION OF ADDITIONAL CHANGES: It was brought to the Department of Health and Senior Services' (DHSS) attention that there appeared to be a transposition of words in the last sentence of the order of rulemaking for 19 CSR 30-30.020(1)(K)4. which was filed with the Joint Committee on Administrative Rules on December 27, 2005. DHSS review of the wording confirmed that a transposition had occurred. The Rule Transmittal filed with JCAR for the original order of rulemaking included the correct wording, but the order of rulemaking document included the transposition. This amended order of rulemaking corrects the transposition of words that occurred in the last sentence of 19 CSR 30-30.020(1)(K)4.

Typographical errors appeared in sections (1)(C)9.E. and (1)(C)9.F. in the original final order of rulemaking, although these errors did not appear in the department's proposed amendment. This amended order of rulemaking corrects those errors and reverts back to the language contained in the proposed amendment.

19 CSR 30-30.020 Administration Standards for Ambulatory Surgical Centers

(1) Organization, Administration, Medical Staff, Nursing Staff and Supporting Services.

(C) Nursing Services.

1. There shall be an organized nursing service under the direction of a professional RN with postgraduate education or experience in surgical nursing.

2. There shall be at least one (1) professional RN on duty in the ambulatory surgical center at all times a patient is in the facility.

3. Written policies and procedures consistent with generally accepted nursing practices are to be developed for the direction and guidance of nursing personnel.

4. All licensed practical nurses and other nursing personnel involved in patient care shall be under the direct supervision of a professional RN.

5. At least one (1) professional RN other than the individual administering anesthesia shall be available in each operating room during surgical procedures.

6. At least one (1) RN shall be in the recovery room during the patients' postanesthetic recovery period at a ratio of no more than four (4) patients to one (1) nurse.

7. Nursing personnel are to be familiar with the location, operation and use of electrocardiogram (EKG or ECG) equipment, pulse oximeter, blood pressure equipment and emergency and resuscitative equipment.

8. There shall be a mechanism for the review and evaluation on a regular basis of the quality and appropriateness of nursing services.

9. Policies shall be developed regarding the use of overtime. The policies shall be based on the following standards:

A. Overtime shall not be mandated for any licensed nursing personnel except when an unexpected nurse staffing shortage arises that involves a substantial risk to patient safety, in which case a reasonable effort must be applied to secure safe staffing before requiring the on-duty licensed nursing personnel to work overtime. Reasonable efforts undertaken shall be verified by the ambulatory surgical center. Reasonable efforts shall include pursuing all of the following:

(I) Reassigning on-duty staff;

(II) Seeking volunteers to work extra time from all available qualified nursing staff who are presently working;

(III) Contacting qualified off-duty employees who have made themselves available to work extra time, per diem staff, float pool and flex team nurses; and

(IV) Seeking personnel from a contracted temporary agency or agencies when such staffing is permitted by law or an applicable collective bargaining agreement and when the employer regularly uses the contracted temporary agency or agencies;

B. In the absence of nurse volunteers, float pool nurses, flex team nurses or contracted temporary agency staff secured by the reasonable efforts as described in (1)(C)9.A. and if qualified reassignments cannot be made, the ambulatory surgical center may require the nurse currently providing the patient care to fulfill his or her obligations based on the Missouri Nurse Practice Act by performing the patient care which is required;

C. The prohibition of mandatory overtime does not apply to overtime work that occurs because of an unforeseeable emergency or when an ambulatory surgical center and a subsection of nurses commit, in writing, to a set, predetermined staffing schedule or prescheduled on-call time. An unforeseeable emergency is defined as a period of unusual, unpredictable or unforeseeable circumstances such as, but not limited to, an act of terrorism, a disease outbreak, adverse weather conditions, or natural disasters which impact patient care and which prevent replacement staff from reporting for duty;

D. The facility is prohibited from requiring a nurse to work additional consecutive hours and from taking action against a nurse on the grounds that a nurse failed to work the additional hours or when a nurse declines to work additional consecutive hours beyond the nurse's predetermined schedule of hours because doing so may, in the nurse's judgement, jeopardize patient safety;

E. Subparagraph 19 CSR 30-30.020(1)(C)9.D. is not applicable if overtime is permitted under subparagraphs 19 CSR 30-30.020(1)(C)9.A., B., and C; and

F. Nurses required to work more than twelve (12) consecutive hours under subparagraphs 19 CSR 30-30.020(1)(C)9.A., B., or C. shall be provided the option to have at least ten (10) consecutive hours of uninterrupted off-duty time immediately following the worked time.

(E) Anesthesia Service.

1. The anesthesia service shall be under the direction of an anesthesiologist or a physician with training or experience in the administration of anesthetics. The clinical privileges of qualified anesthesia personnel shall be reviewed by the director of anesthesia service and the medical staff and approved by the governing body.

2. An anesthesiologist or physician with training or experience in the administration of anesthetics shall be on the premises and readily accessible during the administration of anesthetics whether local, general or intravenous sedation and the postanesthetic recovery period until all patients are alert or medically discharged. Qualified anesthesia personnel shall be present in the room throughout the conduct of all general anesthetics, regional anesthetics and monitored anesthesia care and shall continually evaluate the patient's oxygenation, ventilation, circulation and temperature. Oxygen analyzers, pulse oximeter and electrocardiography equipment shall be available.

3. Policies and procedures on the administration of anesthetics and drugs which produce conscious and deep sedation shall be developed by the medical staff in consultation with at least one (1) anesthesiologist and approved by the governing body.

4. Prior to undergoing general anesthesia, patients shall have a history and physical examination by a physician on the patient's record including the results of any necessary laboratory examinations. Each administration of a regional, general or intravenous sedation anesthetic shall be ordered by an anesthesiologist or a physician with training and experience in the administration of anesthetics. The patient records shall contain a preanesthetic evaluation and a postanesthetic note by qualified anesthesia personnel.

5. Periodic inspections shall be made of all areas where flammable anesthetics are administered or stored to insure safeguards are being observed by personnel and equipment meets safety standards. A written record of inspections shall be kept. If the administration of the facility provides written assurance to the Department of Health and Senior Services that no flammable anesthetics will be administered and the area is posted to that effect, safety inspections will not be required.

6. All anesthetics shall be administered by anesthesiologists, physicians with training or experience in the administration of anesthetics, or certified registered nurse anesthetists, except for local anesthetic agents which may be administered by the attending physician, dentist or podiatrist.

7. Written procedures and criteria for discharge from the recovery service shall be approved by the medical staff.

8. There shall be a mechanism for the review and evaluation on a regular basis of the quality and scope of anesthesia services.

(K) Infection Control.

1. There shall be an active multidisciplinary infection control committee responsible for implementing and monitoring the infection control program. The committee shall include, but not be limited to, the infection control officer, a member of the medical staff, registered professional nursing staff, quality improvement staff and administration. This program shall include measures for preventing, identifying, and investigating healthcare-associated infections (HAI) and shall establish procedures for: collecting data, conducting root cause analysis, reporting sentinel events and implementing corrective actions. These measures and procedures shall be applied throughout the ambulatory surgical center, including as part of the employee health program.

2. The ambulatory surgical center shall provide reports to the department as required by 19 CSR 10-33.050.

3. The infection control committee shall conduct an ongoing review and analysis of HAI data and risk factors. Priorities and goals related to preventing the acquisition and transmission of potentially infectious agents will be established based on risks identified.

4. Ambulatory surgical centers shall implement written policies and procedures outlining infection control measures for all patient care and support departments. These measures shall include, but are not limited to, an ambulatory surgical center-wide hand hygiene program that complies with the current Centers for Disease Control and Prevention (CDC) *Guideline for Hand Hygiene in Health-Care Settings*, which is incorporated by reference in this rule. A copy of the CDC *Guideline for Hand Hygiene in Health-Care Settings* may be obtained from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402-9371;

telephone: (202) 512-1800. This rule does not incorporate any subsequent amendments or additions. At a minimum, the program shall require every health care worker to properly wash or sanitize his or her hands immediately before and immediately after each and every episode of patient care. Procedures shall include, at a minimum, requirements for the facility's infection control program to conduct surveillance of personnel in accordance with section 197.150, RSMo. Surveillance procedures also may include monitoring the employees' and medical staff's use of hand hygiene products. A mechanism approved by the ambulatory surgical center infection control committee for reporting and monitoring patient and employee infections shall be developed and implemented for all patient care and support departments in the ambulatory surgical center.

5. Orientation and ongoing education shall be provided to all personnel on the cause, effect, transmission and prevention of infections.

6. There shall be a mechanism for the review and evaluation on a regular basis of the quality and effectiveness of infection control throughout the facility.

**REVISED
FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: 19 – Department of Health and Senior Services

Division: 30 – Division of Regulation and Licensure

Chapter: 30 – Ambulatory Surgical Centers

Type of Rule Making: Final Order

Rule Number and Name: 19 CSR 30-30.020 - Administration Standards for Ambulatory Surgical Centers

II. SUMMARY OF FISCAL IMPACT

Estimate of 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:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
86	State Licensed Ambulatory Surgical Centers	\$951,232 (\$258,000 + \$693,232) the first year and \$693,232 annually thereafter

III. WORKSHEET

Type of Cost	# of Hospitals Affected	Cost per Hospital	One-time Cost	Annual Cost
Nosocomial Infections:				
Develop/revise policies/procedures & education	86	\$2,500	\$215,000	--
Compensation/education of infection control officer	86	\$7,500	--	\$645,000
Conducting root cause analysis	86	\$500	--	\$43,000
Monitoring hand-washing compliance	86	--	--	\$5,232
Overtime for Nurses	86	\$500	\$43,000	--
TOTAL			\$258,000	\$693,232

IV. ASSUMPTIONS

There are eighty-six (86) state licensed ambulatory surgical centers (ASC). All the licensed ASCs are private entities.

The Department of Health and Senior Services contacted 10% of the 86 licensed ASCs (9 facilities) to obtain information on number of employees. We obtained an average facility number based on this sample which we applied to the entire universe of 86 ASCs.

The proposed amendment includes three components:

1. Nosocomial infection requirements:

One-time costs: ASCs would incur a one-time cost to develop and/or revise policies and procedures to meet the requirements of the amended rule as well as educate staff and physicians about the changes. We estimate these costs would average \$2,500 per facility.

Annual costs: ASCs would incur annual costs related to compensation and education of an infection control officer and for additional staff to conduct root cause analysis and monitor compliance with hand-washing requirements.

Additional compensation and education for an infection control officer: We estimate the cost at \$7,500 per ASC.

Conducting root cause analysis: We estimate that all 86 licensed ASCs would need additional training on root cause analysis at a cost of approximately \$500 annually per ASC. The assumption is made that the actual root cause analysis function would be performed by the infection control officer and the infection control committee. The current regulatory requirements for ASCs already require that there be an active multidisciplinary infection control program, so no additional costs, other than training, are assumed.

Monitoring compliance with hand-washing requirements: A randomly selected sample of 10% of the 86 licensed ASCs (9 facilities) was contacted by telephone. This sample indicated an average of 15.89 physician/dentist/podiatrist staff at each facility. If applied to the entire number of 86 licensed ASCs, this results in 1,367 physician/dentist/podiatrist staff. The sample indicated an average of 8.44 licensed nursing personnel for an estimated 726 total. The sample indicated an average of .2 certified, but unlicensed, patient care personnel, for an estimated total of 17. The sample indicated an average of 2.22 unlicensed and uncertified patient care staff, for an estimated 191 total. The estimated grand total of patient care staff for all 86 ASCs is 2,301. If 50 percent or 1,151 of these staff were observed once during the year for 10 minutes each, an estimated 192 additional staff hours would be required to conduct hand washing surveillance ((1,151 staff observed X 10 minutes)/60 minutes per hour). The average hourly rate for a staff RN, per MIIA's 2004 annual compensation survey is \$21.80; including an additional 25 percent for benefits would give an hourly rate of \$27.25 for a total annual observation cost for all 86 ASC's of \$5,232.

2. Overtime for nurses:

ASCs would incur a one-time cost to revise their nursing policies regarding overtime and to educate staff in order to comply with the proposed amendment. We estimate a one-time average cost of \$500 per ASC.

Per information obtained from the Missouri Ambulatory Surgery Center Association, overtime is not widely used in ambulatory surgery centers. Therefore, it is believed that the annual cost to meet the requirements specified in the rule, whether through the ASC's own staff or through staffing agencies, is either \$0 for those facilities that do not use overtime or is already being incurred by the ASCs, and the proposed amendment would not increase the cost.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 81—Certification**

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 198.009 and 198.088, RSMo 2000, the department amends a rule as follows:

19 CSR 30-81.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2005 (30 MoReg 2499-2502). Changes have been made in the text of the proposed amendment in response to comments received. These changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One set of comments was received by the Department of Health and Senior Services from Harvey M. Tettlebaum, Husch & Eppenberger, LLC, on behalf of client Missouri Health Care Association addressing the proposed amendment.

COMMENT: The proposed amendment would modify 19 CSR 30-81.010 by changing certain definitions in section (1). There are two provisions in the proposed amendment which cause concern. Section (2) eliminates the description on the actual forms which must be included on the application for Medicaid certification and substitutes in their place the language "on forms approved by the department . . ." In order for the regulation to comply with the rule-making provisions in Chapter 536.021, RSMo, the forms should be specified or at least on file with the Office of the Secretary of State as part of the rule or notice of the action taken.

In paragraph (14)(D)4. the reference to the specific resident census form has been eliminated. As stated above, the form should be on file with the Office of the Secretary of State with notification thereof in the rule in order to comply with Chapter 536.021, RSMo.

The change in section (13) we believe is a good one and we applaud the department for allowing additional time for notification when there is a change of Administrator or Director of Nursing.

RESPONSE: The department did not make any changes to the proposed amendment in its original order of rulemaking.

EXPLANATION OF AMENDED ORDER OF RULEMAKING AND CHANGE: In its amended order of rulemaking the department, in response to comments received, incorporated forms by reference and provided language in compliance with section 536.031.4, RSMo.

EXPLANATION OF SECOND AMENDED ORDER OF RULEMAKING: The Department of Health and Senior Services determined that changes that had been made to 19 CSR 30-81.010(2) in its amended order of rulemaking had resulted in the inadvertent omission of text that had been included in the proposed amendment. This second amended order of rulemaking restores the deleted text and makes minor punctuation and stylistic revisions to paragraph (14)(D)4.

19 CSR 30-81.010 General Certification Requirements

(2) An operator of an SNF or ICF licensed by the department electing to be certified as a provider of skilled nursing services under the Title XVIII (Medicare) or NF services under the Title XIX (Medicaid) program of the Social Security Act; or an operator of a facility electing to be certified as an ICF/MR facility under Title XIX shall submit application materials to the department as required by

federal law and shall comply with standards set forth in the *Code of Federal Regulations* (CFR) of the United States Department of Health and Human Services in 42 CFR chapter IV, part 483, subpart B for nursing homes and 42 CFR chapter IV, part 483, subpart I for ICF/MR facilities, as appropriate.

(A) For Medicaid, the application shall include:

1. Long Term Care Facility Application for Medicare and Medicaid, Form CMS-671 (12/02), incorporated by reference in this rule and available through the Centers for Medicare and Medicaid website: <http://www.cms.hhs.gov/forms/>, or by mail at: Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1850;

2. Form DA-113, Bed Classification for Licensure and Certification by Category (8-05), incorporated by reference in this rule and available through the department's website: www.dhss.mo.gov, or by mail at: Department of Health and Senior Services Warehouse, Attention General Services Warehouse, PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) 526-3861.

(B) For Medicare, the application shall include:

1. Long Term Care Facility Application for Medicare and Medicaid;

2. Expression of Intermediary Preference Form (8-05), incorporated by reference in this rule and available through the department's website: www.dhss.mo.gov, or by mail at: Department of Health and Senior Services Warehouse, Attention General Services Warehouse, PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) 526-3861;

3. Form DA-113, Bed Classification for Licensure and Certification by Category;

4. Three (3) copies of Health Insurance Benefit Agreement, Form CMS-1561 (07/01), incorporated by reference in this rule and available through the Centers for Medicare and Medicaid website: <http://www.cms.hhs.gov/forms/>, or by mail at: Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1850;

5. Three (3) copies of Assurance of Compliance, Form HHS-690 (5/97), incorporated by reference in this rule and available through the Centers for Medicare and Medicaid website: <http://www.cms.hhs.gov/forms/>, or by mail at the U.S. Department of Health and Human Services, 200 Independence Avenue SW, Washington, DC 20201, telephone: (202) 619-0257; Toll Free: 1 (877) 696-6775.

6. The forms incorporated by reference in subsections (2)(A) and (B) do not include any later amendments or additions.

(C) SNFs or NFs which are newly certified or which are undergoing a change of ownership shall submit an initial certification fee in the amount up to one thousand dollars (\$1,000) as stipulated by the department in writing to the operator following receipt of the properly completed application material referenced in section (2). The amount for the initial certification fee shall be the prorated portion of one thousand dollars (\$1,000) with prorating based on the month of receipt of the application in relation to the beginning of the next federal fiscal year. This initial certification fee shall be non-refundable and a facility shall not be certified until the fee has been paid.

(D) All SNFs or NFs certified to participate in the Medicaid or Medicare program(s) shall submit to the department an annual certification fee of one thousand dollars (\$1,000) prior to October 1 of each year. If the fee is not received by that date each year, a late fee of fifty dollars (\$50) per month shall be payable to the department. If payment of any fees due is not received by the department by the time the facility license expires or by December 31 of that year, whichever is earlier, the department shall notify the Division of Medical Services and the CMS recommending termination of the Medicaid or Medicare agreement as denial of license will occur as provided in 19 CSR 30-82.010 and section 198.022, RSMo.

(14) An NF may request a waiver of nurse staffing requirements to the extent the facility is unable to meet the requirements including the areas of twenty-four (24)-hour licensed nurse coverage, the use of a registered nurse for eight (8) consecutive hours seven (7) days per week and the use of a registered nurse as director of nursing.

(D) Approval of a nurse waiver request shall be based on an evaluation of whether the facility has been unable, despite diligent efforts—including offering wages at the community prevailing rate for nursing facilities—to recruit the necessary personnel. Diligent efforts shall mean prominently advertising for the necessary nursing personnel in a variety of local and out-of-the-area publications, including newspapers and journals within a fifty (50)-mile radius, and which are within state boundaries; contacts with nursing schools in the area; and participation in job fairs. The operator shall submit evidence of the diligent effort including:

1. Copies of newspapers and journal advertisements, correspondence with nursing schools and vocational programs, and any other relevant material;

2. If there is a nursing pool agency within fifty (50) miles which is within state boundaries and the agency cannot consistently supply the necessary personnel on a per diem basis to the facility, the operator shall submit a letter from the agency so stating;

3. Copies of current staffing patterns including the number and type of nursing staff on each shift and the qualifications of licensed nurses;

4. A current Resident Census and Condition of Residents, Form CMS-672 (10/98), incorporated by reference in this rule and available through the Centers for Medicare and Medicaid website: <http://www.cms.hhs.gov/forms/>, or by mail at: Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1850. This rule does not incorporate any subsequent amendments or additions;

5. Evidence that the facility has a registered nurse consultant required under 19 CSR 30-85.042 and evidence that the facility has made arrangements to assure registered nurse involvement in the coordination of the assessment process as required under 42 CFR 483.20(3);

6. Location of the nurses' stations and any other pertinent physical feature information the facility chooses to provide;

7. Any other information deemed important by the facility including personnel procedures, promotions, staff orientation and evaluation, scheduling practices, benefit programs, utilization of supplemental agency personnel, physician-nurse collaboration, support services to nursing personnel and the like; and

8. For renewal requests, the information supplied shall show diligent efforts to recruit appropriate personnel throughout the prior waiver period. Updates of prior submitted information in other areas are acceptable.

SUMMARY OF COMMENTS: The department received no comments on the proposed amendment.

**Title 20—DEPARTMENT OF INSURANCE
Division 200—Financial Examination
Chapter 6—Surplus Lines**

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director amends a rule as follows:

20 CSR 200-6.100 Surplus Lines Insurance Forms is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2005 (30 MoReg 2502). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and
Transportation Commission
Chapter 25—Motor Carrier Operations**

IN ADDITION

7 CSR 10-25.010 Skill Performance Evaluation Certificates for Commercial Drivers

PUBLIC NOTICE

Public Notice and Request for Comments on Applications for Issuance of Skill Performance Evaluation Certificates to Intrastate Commercial Drivers with Diabetes Mellitus or Impaired Vision

SUMMARY: This notice publishes MoDOT's receipt of applications for the issuance of Skill Performance Evaluation (SPE) Certificates, from individuals who do not meet the physical qualification requirements in the Federal Motor Carrier Safety Regulations for drivers of commercial motor vehicles in Missouri intrastate commerce, because of impaired vision, or an established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control. If granted, the SPE Certificates will authorize these individuals to qualify as drivers of commercial motor vehicles (CMVs), in intrastate commerce only, without meeting the vision standard prescribed in 49 CFR 391.41(b)(10), if applicable, or the diabetes standard prescribed in 49 CFR 391.41(b)(3).

DATES: Comments must be received at the address stated below, on or before April 14, 2006.

ADDRESSES: You may submit comments concerning an applicant, identified by the Application Number stated below, by any of the following methods:

- E-mail: Kathy.Hatfield@modot.mo.gov
- Mail: PO Box 893, Jefferson City, MO 65102-0893
- Hand Delivery: 1320 Creek Trail Drive, Jefferson City, MO 65109
- Instructions: All comments submitted must include the agency name and Application Number for this public notice. For detailed instructions on submitting comments, see the Public Participation heading of the Supplementary Information section of this notice. All comments received will be open and available for public inspection and MoDOT may publish those comments by any available means.

**COMMENTS RECEIVED
BECOME MoDOT PUBLIC RECORD**

- By submitting any comments to MoDOT, the person authorizes MoDOT to publish those comments by any available means.
- Docket: For access to the department's file, to read background documents or comments received, 1320 Creek Trail Drive, Jefferson City, MO 65109, between 7:30 a.m. and 4 p.m., Monday through Friday, except state holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Hatfield, Motor Carrier Specialist, (573) 522-9001, MoDOT Motor Carrier Services Division, PO Box 893, Jefferson City, MO 65102-

0893. Office hours are from 7:30 a.m. to 4:00 p.m., CT, Monday through Friday, except state holidays.

SUPPLEMENTARY INFORMATION:

Public Participation

If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard.

Background

The individuals listed in this notice have recently filed applications requesting MoDOT to issue SPE Certificates to exempt them from the physical qualification requirements relating to vision in 49 CFR 391.41(b)(10), or to diabetes in 49 CFR 391.41(b)(3), which otherwise apply to drivers of CMVs in Missouri intrastate commerce.

Under section 622.555, *Missouri Revised Statutes* (RSMo) Supp. 2005, MoDOT may issue a Skill Performance Evaluation Certificate, for not more than a two (2)-year period, if it finds that the applicant has the ability, while operating CMVs, to maintain a level of safety that is equivalent to or greater than the driver qualification standards of 49 CFR 391.41. Upon application, MoDOT may renew an exemption upon expiration.

Accordingly, the agency will evaluate the qualifications of each applicant to determine whether issuing a SPE Certificate will comply with the statutory requirements and will achieve the required level of safety. If granted, the SPE Certificate is only applicable to intrastate transportation wholly within Missouri.

Qualifications of Applicants

Application # MP060124001

Applicant's Name & Age: Andrew Mullison Hahn, 27
Relevant Physical Condition: Mr. Hahn's best uncorrected visual acuity in his left eye is 20/15 Snellen, and he has a prosthesis in his right eye due to an accident that occurred in 1988. In his left eye, uncorrected visual acuity is 20/15 Snellen.
Relevant Driving Experience: Employed by Keith & Darin Schnarre Farms in Centralia, MO as a straight truck/trailer operator, and a truck tractor/semi-trailer combination operator from June 1999 to March 2004 and drove 20 hours per week. Drives personal vehicle(s) daily.
Doctor's Opinion & Date: Following an examination in February 2006, his optometrist certified, "In my medical opinion, Mr. Hahn's visual deficiency is stable and has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle, and that his condition will not adversely affect his ability to operate a commercial motor vehicle safely."
Traffic Accidents and Violations: No accidents or violations within the past 3 years.

Application # MP051121057

Applicant's Name & Age: Phillippe Henri Poirier, 56
Relevant Physical Condition: Mr. Poirier's best uncorrected visual acuity in his right eye is 20/20 Snellen, corrected to 20/15 Snellen, and his left eye has only light perception with a visual acuity of 20/300 Snellen due to an accident in 1954.
Relevant Driving Experience: Self-employed as a 10 wheel dump truck operator in and around Gerald, MO from 1994 to present and has driven an average of 40 hours per week. Drives personal vehicle(s) daily.
Doctor's Opinion & Date: Following an examination in January 2006, his optometrist certified, "In my medical opinion, Mr.

Poirier's visual deficiency is stable and has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle, and that his condition will not adversely affect his ability to operate a commercial motor vehicle safely."

Traffic Accidents and Violations: No accidents or violations within the past 3 years.

Request for Comments

The Missouri Department of Transportation, Motor Carrier Services Division, pursuant to section 622.555, RSMo, and rule 7 CSR 10-25.010, requests public comment from all interested persons on the applications for issuance of Skill Performance Evaluation Certificates described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in this notice.

Issued on: February 15, 2005

Jan Skouby, Motor Carrier Services Director, Missouri Department of Transportation.

STATUTORY LIST OF CONTRACTORS BARRED FROM PUBLIC WORKS PROJECTS

The following is a list of contractor(s) who have been prosecuted and convicted of violating the Missouri Prevailing Wage Law, and whose Notice of Conviction has been filed with the Secretary of State pursuant to Section 290.330, RSMo.

<u>Name of Contractor</u>	<u>Name of Officers</u>	<u>Address</u>	<u>Date of Conviction</u>	<u>Debarment Period</u>
Stan Buffington DBA Buffington Brothers Heating & Cooling		110 N. Riverview Poplar Bluff, MO 63901	10/26/05	10/26/2005-10/26/06

The Secretary of State is required by sections 347.141 and 359.481, RSMo 2000 to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript.

**TO ALL CREDITORS OF AND CLAIMANTS AGAINST
HIGH TECH ENERGY PARTNERS 1997 II**

NOTICE OF DISSOLUTION OF LIMITED PARTNERSHIP

On December 1, 2005, HIGH TECH ENERGY PARTNERS 1997 II, a Missouri limited partnership ("Partnership") filed its Certificate of Cancellation of Limited Partnership with the Missouri Secretary of State. Any claims against the Partnership may be sent to First Financial Planners, 15455 Conway Road, Chesterfield, Missouri 63017, Attention: Jeffrey L. Yount. Each Claim must include the following information:

1. The name, address and phone number of the Claimant;
2. The amount claimed;
3. The date on which the Claim arose;
4. The basis for the Claim; and
5. Documentation in support of the Claim.

All Claims against the Partnership will be barred unless the proceedings to enforce the Claim are commenced within three (3) years after publication of this notice.

**TO ALL CREDITORS OF AND CLAIMANTS AGAINST
HIGH TECH ENERGY PARTNERS 1997 III**

NOTICE OF DISSOLUTION OF LIMITED PARTNERSHIP

On December 1, 2005, HIGH TECH ENERGY PARTNERS 1997 III, a Missouri limited partnership ("Partnership") filed its Certificate of Cancellation of Limited Partnership with the Missouri Secretary of State. Any claims against the Partnership may be sent to First Financial Planners, 15455 Conway Road, Chesterfield, Missouri 63017, Attention: Jeffrey L. Yount. Each Claim must include the following information:

1. The name, address and phone number of the Claimant;
2. The amount claimed;
3. The date on which the Claim arose;
4. The basis for the Claim; and
5. Documentation in support of the Claim.

All Claims against the Partnership will be barred unless the proceedings to enforce the Claim are commenced within three (3) years after publication of this notice.

**TO ALL CREDITORS OF AND CLAIMANTS AGAINST
HIGH TECH ENERGY PARTNERS 1998 I**

NOTICE OF DISSOLUTION OF LIMITED PARTNERSHIP

On December 1, 2005, HIGH TECH ENERGY PARTNERS 1998 I, a Missouri limited partnership ("Partnership") filed its Certificate of Cancellation of Limited Partnership with the Missouri Secretary of State. Any claims against the Partnership may be sent to First Financial Planners, 15455 Conway Road, Chesterfield, Missouri 63017, Attention: Jeffrey L. Yount. Each Claim must include the following information:

1. The name, address and phone number of the Claimant;
2. The amount claimed;
3. The date on which the Claim arose;
4. The basis for the Claim; and
5. Documentation in support of the Claim.

All Claims against the Partnership will be barred unless the proceedings to enforce the Claim are commenced within three (3) years after publication of this notice.

**TO ALL CREDITORS OF AND CLAIMANTS AGAINST
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1. The name, address and phone number of the Claimant;
2. The amount claimed;
3. The date on which the Claim arose;
4. The basis for the Claim; and
5. Documentation in support of the Claim.

All Claims against the Partnership will be barred unless the proceedings to enforce the Claim are commenced within three (3) years after publication of this notice.

**TO ALL CREDITORS OF AND CLAIMANTS AGAINST
HIGH TECH ENERGY PARTNERS 1998 III****NOTICE OF DISSOLUTION OF LIMITED PARTNERSHIP**

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1. The name, address and phone number of the Claimant;
2. The amount claimed;
3. The date on which the Claim arose;
4. The basis for the Claim; and
5. Documentation in support of the Claim.

All Claims against the Partnership will be barred unless the proceedings to enforce the Claim are commenced within three (3) years after publication of this notice.

**TO ALL CREDITORS OF AND CLAIMANTS AGAINST
HIGH TECH ENERGY PARTNERS 1998 IV****NOTICE OF DISSOLUTION OF LIMITED PARTNERSHIP**

On December 1, 2005, HIGH TECH ENERGY PARTNERS 1998 IV, a Missouri limited partnership ("Partnership") filed its Certificate of Cancellation of Limited Partnership with the Missouri Secretary of State. Any claims against the Partnership may be sent to First Financial Planners, 15455 Conway Road, Chesterfield, Missouri 63017, Attention: Jeffrey L. Yount. Each Claim must include the following information:

1. The name, address and phone number of the Claimant;
2. The amount claimed;
3. The date on which the Claim arose;
4. The basis for the Claim; and
5. Documentation in support of the Claim.

All Claims against the Partnership will be barred unless the proceedings to enforce the Claim are commenced within three (3) years after publication of this notice.

**TO ALL CREDITORS OF AND CLAIMANTS AGAINST
HIGH TECH ENERGY PARTNERS 1999 I**

NOTICE OF DISSOLUTION OF LIMITED PARTNERSHIP

On December 1, 2005, HIGH TECH ENERGY PARTNERS 1999 I, a Missouri limited partnership ("Partnership") filed its Certificate of Cancellation of Limited Partnership with the Missouri Secretary of State. Any claims against the Partnership may be sent to First Financial Planners, 15455 Conway Road, Chesterfield, Missouri 63017, Attention: Jeffrey L. Yount. Each Claim must include the following information:

1. The name, address and phone number of the Claimant;
2. The amount claimed;
3. The date on which the Claim arose;
4. The basis for the Claim; and
5. Documentation in support of the Claim.

All Claims against the Partnership will be barred unless the proceedings to enforce the Claim are commenced within three (3) years after publication of this notice.

**TO ALL CREDITORS OF AND CLAIMANTS AGAINST
HIGH TECH ENERGY PARTNERS 1999 II**

NOTICE OF DISSOLUTION OF LIMITED PARTNERSHIP

On December 1, 2005, HIGH TECH ENERGY PARTNERS 1999 II, a Missouri limited partnership ("Partnership") filed its Certificate of Cancellation of Limited Partnership with the Missouri Secretary of State. Any claims against the Partnership may be sent to First Financial Planners, 15455 Conway Road, Chesterfield, Missouri 63017, Attention: Jeffrey L. Yount. Each Claim must include the following information:

1. The name, address and phone number of the Claimant;
2. The amount claimed;
3. The date on which the Claim arose;
4. The basis for the Claim; and
5. Documentation in support of the Claim.

All Claims against the Partnership will be barred unless the proceedings to enforce the Claim are commenced within three (3) years after publication of this notice.

**TO ALL CREDITORS OF AND CLAIMANTS AGAINST
HIGH TECH ENERGY PARTNERS 1999 III****NOTICE OF DISSOLUTION OF LIMITED PARTNERSHIP**

On December 1, 2005, HIGH TECH ENERGY PARTNERS 1999 III, a Missouri limited partnership ("Partnership") filed its Certificate of Cancellation of Limited Partnership with the Missouri Secretary of State. Any claims against the Partnership may be sent to First Financial Planners, 15455 Conway Road, Chesterfield, Missouri 63017, Attention: Jeffrey L. Yount. Each Claim must include the following information:

1. The name, address and phone number of the Claimant;
2. The amount claimed;
3. The date on which the Claim arose;
4. The basis for the Claim; and
5. Documentation in support of the Claim.

All Claims against the Partnership will be barred unless the proceedings to enforce the Claim are commenced within three (3) years after publication of this notice.

**TO ALL CREDITORS OF AND CLAIMANTS AGAINST
HIGH TECH ENERGY PARTNERS 1999 IV****NOTICE OF DISSOLUTION OF LIMITED PARTNERSHIP**

On December 1, 2005, HIGH TECH ENERGY PARTNERS 1999 IV, a Missouri limited partnership ("Partnership") filed its Certificate of Cancellation of Limited Partnership with the Missouri Secretary of State. Any claims against the Partnership may be sent to First Financial Planners, 15455 Conway Road, Chesterfield, Missouri 63017, Attention: Jeffrey L. Yount. Each Claim must include the following information:

1. The name, address and phone number of the Claimant;
2. The amount claimed;
3. The date on which the Claim arose;
4. The basis for the Claim; and
5. Documentation in support of the Claim.

All Claims against the Partnership will be barred unless the proceedings to enforce the Claim are commenced within three (3) years after publication of this notice.

**TO ALL CREDITORS OF AND CLAIMANTS AGAINST
HIGH TECH ENERGY PARTNERS 1999 I COMPLETION FUND**

NOTICE OF DISSOLUTION OF LIMITED PARTNERSHIP

On December 1, 2005, HIGH TECH ENERGY PARTNERS 1999 I COMPLETION FUND, a Missouri limited partnership ("Partnership") filed its Certificate of Cancellation of Limited Partnership with the Missouri Secretary of State. Any claims against the Partnership may be sent to First Financial Planners, 15455 Conway Road, Chesterfield, Missouri 63017, Attention: Jeffrey L. Yount. Each Claim must include the following information:

1. The name, address and phone number of the Claimant;
2. The amount claimed;
3. The date on which the Claim arose;
4. The basis for the Claim; and
5. Documentation in support of the Claim.

All Claims against the Partnership will be barred unless the proceedings to enforce the Claim are commenced within three (3) years after publication of this notice.

**NOTICE OF WINDING UP TO ALL CREDITORS OF AND CLAIMANTS AGAINST
SOURCETENN LLC, a Missouri limited liability company.**

On Feb. 1, 2006, SOURCETENN LLC., a Missouri limited liability company (hereinafter the "Company"), filed its Notice of Winding Up with the Missouri Secretary of State. The Company requests that all persons and organizations with claims against it present them immediately, by letter, to the attention of McKESSON CORPORATION, ONE POST STREET – 33RD FLOOR, SAN FRANCISCO. Each claim must include the following information: the name, address and phone number of the claimant; the amount claimed; the date on which the claim arose; the basis for the claim; and documentation in support of the claim. All claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three (3) years after publication of this Notice. MEMBER OF SOURCETENN LLC.

**NOTICE OF CORPORATE DISSOLUTION
TO ALL CREDITORS AND CLAIMANTS
AGAINST SCORSE AND ASSOCIATES,
ORAL AND MAXILLOFACIAL SURGEONS, P.C.**

Scorse and Associates, Oral and Maxillofacial Surgeons, P.C., a Missouri professional corporation, was dissolved on the 13th day of December, 2005, by filing the Articles of Dissolution with the Missouri Secretary of State. Any and all claims against Scorse and Associates, Oral and Maxillofacial Surgeons, P.C. should be sent by mail to Jeannine R. Campbell, c/o Shughart Thomson & Kilroy, P.C., 120 W. 12th Street, Suite 1600, Kansas City, Missouri 64105. Each claim should include the following:

- (1) The name, address and telephone number of the claimant;
- (2) The amount of the claim;
- (3) The basis of the claim; and
- (4) The date the claim arose.

Any and all claims against Scorse and Associates, Oral and Maxillofacial Surgeons, P.C. will be barred unless a proceeding to enforce the claim is commenced within two (2) years after the date of the publication of this Notice.

**NOTICE OF WINDING UP
OF LIMITED LIABILITY COMPANY
TO ALL CREDITORS AND CLAIMANTS
AGAINST ROLWES MORTGAGE CO., LLC**

Notice is hereby given that Rolwes Mortgage Co., LLC, a Missouri limited liability company (the "Company"), is being liquidated and dissolved pursuant to the Missouri Limited Liability Company Act (the "Act"). This notice is being given pursuant to Section 347.141 of the Act.

All persons with claims against the Company should submit them in writing in accordance with this notice to: Vatterott, Shaffar & Dolan, P.C., Attn: BAJ, 2458 Old Dorsett Road, Suite 230, Maryland Heights, MO 63043.

Claims against the Company must include: (1) the claimant's name, address and phone number, (2) the amount claimed, (3) the date the claim arose, (4) the basis of the claim, and (5) documentation supporting the claim.

A claim against the Company will be barred unless a proceeding to enforce the claim is enforced within three years after the publication of this notice.