

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division 70—Soil and Water Districts Commission**  
**Chapter 9—Conservation Equipment Incentive Program**

**PROPOSED RULE**

**10 CSR 70-9.010 Conservation Equipment Incentive Program Eligibility and Funding Requirements**

*PURPOSE: This rule establishes commission guidelines for use and availability of the department's Conservation Equipment Incentive Program.*

(1) Establishing Applicant Eligibility. Eligible applicants are limited to landowners with an approved conservation plan utilizing the equipment purchased or an operator of a farm with an approved conservation plan utilizing the equipment purchased.

(2) Approval of Applications. Applications for conservation equipment included on the commission's list of eligible equipment shall be submitted to the department's Soil and Water Conservation Program on forms provided by the department. The department will approve applications on a first-come, first-serve basis beginning with each fiscal year. Applications will be accepted throughout the year. A percent of the purchase amount will be paid to the approved applicant in the form of a rebate. The commission will determine the percent of the rebate paid.

(3) Eligible Conservation Equipment. The commission will establish a list of eligible conservation equipment. Eligibility is limited to new or used equipment included on the list of eligible equipment purchased from a bona fide agriculture equipment dealer. A landowner or operator is limited to participation in the Conservation Equipment Incentive Program for the same type of equipment once every five (5) years.

*AUTHORITY: section 278.080, RSMo Supp. 2007. Original rule filed Aug. 15, 2008.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Natural Resources, Bill Foster, director of the Soil and Water Conservation Program, PO Box 176, Jefferson City, MO 65102, (573) 751-1172. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES**  
**Division 70—[Division of Medical Services]**  
**MO HealthNet Division**  
**Chapter 25—Physician Program**

**PROPOSED AMENDMENT**

**13 CSR 70-25.110 Payment for Early Periodic Screening, [Diagnosis] Diagnostic and Treatment Program Services.** The division is amending sections (1)–(7).

*PURPOSE: This amendment removes reference to the general relief program that ended in 2005. It also changes the name of the state's*

*medical assistance program to MO HealthNet, revises the name of the program's administering agency to MO HealthNet Division to comply with state law, and changes program recipient to participant.*

(1) The Department of Social Services shall administer an Early Periodic Screening, *[Diagnosis] Diagnostic*, and Treatment (EPSDT) Program. In Missouri, the EPSDT Program is administered as the Healthy Children and Youth (HCY) Program. The EPSDT/HCY Program provides for thorough physical and dental examinations for *[Medicaid/MO HealthNet]*-eligible persons under the age of twenty-one (21) years~~, for persons under the age of twenty-one (21) years who are eligible for General Relief benefits~~ and for all persons under the age of twenty-one (21) years in the legal custody of the Department of Social Services or any division of the department at no cost to the child or to the parents or guardians if they accept the offer of this service. Funding for EPSDT services is through Title XIX of the federal Social Security Act (Medicaid) and Missouri.

(2) EPSDT services are available to *[recipients] participants* under the age of twenty-one (21) years who are eligible to receive medical assistance benefits under the provisions of sections 208.151, 208.162, and 208.204, RSMo.

(3) The EPSDT Program shall make a general physical examination available to eligible *[recipients] participants* under the age of twenty-one (21) years. The components of the general physical examination shall include a health history, an unclothed physical examination, appropriate laboratory tests, immunizations, a developmental/mental health screen, a vision screen, and a dental screen. These screens will be made available at the frequency recommended by the American Academy of Pediatrics and the American Academy of Pediatric Dentists.

(B) Partial screens for vision, hearing, dental, unclothed physical examination, an interval history, and appropriate laboratory tests and immunizations, developmental/mental health assessment, and anticipatory guidance shall be reimbursable services.

(4) Providers of the screening services must be enrolled *[Medicaid] MO HealthNet* providers.

(5) Reimbursement for medically necessary treatment services identified as a result of a screening shall be provided by the Department of Social Services, *[Division of Medical Services] MO HealthNet Division*, if the services are available under Section 1905(a) of the Social Security Act. These services shall be limited by medical necessity. Experimental services are not covered. Any service authorized must be effective in addressing the *[recipient's] participant's* need. Services may be prior-authorized to assure medical necessity.

(6) Medical and dental services which Section 1905(a) of the Social Security Act permits to be covered under *[Medicaid] MO HealthNet* and which are necessary to treat or ameliorate defects, physical, and mental illness or conditions identified by an EPSDT screen are covered regardless of whether or not the services are covered under the Medicaid state plan. Services provided under this program will be sufficient in amount, duration, and scope to reasonably achieve their purpose. The services are limited due to medical necessity. Services identified as needed as the result of a screening which are beyond the scope of the Medicaid state plan require a plan of care identifying the treatment needs of the child in regard to amount, scope, and prognosis. Prior authorization of services may be required for these services needs and for services of extended duration unless otherwise noted in the benefits and limitations section of the provider manual of the appropriate provider of the service. Examples of services beyond the scope of the state Medicaid Plan are—orthodontic services; physical, occupational, and speech therapy evaluations and services; psychology and counseling services; private duty nursing services; and medical supplies. Services may be

made available on an inpatient, outpatient office, or home setting depending upon the medical condition of the [recipient] participant and availability of services.

(7) Services must be provided by enrolled [Medicaid] MO HealthNet providers operating within their legal scope of practice.

*AUTHORITY: sections 208.152, [RSMo Supp. 1990,] 208.153, [RSMo Supp. 1991] and 208.201, RSMo Supp. [1987] 2007. This rule was previously filed as 13 CSR 40-81.015. Original rule filed Jan. 15, 1985, effective April 11, 1985. Amended: Filed Jan. 13, 1992, effective Sept. 6, 1992. Amended: Filed Aug. 15, 2008.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES**  
**Division 70—[Division of Medical Services]**  
**MO HealthNet Division**  
**Chapter 94—Rural Health Clinic Program**

**PROPOSED AMENDMENT**

**13 CSR 70-94.010 Independent Rural Health Clinic Program.** The division is amending sections (1)–(12) and adding subsection (7)(B).

*PURPOSE: This amendment revises the MO HealthNet cost report filing deadline to agree with the Medicare cost report filing deadline and clarifies the supplemental interim MO HealthNet reimbursement available to Independent Rural Health Clinics that provide services to MO HealthNet managed care participants. It also changes the name of Missouri's medical assistance program to MO HealthNet, revises the name of the administering agency to MO HealthNet Division, and changes program recipients to participants.*

(1) Authority. This is the payment methodology used to reimburse providers in the [Medicaid] MO HealthNet Independent Rural Health Clinic (RHC) program.

(2) Qualifications. For a clinic to qualify for participation in the [Medicaid] MO HealthNet independent RHC program, the clinic must be an independent facility, which means that the clinic may not be part of a hospital. However, a clinic may be located in the same building as a hospital, as long as there is no administrative, organizational, financial, or other connection between the clinic and the hospital.

(3) General Principles.

(A) The [Missouri Medical Assistance (Medicaid)] MO HealthNet program shall reimburse independent RHC providers based on the reasonable cost of RHC-covered services related to the

care of [Medicaid recipients] MO HealthNet participants (with-in program limitations) less any copayment or other third party liability amounts which may be due from [Medicaid recipients] MO HealthNet participants.

(B) Reasonable costs shall be determined by the [Division of Medical Services] MO HealthNet Division based on desk review of the applicable cost reports and shall be subject to adjustment based on field audit. Reasonable costs shall not exceed the Medicare cost principles set forth in 42 CFR part 413.

(4) Definitions. The following definitions shall apply for the purpose of this rule:

(A) Desk review. The [Division of Medical Services] MO HealthNet Division's review of a provider's cost report without on-site audit;

(B) Division. Unless otherwise designated, division refers to the [Division of Medical Services] MO HealthNet Division, the division of the Department of Social Services charged with administration of [Missouri's Medical Assistance (Medicaid)] the MO HealthNet program;

(D) Generally accepted accounting principles (GAAP). Accounting conventions, rules, and procedures necessary to describe accepted accounting practice at a particular time promulgated by the authoritative body establishing those principles;

(F) Provider or facility. An independent RHC with a valid [Medicaid] MO HealthNet participation agreement in effect with the Department of Social Services for the purpose of providing RHC services to Title XIX eligible [recipients] participants.

(5) Administrative Actions.

(A) Annual Cost Report.

1. Each independent RHC shall complete a Medicaid cost report for the RHC's twelve (12)-month fiscal period.

2. Each RHC is required to complete and submit to the division an Annual Cost Report, including all worksheets, attachments, schedules, and requests for additional information from the division. The cost report shall be submitted on forms provided by the division for that purpose.

3. All cost reports shall be completed in accordance with the requirements of this rule and the cost report instructions. Financial reporting shall adhere to GAAP except as otherwise specifically indicated in this rule.

4. The cost report shall be submitted within [three (3)] five (5) calendar months after the close of the reporting period. A single extension, not to exceed thirty (30) days, may be granted upon the request of the RHC and the approval of the division. The request must be received in writing by the division prior to the [ninetieth day] end of the [three (3)] five (5) calendar-month period after the close of the reporting period.

5. In a change of ownership, the cost report for the closing period must be submitted within forty-five (45) calendar days of the effective date of the change of ownership, unless the change in ownership coincides with the seller's fiscal year end, in which case the cost report must be submitted within [three (3)] five (5) months after the close of the reporting period. No extensions in the submitting of cost reports shall be granted when a change in ownership has occurred.

6. Cost reports shall be submitted and certified by an officer or administrator of the provider. Failure to file a cost report within the prescribed period, except as expressly extended in writing by the state agency, may result in the imposition of sanctions as described in 13 CSR 70-3.030.

7. Authenticated copies of agreements and other significant documents related to the provider's operation and provision of care to [Medicaid recipients] MO HealthNet participants must be attached to the cost report at the time of filing unless current and accurate copies have already been filed with the division. Material

which must be submitted includes, but is not limited to, the following:

A. Audit, review, or compilation statement prepared by an independent accountant, including disclosure statements and management letter;

B. Contracts or agreements involving the purchase of facilities or equipment during the five (5) years if requested by the division, the department, or its agents;

C. Contracts or agreements with owners or related parties;

D. Contracts with consultants;

E. Schedule detailing all grants, gifts, and income from endowments, including [:/] amounts, restrictions, and use;

F. Documentation of expenditures, by line item, made under all restricted and unrestricted grants, gifts, or endowments;

G. Statement verifying the restrictions as specified by the donor, prior to donation, for all restricted grants;

H. Leases or rental agreements, or both, related to the activities of the provider;

I. Management contracts;

J. Provider of service contracts; and

K. Working trial balance actually used to prepare cost report with line number tracing notations or similar identifications.

8. Under no circumstance will the division accept amended cost reports for final settlement determination or adjustment after the date of the division's notification of the final settlement amount.

(B) Records.

1. Maintenance and availability of records.

A. A provider must keep records in accordance with GAAP and maintain sufficient internal control and documentation to satisfy audit requirements and other requirements of this rule, including reasonable requests by the division or its authorized agent for additional information.

B. Adequate documentation for all line items on the cost report shall be maintained by a provider. Upon request, all original documentation and records must be made available for review by the division or its authorized agent at the same site at which the services were provided. Copies of documentation and records shall be submitted to the division or its authorized agent upon request.

C. Records of related organization, as defined by 42 CFR 413.17, must be available upon demand.

D. The division shall retain all uniform cost reports submitted for a period of at least three (3) years following the date of submission of the reports and will maintain those reports pursuant to the record-keeping requirements of 42 CFR 413.20.

E. Each facility shall retain all financial information, data, and records relating to the operation and reimbursement of the facility for a period of not less than five (5) years.

2. Adequacy of records.

A. The division may suspend reimbursement or reduce payments to the appropriate fee schedule amounts if it determines that the RHC does not maintain records that provide an adequate basis to determine payments under *[Medicaid] MO HealthNet*.

B. The suspension or reduction continues until the RHC demonstrates to the division's satisfaction that it does, and will continue to, maintain adequate records.

(D) Change in Provider Status. The next payment due the provider after the division has received the notification of the termination of participation in the *[Medicaid] MO HealthNet* program or change of ownership may be held by the division until the cost report is filed. Upon receipt of a cost report prepared in accordance with this rule, the payments that were withheld will be released.

(6) Nonallowable Costs. Cost not reasonably related to RHC services shall not be included in a provider's costs. Nonallowable cost areas include, but are not limited to, the following:

(B) Bad debts, charity, and courtesy allowances;

(F) Attorney fees related to litigation involving state, local, or federal governmental entities and attorney's fees which are not related

to the provision of RHC services, such as litigation related to disputes between or among owners, operators, or administrators;

(H) Costs such as legal fees, accounting and administration costs, travel costs, and the costs of feasibility studies which are attributable to the negotiation or settlement of the sale or purchase of any capital asset by acquisition *[of]* or merger for which any payment has been previously made under the program;

(M) Religious items or supplies or services of a primarily religious nature performed by priests, rabbis, ministers, or other similar types of professionals. Costs associated with portions of the physical plant used primarily for religious functions are also nonallowable;

(O) Salaries, wages, or fees paid to nonworking officers, employees, or consultants;

(Q) Costs of services performed in a satellite clinic, which does not have a valid *[Medicaid] MO HealthNet* participation agreement with the Department of Social Services for the purpose of providing RHC services to Title XIX-eligible *[recipients] participants*.

(7) Interim Payments.

(A) Independent RHCs, unless otherwise limited by regulation, shall be reimbursed on an interim basis by *[Medicaid] MO HealthNet* at the Medicare RHC rate. Interim payments shall be reduced by copayments and other third party liabilities.

**(B) An independent RHC in a MO HealthNet managed care region shall be eligible for supplemental reimbursement up to its interim Medicare RHC rate. This reimbursement shall make up the difference between the independent RHC's Medicare rate and total managed care health plan payments to the clinic for managed care participants for covered services rendered to MO HealthNet managed care participants during the reporting period. The supplemental reimbursement shall occur pursuant to the schedule agreed to by the division and the independent RHC but shall occur no less frequently than every four (4) months. Supplemental reimbursement shall be requested on forms provided by the division. Supplemental reimbursement for managed care charges shall be considered interim reimbursement of the independent RHC's MO HealthNet costs.**

(8) Reconciliation.

(A) The state agency shall perform an annual desk review of the Medicaid cost reports for each RHC's fiscal year and shall make indicated adjustments of additional payment or recoupment, in order that the RHC's net reimbursement shall equal reasonable costs as described in this section.

1. The total reimbursement amount due the RHC for covered services furnished to *[Medicaid recipients] MO HealthNet participants* is based on the Medicaid cost report and is calculated as follows:

A. The average cost per visit is calculated by dividing the total allowable cost incurred for the reporting period by total visits for RHC services furnished during this period. The average cost per visit is subject to tests of reasonableness which may be established in accordance with this rule or incorporated in the Allowable Cost per visit as determined on Worksheet 3.A., line 7.

B. The total cost of RHC services furnished to *[Medicaid recipients] MO HealthNet participants* is calculated by multiplying the allowable cost per visit by the number of *[Medicaid] MO HealthNet* visits for covered RHC services.

2. The total reimbursable cost is compared with total payments and third party liability made to the RHC for the reporting period.

3. The total reimbursement will be subject to adjustment based on the results of a field audit which may be conducted by the *[Division of Medical Services] MO HealthNet Division* or its contracted agents.

(9) Sanctions.

(B) Overpayments due the *[Medicaid] MO HealthNet* program from a provider shall be recovered by the division in accordance with

13 CSR 70-3.030 Sanctions for False or Fraudulent Claims for Title XIX Services.

(10) Appeals. In accordance with sections 208.156 and 621.055, RSMo, providers may seek hearing before the Administrative Hearing Commission of final decisions of the director, Department of Social Services or the *[Division of Medical Services]* **MO HealthNet Division**.

(11) Payment Assurance.

(B) RHC services provided for those *[recipients]* participants having available Medicare benefits shall be reimbursed by *[Medicaid]* **MO HealthNet** to the extent of the coinsurance and deductible as imposed under Title XVIII.

(C) Where third-party payment is involved, *[Medicaid]* **MO HealthNet** will be the *[payor]* payer of last resort.

(D) Regardless of changes of ownership, management, control, leasehold interests by whatever form for any RHC previously certified for participation in the *[Medicaid]* **MO HealthNet** program, the division will continue to make all the Title XIX payments directly to the entity with the RHC's current provider number and hold the entity with the current provider number responsible for all *[Medicaid]* **MO HealthNet** liabilities.

(12) Payment in Full. Participation in the *[Medicaid]* **MO HealthNet** program shall be limited to providers who accept as payment in full, for covered services rendered to *[Medicaid recipients]* **MO HealthNet participants**, the amount paid in accordance with these rules and applicable copayments.

*AUTHORITY: section 208.201, RSMo Supp. [1987] 2007. Emergency rule filed Aug. 20, 1993, effective Sept. 18, 1993, expired Jan. 15, 1994. Emergency rule filed Jan. 19, 1994, effective Jan. 29, 1994, expired Jan. 31, 1994. Original rule Filed Aug. 20, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 15, 2008.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES**  
**Division 70—[Division of Medical Services]**  
**MO HealthNet Division**  
**Chapter 94—Rural Health Clinic Program**

**PROPOSED AMENDMENT**

**13 CSR 70-94.020 Provider-Based Rural Health Clinic.** The division is amending sections (1)–(7) and (9)–(12), adding subsection (7)(C), and deleting the forms that follow this rule in the *Code of State Regulations*.

*PURPOSE: This amendment revises the MO HealthNet cost report filing deadline to agree with the Medicare cost report filing deadline and clarifies the supplemental interim MO HealthNet reimbursement available to Provider-Based Rural Health Clinics that provide services to MO HealthNet managed care participants. It also changes the name of Missouri's medical assistance program to MO HealthNet, revises the name of the administering agency to MO HealthNet Division, changes program recipients to participants, and deletes the forms that follow the rule in the Code of State Regulations.*

(1) Authority. This is the payment methodology used to reimburse providers in the *[Medicaid]* **MO HealthNet** Provider-Based Rural Health Clinic (RHC) Program.

(2) Qualifications. For a clinic to qualify for participation in the *[Medicaid]* **MO HealthNet** Provider-Based RHC Program, the clinic must meet all of the following criteria:

(C) The clinic must be operated with other departments of the hospital, skilled nursing facility, or home health agency under common licensure, governance, and professional supervision.

(3) General Principles.

(A) The *[Missouri Medicaid]* **MO HealthNet** program shall reimburse provider-based rural health providers based on the reasonable cost incurred by the RHC to provide covered services, within program limitations, related to the care of *[Medicaid recipients]* **MO HealthNet participants** less any copayment or other third party liability amounts that may be due from the *[Medicaid]* **MO HealthNet**-eligible individual.

(B) Reasonable costs shall be determined by the *[Division of Medical Services]* **MO HealthNet Division** based on a desk review of the applicable cost reports and shall be subject to adjustment based on field audit. Reasonable costs shall not exceed the Medicare cost principles set forth in 42 CFR parts 405 and 413.

(4) Definitions. The following definitions shall apply for the purpose of this rule:

(A) Desk review. The *[Division of Medical Services]* **MO HealthNet Division's** review of a provider's cost report without on-site audit;

(B) Division. Unless otherwise designated, division refers to the *[Division of Medical Services]* **MO HealthNet Division**, a division of the Department of Social Services charged with the administration of *[Missouri's Medical Assistance (Medicaid)]* the **MO HealthNet** program;

(F) Provider or facility. A provider-based RHC with a valid *[Medicaid]* **MO HealthNet** participation agreement in effect with the Department of Social Services for the purpose of providing RHC services to *[Medicaid-eligible recipients]* **MO HealthNet-eligible participants**; and

(5) Administrative Actions.

(A) Annual Cost Report.

1. Each provider-based RHC shall complete a Medicaid cost report for the provider-based RHC's twelve (12)-month fiscal period.

2. Each provider-based RHC is required to complete and submit to the *[Division of Medical Services]* **MO HealthNet Division** an annual cost report, including all worksheets, attachments, schedules, and requests for additional information from the division. The cost report shall be submitted on forms provided by the division for that purpose.

3. All cost reports shall be completed in accordance with the requirements of this rule and the cost report instructions. Financial reporting shall adhere to GAAP except as otherwise specifically indicated in this regulation.

4. The cost report shall be submitted within *[three (3)] five (5)* calendar months after the close of the reporting period. A single extension, not to exceed thirty (30) days, may be granted upon the request of the provider-based RHC and the approval of the *[Missouri Division of Medical Services] MO HealthNet Division*. The request must be received in writing by the division prior to the *[ninetieth day] end* of the *[three (3)] five (5)* calendar-month period after the close of the reporting period.

5. In a change of ownership, the cost report for the closing period must be submitted within forty-five (45) calendar days of the effective date of the change of ownership, unless the change in ownership coincides with the seller's fiscal year end, in which case the cost report must be submitted within *[three (3)] five (5)* calendar months after the close of the reporting period. No extensions in the submitting of cost reports shall be granted when a change in ownership has occurred.

6. Cost reports shall be submitted and certified by an officer or administrator of the provider. Failure to file a cost report within the prescribed period, except as expressly extended in writing by the state agency, may result in the imposition of sanctions as described in 13 CSR 70-3.030.

7. Authenticated copies of agreements and other significant documents related to the provider's operation and provision of care to *[Medicaid recipients] MO HealthNet participants* must be attached to the cost report at the time of filing unless current and accurate copies have already been filed with the division. Material that must be submitted includes, but is not limited to, the following:

A. Audit, review, or compilation statement prepared by an independent accountant, including disclosure statements and management letter;

B. Contracts or agreements involving the purchase of facilities or equipment during the last five (5) years if requested by the division, the department, or its agents;

C. Contracts or agreements with owners or related parties;

D. Contracts with consultants;

E. Schedule detailing all grants, gifts, and income from endowments, including *[:]* amounts, restrictions, and use;

F. Documentation of expenditures, by line item, made under all restricted and unrestricted grants, gifts, or endowments;

G. Statement verifying the restrictions as specified by the donor, prior to donation, for all restricted grants;

H. Leases and/or rental agreements related to the activities of the provider;

I. Management contracts;

J. Provider of service contracts; and

K. Working trial balance used to prepare cost report with line number tracing notations or similar identifications.

8. Under no circumstances will the division accept amended cost reports for final settlement determination or adjustment after the date of the division's notification of the final settlement amount.

(B) Records.

1. Maintenance and availability of records.

A. A provider must keep records in accordance with GAAP and maintain sufficient internal control and documentation to satisfy audit requirements and other requirements of this regulation, including reasonable requests by the division or its authorized agent for additional information.

B. Adequate documentation for all line items on the cost report shall be maintained by a provider. Upon request, all original documentation and records must be made available for review by the division or its authorized agent at the same site at which the services were provided. Copies of documentation and records shall be submitted to the division or its authorized agent upon request.

C. Records of related organizations, as defined by 42 CFR 413.17, must be available upon demand.

D. The *[Missouri Division of Medical Services] MO HealthNet Division* shall retain all uniform cost reports submitted for a period of at least three (3) years following the date of submis-

sion of the reports and will maintain those reports pursuant to the record-keeping requirements of 42 CFR 413.20.

E. Each facility shall retain all financial information, data, and records relating to the operation and reimbursement of the facility for a period of not less than five (5) years.

2. Adequacy of records.

A. The division may suspend reimbursement or reduce payments to the appropriate fee schedule amounts if it determines that the provider-based RHC does not maintain records that provide an adequate basis to determine payments under *[Medicaid] MO HealthNet*.

B. The suspension or reduction continues until the provider-based RHC demonstrates to the division's satisfaction that it does, and will continue to, maintain adequate records.

(D) Change in Provider Status. The next payment due the provider, after the division has received the notification of the termination of participation in the *[Medicaid] MO HealthNet* program or change of ownership, may be held by the division until the cost report is filed. Upon receipt of a cost report prepared in accordance with this rule, the payments that were withheld will be released.

(6) Nonallowable Costs. Cost not related to provider-based RHC services shall not be included in a provider's costs. Nonallowable cost areas include, but are not limited to, the following:

(A) Bad debts, charity, and courtesy allowances;

(E) Attorney fees related to litigation involving state, local, or federal governmental entities and attorneys' fees that are not related to the provision of provider-based RHC services, such as litigation related to disputes between or among owners, operators, or administrators;

(G) Costs such as legal fees, accounting costs, administration costs, travel costs, and the costs of feasibility studies that are attributable to the negotiation or settlement of the sale or purchase of any capital asset by acquisition or merger for which any payment has been previously made under the program;

(L) Religious items or supplies or services of a primarily religious nature performed by priests, rabbis, ministers, or other similar types of professionals. Costs associated with portions of the physical plant used primarily for religious functions are also nonallowable;

(N) Salaries, wages, or fees paid to nonworking officers, employees, or consultants;

(P) Costs of services performed in a satellite clinic, which does not have a valid *[Medicaid] MO HealthNet* participation agreement with the Department of Social Services for the purpose of providing provider-based RHC services to *[Medicaid-eligible recipients] MO HealthNet-eligible participants*.

(7) Interim Payments.

(A) Hospital-Based RHCs. Provider-based RHC services that are an integral part of the hospital, unless otherwise limited by regulation, shall be reimbursed on an interim basis by *[Medicaid] MO HealthNet*, based on the clinic's usual and customary charges multiplied by the lower of one hundred percent (100%) or one hundred percent (100%) of the Hospital Based Rural Health Clinic's cost-to-charge ratio as determined *[by]* from the audited Medicare cost report. Interim payments shall be reduced by copayments and other third party liabilities.

(B) Skilled Nursing Facility-Based RHCs and Home Health Agency-Based RHCs. Provider-based RHC services that are an integral part of the skilled nursing facility or home health agency, unless otherwise limited by regulation, shall be reimbursed on an interim basis by *[Medicaid] MO HealthNet*, based on the clinic's usual and customary charges multiplied by the lower of the Medicare RHC rate or the rate approved by the *[Division of Medical Services] MO HealthNet Division*. Interim payments shall be reduced by copayments and other third party liabilities.

(C) A provider-based RHC in a MO HealthNet managed care region shall be eligible for supplemental reimbursement up to its

interim MO HealthNet payment percentage. This reimbursement shall make up the difference between the provider-based MO HealthNet payment percentage and total managed care health plan payments to the clinic for managed care participants for covered services rendered to MO HealthNet managed care participants during the reporting period. The supplemental reimbursement shall occur pursuant to the schedule agreed to by the division and the provider-based RHC but shall occur no less frequently than every four (4) months. Supplemental reimbursement shall be requested on forms provided by the division. Supplemental reimbursement for managed care charges shall be considered interim reimbursement of the provider-based RHC's MO HealthNet costs.

(9) Sanctions.

(B) Overpayments due the [Medicaid] MO HealthNet program from a provider shall be recovered by the division in accordance with 13 CSR 70-3.030 Sanctions for False or Fraudulent Claims for Title XIX Services.

(10) Appeals. In accordance with sections 208.156 and 621.055, RSMo, providers may seek hearing before the Administrative Hearing Commission of final decisions of the director, Department of Social Services or the [Division of Medical Services] MO HealthNet Division.

(11) Payment Assurance.

(B) RHC services provided for those [recipients] participants having available Medicare benefits shall be reimbursed by [Medicaid] MO HealthNet to the extent of the coinsurance and deductible as imposed under Title XVIII.

(C) Where third-party payment is involved, [Medicaid] MO HealthNet will be the payer of last resort.

(D) Regardless of changes of ownership, management, control, or leasehold interests by whatever form for any RHC previously certified for participation in the [Medicaid] MO HealthNet program, the department will continue to make all the [Medicaid] MO HealthNet payments directly to the entity with the RHC's current provider number and hold the entity with the current provider number responsible for all [Medicaid] MO HealthNet liabilities.

(12) Payment in Full. Participation in the [Medicaid] MO HealthNet program shall be limited to providers who accept as payment in full, for covered services rendered to [Medicaid recipients] MO HealthNet participants, the amount paid in accordance with these regulations and applicable copayments.

*AUTHORITY: section 208.201, RSMo [1994] Supp. 2007. Original rule filed June 30, 1995, effective Jan. 30, 1996. Amended: Filed May 14, 1999, effective Nov. 30, 1999. Amended: Filed Aug. 15, 2008.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the MO HealthNet Division at*

*615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2030—Missouri Board for Architects,  
Professional Engineers, Professional Land Surveyors,  
and Landscape Architects  
Chapter 5—Examinations**

**PROPOSED AMENDMENT**

**20 CSR 2030-5.080 Standards for [Admission to Examination] Licensure—Engineers.** The board is proposing to amend the title of the rule, as well as amend sections (3) and (5), add a new section (4), and renumber the sections thereafter.

*PURPOSE: This rule is being amended to allow those individuals who have earned an unaccredited graduate engineering degree from a United States school with an Engineering Accreditation Commission (EAC)/Accreditation Board for Engineering and Technology (ABET)-accredited undergraduate or graduate program in an equivalent discipline to be accepted for licensure and clarifies that any noted deficiencies in engineering courses must be made up with courses offered by an EAC/ABET-accredited degree program or equivalent.*

(3) Foreign-educated applicants holding an engineering degree not accredited by ECPD, ABET, or its successor organizations will be required to submit a favorable evaluation report completed by [the Engineering Credentials Evaluation International (ECEI) or by another] an evaluation service acceptable by the professional engineering division of the board certifying equivalency to an ABET accredited degree. Applicants holding a United States of America (U.S.A.) engineering degree not accredited by ECPD, ABET, or its successor organizations will be required to have their educational degree program evaluated in order to determine whether or not it is equal to or exceeds the programs accredited by ECPD, ABET, or their successor organizations. The evaluation must be completed by an engineer(s) experienced in evaluating academic credentials selected by the professional engineering division or by an evaluation service acceptable by the professional engineering division of the board. The evaluator, by evaluation of transcripts and an official publication describing the engineering degree program of the institution, personal interview, by examination, or both in any other manner deemed suitable, shall make an evaluation as to whether the academic program completed by the applicant meets the minimum educational requirements established by section 327.221, RSMo. The evaluator shall recommend to the professional engineering division and report how any deficiencies can be corrected, listing prescribed educational areas to bring the applicant's academic qualifications up to the required minimum. **Deficiencies in engineering courses must be made up with courses offered by an EAC/ABET-accredited degree program or equivalent.** The report of the evaluator shall not be binding upon the division.

(4) An applicant who completes an engineering education program that is non-accredited and not deemed substantially equivalent and who then earns a graduate engineering degree from a United States school with an EAC/ABET-accredited undergraduate or graduate program in an equivalent discipline shall be accepted for the licensure process. The graduate degree should be treated as confirming the undergraduate degree giving the applicant equal standing with an applicant who has graduated from an EAC/ABET undergraduate engineering program. The degree earned in the graduate program validates the degree

earned in the non-accredited undergraduate program and would not then be applicable for experience credit.

[(4)](5) A degree in engineering technology does not meet the educational requirements of section 327.221, RSMo.

[(5)](6) Any applicant deemed by the professional engineering division under sections (3) or (4) of this rule to have completed an educational program which is equal to or exceeds those programs accredited by ECPD, ABET, or their successor organizations shall be required to have obtained the minimum engineering work experience as is required in section (1) of this rule. In all cases, the board will consider only that experience the applicant has obtained after satisfying the educational requirements of sections 327.221 and 327.241, RSMo.

[(6)](7) In evaluating the minimum engineering work experience required of all applicants, the professional engineering division shall grant maximum credit as follows:

(A) Engineering teaching at collegiate level (only advanced engineering subjects or courses related to advanced engineering at board-approved schools), assistant professor and higher—year-for-year;

(B) Master's degree in engineering—one (1) year for completion;

(C) Military service (commissioned only—normally this service is in a technical branch such as engineering, ordinance, civil work services (CWS), civil engineering corps (CEC), etc.): Generally year-for-year subject to evaluation;

(D) Construction (technical decision-making level), above average complexity, nonstandard design, or both involving field modification—year-for-year;

(E) Project planning including layout and twenty-five percent (25%) or more design—year-for-year;

(F) Research and development at the planning and decision-making level—year-for-year; and

(G) Engineering management and administration—year-for-year.

[(7)](8) Individual evaluation may result in less than full credit.

[(8)](9) In accordance with the authority conferred upon the board at section 327.241.6., RSMo, the board provides that any person, upon satisfactory showing of an urgent need, such as absence from the United States, economic hardship or professional necessity, and who has graduated from and holds an engineering degree from an accredited school of engineering, and has acquired at least three and one-half (3 1/2) years of satisfactory experience, and previously has been classified an engineer-in-training or engineer-intern by having successfully passed the first part of the examination, shall be eligible to take the second part of the examination and, upon passing, shall be entitled to receive a certificate of licensure to practice as a professional engineer subject, however, to other provisions of Chapter 327, RSMo, including having acquired four (4) years of satisfactory experience.

*AUTHORITY: section[s] 327.041, RSMo Supp. [2004] 2007 and sections 327.221 and 327.241, RSMo 2000. This rule originally filed as 4 CSR 30-5.080. Original rule filed March 16, 1970, effective April 16, 1970. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 11, 2008.*

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

*PRIVATE COST: This proposed amendment will save private entities approximately eight thousand dollars (\$8,000) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects, PO Box 184, Jefferson City, Missouri 65102 or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**PRIVATE ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 20 -Department of Insurance, Financial Institutions, and Professional Registration**  
**Division 2030 - Missouri Board for Architects, Professional Engineers, Professional Land**  
**Chapter 5 - Examinations**  
**Proposed Amendment - Standards for Licensure - Engineers**  
 Prepared June 16, 2008 by Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

<b>Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:</b>	<b>Classification by type of the business entities would likely be affected:</b>	<b>Estimated biennial cost savings with the amendment by affected entities:</b>
20	Applicants for Initial Licensure (Evaluation Cost @ \$400)	\$8,000
<b>Estimated Biennial Cost Savings for the Life of the Rule</b>		<b>\$8,000.00</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. It is anticipated that the total savings will recur or the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.



**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION**

**Division 2030—Missouri Board for Architects,  
Professional Engineers, Professional Land Surveyors,  
and Landscape Architects  
Chapter 11—Renewals**

**PROPOSED AMENDMENT**

**20 CSR 2030-11.015 Continuing Professional Competency for Professional Engineers.** The board is proposing to add subsections (1)(E) and (6)(D).

*PURPOSE: This rule is being amended to clarify the continuing professional competency requirement for new licensees and to limit the credit awarded to licensees attending or teaching a qualifying course to the first occurrence per renewal period.*

(1) Purpose.

**(E) A professional engineer who holds licensure in Missouri for less than twelve (12) months from the date of his/her initial licensure shall be required to complete the number of continuing education hours calculated by multiplying 1.25 and the number of full months they will be licensed before their first renewal.**

(6) Credits. PDHs of credit for qualifying courses successfully completed that offer semester hour, quarter hour, or CEU credit is as specified in this rule. All other activities permit the earning of one (1) PDH of credit for each contact hour with the following exceptions:

(B) Teaching or instructing qualifying courses or seminars or making presentations at technical meetings or conventions earn PDH credit at twice that of participants; *[and]*

(C) Five (5) PDHs are earned for a paper or article that is published in a nationally circulated technical journal or article. Credit cannot be claimed until that article or paper is actually published. *[/]; and*

**(D) Notwithstanding the provisions above, PDHs will only be awarded for the first occurrence of attending or teaching a qualifying course or seminar per every two (2) year renewal period.**

*AUTHORITY: section[s] 327.041, RSMo Supp. 2007 and section 327.261, RSMo 2000. This rule originally filed as 4 CSR 30-II.015. Original rule filed Nov. 1, 2001, effective June 30, 2002. Moved to 20 CSR 2030-II.015, effective Aug. 28, 2006. Amended: Filed Oct. 16, 2006, effective April 30, 2007. Amended: Filed Feb. 22, 2008, effective Aug. 30, 2008. Amended: Filed Aug. 11, 2008.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects, PO Box 184, Jefferson City, Missouri 65102 or via email at moapels@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION**

**Division 2030—Missouri Board for Architects,  
Professional Engineers, Professional Land Surveyors,  
and Landscape Architects  
Chapter 11—Renewals**

**PROPOSED AMENDMENT**

**20 CSR 2030-11.025 Continuing Education for Architects.** The board is proposing to amend paragraph (4)(A)5.

*PURPOSE: This rule is being amended to limit the credit awarded to licensees teaching a qualifying course to the first occurrence per renewal period.*

(4) Activities.

(A) The following suggested list may be used by all licensed architects in determining the types of activities that may fulfill continuing education requirements:

1. Contact hours in attendance at short courses or seminars, dealing with architectural or engineering subjects, as appropriate, to each discipline and sponsored by colleges or universities;

2. Contact hours in attendance at technical presentations on subjects which are held in conjunction with conventions or at seminars related to materials use and function. Such presentations as those sponsored by the National Council of Architectural Registration Boards, American Institute of Architects (AIA), Construction Specifications Institute, Construction Products Manufacturers Council or similar organizations devoted to architectural or engineering education may qualify;

3. Contact hours in attendance at short courses or seminars, relating to business practice or new technology and offered by colleges, universities, professional organizations, or system suppliers;

4. Contact hours spent in self-study courses sponsored by the National Council of Architectural Registration Boards, AIA, or similar organizations;

5. Three (3) units preparing for each class hour spent teaching architectural courses or seminars. **Credit is allowed for first occurrence of teaching course or seminar per two (2)-year renewal period.** College or university faculty may not claim credit for teaching regular curriculum courses;

6. Contact hours spent in architectural research, which is published or formally presented to the profession or public;

7. College or university credit courses dealing with architectural subjects or business practice. Each semester hour shall equal fifteen (15) CEUs;

8. Contact hours spent in professional service to the public that draws upon the licensee's professional expertise on boards or commissions, such as: serving on planning commissions, building code advisory boards, urban renewal boards, or code study committees;

9. Contact hours spent in education tours of architecturally significant buildings, where the tour is sponsored by a college, university, or professional organization; or

10. A maximum of two (2) CEUs annually may be used for serving as a mentor or sponsor for the Intern Development Program (IDP).

*AUTHORITY: section[s] 327.041, RSMo Supp. [2006] 2007 and sections 41.946 and 327.171, RSMo 2000. This rule originally filed as 4 CSR 30-II.025. Original rule filed March 15, 2004, effective Sept. 30, 2004. Moved to 20 CSR 2030-II.025, effective Aug. 28, 2006. Amended: Filed Oct. 16, 2006, effective April 30, 2007. Amended: Filed Aug. 11, 2008.*

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects, PO Box 184, Jefferson City, Missouri 65102 or via email at [moapels@pr.mo.gov](mailto:moapels@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION**

**Division 2070—State Board of Chiropractic Examiners  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2070-2.031 Meridian Therapy/Acupressure/Acupuncture.** The board is proposing to amend section (3).

*PURPOSE:* This amendment reduces the number of hours of continuing education relating to certification in Meridian Therapy/Acupressure/Acupuncture (MTAA), replaces the annual continuing education for MTAA with a biennial deadline to correspond with licensure renewal, and allows certain formal continuing education categories to apply to the MTAA biennial hours upon approval by the board.

(3) In order to ensure that the public health and safety are protected and to maintain high standards of trust and confidence in the chiropractic profession and ensure the proper conduct of the chiropractic practice involving the use of Meridian Therapy, the requirements contained in this rule must be met prior to one engaging in therapeutic procedures or announcing the availability of therapeutic procedures to the public.

(C) Effective March 1, 2005, an applicant for certification in Meridian Therapy shall pass the examination for acupuncture administered by the National Board of Chiropractic[e] Examiners (N.B.C.E.) or an exam approved by the board.

(D) In order to maintain a valid certificate in Meridian Therapy, a licensee who holds a certificate at the time of making his/her license renewal must certify to the board that s/he has completed [annually] **biennially** a minimum of twelve (12) hours of [postgraduate training] **continuing education**, approved by the board, in Meridian Therapy. **This continuing education shall apply toward attainment of the twelve (12) required hours of continuing education pursuant to 20 CSR 2070-2.080(5), the general studies category of continuing education.**

**1. Continuing education in the area of Meridian Therapy, acupuncture, and acupressure may also be submitted to the board for approval as formal continuing education hours. Hours approved for formal continuing education shall not apply to general study hours.**

(E) If a licensee allows his/her certification to lapse, the certification may be reactivated up to three (3) years after it has lapsed upon the presentation to the board of twelve (12) hours of postgraduate study in Meridian Therapy, acupuncture, or acupressure [for each year the certification was inactive or a maximum of thirty-six (36) hours] **prior to reinstatement of certification.** The postgraduate study must be a course approved by the board.

*AUTHORITY:* sections 331.010, 331.030.5 and .8, and 331.050.1, RSMo Supp. 2007 and section 331.100.2, RSMo 2000. This rule originally filed as 4 CSR 70-2.031. Original rule filed Jan. 5, 1987, effective April 11, 1987. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Aug. 15, 2008.

*PUBLIC COST:* This proposed amendment will save state agencies or political subdivisions approximately six hundred forty dollars and ninety-six cents (\$640.96) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*PRIVATE COST:* This proposed amendment will save private entities approximately two hundred nineteen thousand, six hundred eighty-two dollars (\$219,682) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Chiropractic Examiners, Loree Kessler, Executive Director, PO Box 672, Jefferson City, MO 65102 or via email at [chiropractic@pr.mo.gov](mailto:chiropractic@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**PUBLIC ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 20 - Department of Insurance, Financial Institutions and Professional Registration**

**Division 2070 - State Board of Chiropractic Examiners**

**Chapter 2 - General Rules**

**Proposed Amendment - 20 CSR 2070-2.031 Meridian Therapy/Acupressure/Acupuncture**

Prepared July 22, 2008 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost Savings
Board of Chiropractic Examiners	\$640.96
<b>Total Biennial Savings for the Life of the Rule</b>	<b>\$640.96</b>

**III. WORKSHEET**

The Licensure Technician I prepares all continuing education review packets sent to board member(s), assists with the data entry of seminar information in an automated tracking system, and mails approval letters to continuing education providers. The Executive I reviews applications to verify a correct fee is included and that the courses and instructors are identified and that their resumes are included. The Executive I then coordinates the results with a board member and drafts applicable correspondence. The times listed in the table reflect the decrease in time that it will take for each employee to perform their duties.

**Personal Service Dollars**

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Licensure Technician	\$23,796	\$35,429.86	\$17.03	\$0.28	15 minutes	\$4.26	\$127.75
Executive I	\$35,952	\$53,528.93	\$25.74	\$0.53	30 minutes	\$15.92	\$477.51
<b>Total Estimated Biennial Personal Service Cost Savings for the Life of the Rule</b>							<b>\$605.26</b>

The number of items listed in the table reflect the decrease in the amount of expenses that that board will have due to the implementation of this amendment.

**Expense and Equipment Dollars**

<b>Item</b>	<b>Cost Per Item</b>	<b>Number of Items</b>	<b>Total</b>
Stationery	\$0.35	30	\$10.50
Postage for Review Packet	\$0.42	30	\$12.60
Postage for Provider Response	\$0.42	30	\$12.60
<b>Total Estimated Biennial Expense and Equipment Cost Savings for the Life of the Rule</b>			<b>\$35.70</b>

**IV. ASSUMPTION**

1. Employee's salaries were calculated using the annual salary multiplied by 48.89% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute.
2. The fiscal impact is a cost savings to the state agency since Meridian Therapy/Acupressure/Acupuncture continuing education providers will submit one application for board approval every two years, versus an annual application and corresponding cost. Additional cost savings accrue in the area of personnel since less time is needed to process fewer applications for continuing education approval.
3. It is anticipated that the total savings will recur biennially for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

**PRIVATE ENTITY FISCAL NOTE****I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2070 - State Board of Chiropractic Examiners****Chapter 2 - General Rules****Proposed Amendment - 20 CSR 2070-2.031 Meridian Therapy/Acupressure/Acupuncture**

Prepared July 22, 2008 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

<b>Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:</b>	<b>Classification by type of the business entities which would likely be affected:</b>	<b>Estimated cost savings from compliance with the rule by affected entities:</b>
544	Licenses Certified in Meridian Registration Fee @ \$175	\$95,200
544	Licenses Certified in Meridian Travel Expense @ \$228	\$124,032
30	Continuing Education Providers Application Fee @ \$15 (Average 3 segments at \$5 per segment)	\$450
	<b>Estimated Biennial Savings for the Life of the Rule</b>	<b>\$219,682</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. The techniques used by licensees certified in Meridian Therapy/Acupressure/Acupuncture have not changed significantly for many years. In a 2008 survey of licensees, it was noted that because technique does not change over time, the need for twenty-four (24) hours of formal continuing education every two (2) years was cumbersome, repetitive, and did not contribute to the licensee's knowledge. In response to the survey results and board experience, the proposed amendment reduces formal continuing education in Meridian Therapy/Acupressure/Acupuncture to twelve (12) hours every two (2) years and completion corresponds with the biennial renewal cycle.

2. The proposed amendment also expands the applicability of Meridian Therapy/Acupressure/Acupuncture formal CE to accommodate seminar providers that are able to combine Meridian Therapy/Acupressure/Acupuncture continuing education hours with other categories as listed in 20 CSR 2070-2.080(3). For example, a four hour seminar on a case study/studies in acupuncture utilization could apply toward Meridian Therapy/Acupressure/Acupuncture formal hours or case study hours. The expansion of potential topics relating to Meridian Therapy/Acupressure/Acupuncture continuing education allows greater content latitude
3. Continuing education seminars are typically offered in twelve hour segments over two days. The average cost of a twelve hour seminar is \$175 based upon a review of the registration fees of two major seminar providers. Since the number of hours is being decreased from twenty-four (24) to twelve (12), there is a corresponding cost savings. Continuing education seminars are often held in major metro areas due to the concentration of licensees in those areas. While travel expenses vary based upon location, the estimated expense for attending a seminar in St. Louis is based upon CONUS guidelines for lodging and meals.
4. A \$5 fee is assessed for each segment of a continuing education seminar. Twelve (12) hour seminars can consist of three or four hour segments and the cost \$5 per segment. By submitting one application for the biennial cycle versus annually, the providers incur a savings.
5. The number of entities listed in the table reflect the decrease in the number of entities affected due to the implementation of this amendment.
6. Estimates regarding licensee savings are based upon the current number of Meridian Therapy/Acupressure/Acupuncture certified chiropractors subject to renewal in FY '09.
7. Estimates regarding provider savings revenue loss are based upon the average number of provider applications over the past two years.
8. It is anticipated that the total savings will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION**

**Division 2070—State Board of Chiropractic Examiners  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2070-2.080 Biennial License Renewal.** The board is proposing to amend sections (1) through (3), (5), (6), (8), (9), and (12) through (14).

*PURPOSE:* This amendment serves to reduce the hours of continuing education required for senior practitioners, replaces the annual continuing education requirement with a biennial deadline to correspond with licensure renewal, eliminates the requirement for specific hours in specific categories, adds further categories for continuing education, clarifies how many biennial hours are required for licensure renewal, and outlines that the licensee must maintain continuing education documentation and corresponding audit requirements.

(1) A license shall be renewed biennially contingent upon the licensee completing the required *[annual]* hours of continuing education as defined in 20 CSR 2070-2.080(2):

(A) For the purpose of this regulation one (1) hour of continuing education shall consist of at least fifty (50) minutes of instruction or study; *[and]*

(B) A chiropractic physician issued a license within one (1) year of graduation from an approved chiropractic college shall be exempt from the continuing education requirements for the calendar year that the license was issued*./;* and

(C) A chiropractic physician at least sixty-five (65) years old and licensed in this state for at least thirty-five (35) years shall complete at least twenty-four (24) hours of formal continuing education biennially as defined in 20 CSR 2070-2.080(4). The remaining biennial hours of continuing education shall be waived.

(2) *[Each calendar year (January 1–December 31)]* Every two years (hereinafter referred to as biennially) and prior to the expiration date of a license a licensee shall complete *[twenty-four (24)]* forty-eight (48) hours of continuing education as defined in 20 CSR 2070-2.080(3) and (5). If a licensee is unable to complete the required *[annual]* biennial continuing education, the licensee may submit a written request to the board for an extension in order to comply with the continuing education requirement and shall pay the required late continuing education fee.

*[[3] At least twelve (12) hours of the required twenty-four (24) hours of continuing education shall be earned by attending formal continuing education programs, seminars, and/or workshops that have been approved by the board in the following categories:*

*(A) Four (4) hours diagnostic imaging (Xray);*

*(B) Four (4) hours differential or physical diagnosis or both; and*

*(C) Four (4) hours of risk management. Continuing education in this category shall consist of formal programs, seminars, and/or workshops that have been approved by the board in any one or a combination of any of the following categories:*

*1. Boundary training;*

*2. Emergency procedures. Cardiopulmonary resuscitation (CPR) and/or first aid offered by the American Red Cross or other board approved sponsoring organization shall be acceptable as meeting the continuing education requirements for this category;*

*3. Human immunodeficiency (HIV), infectious diseases,*

*and/or universal precautions;*

*4. Cerebrovascular accident (CVA) and/or transient ischemic attack (TIA);*

*5. Disc injury;*

*6. Aggravated spinal conditions and/or injury;*

*7. Record keeping and/or Subjective Objective Assessment Plan (SOAP) notes;*

*8. Soft tissue injury; or*

*9. Case studies in chiropractic that consist of presentations relating to articles published in scholarly journals, treatises, or textbooks used by board approved Council of Chiropractic Education (CCE) colleges and/or universities and evidence-based and/or value-based studies.]*

(3) At least twenty-four (24) hours of the required forty-eight (48) hours of continuing education shall be earned by attending formal continuing education programs, seminars, and/or workshops that have been approved by the board.

(A) A licensee shall obtain the required formal continuing education hours from no less than three (3) of the following formal categories:

**1. Diagnostic imaging (X ray);**

**2. Differential or physical diagnosis or both;**

**3. Ethical practices. Continuing education courses acceptable for this area include topics such as professionalism, doctor-patient relationship, legal issues and responsibilities, confidentiality, and advertising;**

**4. Emergency procedures. Cardiopulmonary resuscitation (CPR) and/or first aid offered by the American Red Cross or other board-approved sponsoring organization shall be acceptable as meeting the continuing education requirements for this category;**

**5. Human immunodeficiency (HIV), infection diseases, and/or universal precautions;**

**6. Cerebrovascular accident (CVA) and/or transient ischemic attack (TIA);**

**7. Disc injury;**

**8. Aggravated spinal conditions and/or injury;**

**9. Record keeping and/or Subjective Objective Assessment Plan (SOAP) notes;**

**10. Soft tissue injury;**

**11. Nutrition;**

**12. Chiropractic principles and/or technique(s);**

**13. Health promotion and wellness;**

**14. Case studies in chiropractic that consist of presentations relating to articles published in scholarly journals, treatises, or textbooks used by board-approved Council of Chiropractic Education (CCE) colleges and/or universities and evidence-based and/or value-based studies;**

**15. Insurance consulting; or**

**16. Meridian Therapy/acupressure/acupuncture.**

(5) The remaining continuing education hours *[shall]* may consist of general studies as follows:

(6) Chiropractic physicians who are faculty members at a CCE-accredited college may receive up to a maximum of *[twenty-four (24)]* forty-eight (48) hours *[per year]* biennially of continuing education credit for teaching or attending course(s) at a CCE-accredited chiropractic college:

(C) The *[twelve (12)]* twenty-four (24) biennial hours of general continuing education study may be obtained by teaching or attending course(s) relevant to chiropractic provided by a CCE-approved chiropractic college; and

(8) Chiropractic physicians who teach continuing education approved by the board may receive up to a maximum of *[twelve (12)]*

**twenty-four (24) hours [per year]** of continuing education credit for teaching courses in general subjects **biennially**.

(9) Chiropractic physicians certified by the board in Meridian Therapy/acupressure/acupuncture (MTAA) or insurance consulting who teach continuing education approved by the board may receive up to *[twelve (12)]* **twenty-four (24) hours [per year] biennially** of continuing education for teaching courses pursuant to 20 CSR 2070-2.031(3) MTAA or 20 CSR 2070-4.030(2) insurance consulting.

(12) For the license renewal the licensee shall verify the number of continuing education credits earned during the last two (2) immediately preceding continuing education reporting periods. **Effective March 1, 2009, the licensee shall verify the number of continuing education credits earned during the current biennial cycle** on the renewal form provided by the board. The renewal form shall be mailed directly to the board office on or before the expiration date of the license. The licensee shall not submit the actual record of continuing education attendance to the board except in the case of a board audit.

(13) Each licensee shall maintain full and complete records of all continuing education credits earned for the two (2) previous reporting periods in addition to the current reporting period. Formal continuing education credit hours shall be documented by the sponsor of the approved continuing education program and provided to the licensee within thirty (30) days from the date of the program. The licensee is responsible for maintaining that record of attendance as set forth in 20 CSR 2070-2.081~~[(6)](2)(A)~~**7**. Continuing education credits earned through other continuing education experiences shall be documented by the licensee and such documentation shall contain, at a minimum, the number of hours earned, and these hours shall be separated in the various categories defined in *[section (4) of this rule]* **20 CSR-2070-2.080(3)(A)**. The board may conduct an audit of a licensee's **formal continuing education hours as defined in 20 CSR 2070-2.080(3)(A)** to verify compliance with the continuing education requirement. Licensees shall assist the board in its audit by providing timely and complete responses to the board's inquiries. A response is considered timely if received in the board office within thirty (30) days of a written request by the board for such information.

(14) A licensee who cannot complete the requisite number of continuing education credits because of personal illness, military service, or other circumstances beyond the licensee's control which the board deems to be sufficient to impose an insurmountable hardship may apply for an extension of time to complete the continuing education requirements. Any extension of time to complete the continuing education requirements will be granted solely in the discretion of the board. The licensee must make a written application for extension of time prior to the *[December 31]* deadline for completion of the continuing education requirement. The licensee shall provide full and complete written documentation of the grounds supporting the reasons for which an extension is sought. A licensee who requests an extension of time to complete the requisite hours of continuing education shall not engage in the active practice of chiropractic until the board grants the licensee's request for extension and the licensee receives express written authorization to do so.

*AUTHORITY: section[s] 331.050, RSMo Supp. [2006] 2007 and section 331.100.2, RSMo 2000. This rule originally filed as 4 CSR 70-2.080. This version of rule filed Dec. 17, 1975, effective Dec. 27, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 15, 2008.*

*PUBLIC COST: This proposed amendment will save state agencies or political subdivisions approximately seven hundred sixty-nine dol-*

*lars and ninety-eight cents (\$769.98) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.*

*PRIVATE COST: This proposed amendment will save private entities approximately ninety-two dollars (\$92) biennially for the life of the rule. It is anticipated that the savings will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Chiropractic Examiners, Loree Kessler, Executive Director, PO Box 672, Jefferson City, MO 65102 or via email at [chiropractic@pr.mo.gov](mailto:chiropractic@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*



**PUBLIC ENTITY FISCAL NOTE****I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2070 - State Board of Chiropractic Examiners****Chapter 2 - General Rules****Proposed Amendment - 20 CSR 2070-2.080 Biennial License Renewal**

Prepared July 22, 2008 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

<b>Affected Agency or Political Subdivision</b>	<b>Estimated Cost Savings</b>
<b>Board of Chiropractic Examiners</b>	<b>\$769.98</b>
<b>Total Biennial Savings for the Life of the Rule</b>	<b>\$769.98</b>

**III. WORKSHEET**

The Executive I mails the initial audit notifications, verifies compliance, mails compliance letters, and schedules non-compliant licensees for board appearance. The executive director reviews issues of non-compliance and requests for extension. The times listed in the table reflect the decrease in time that it will take for each employee to perform their duties.

**Personal Service Dollars**

<b>STAFF</b>	<b>ANNUAL SALARY</b>	<b>SALARY TO INCLUDE FRINGE BENEFIT</b>	<b>HOURLY SALARY</b>	<b>TOTAL TIME</b>	<b>TOTAL COST</b>
Executive Director	\$66,068	\$98,368.65	\$47.29	2 hours	\$94.59
Executive I	\$35,952	\$53,528.93	\$25.74	24 hours	\$617.64
<b>Total Estimated Biennial Personal Service Cost Savings for the Life of the Rule</b>					<b>\$712.23</b>

The number of items listed in the table reflect the decrease in the amount of expenses that that board will have due to the implementation of this amendment.

**Expense and Equipment Dollars**

<b>Item</b>	<b>Cost Per Item</b>	<b>Number of Items</b>	<b>Total</b>
Stationery	\$0.35	75	\$26.25
Postage	\$0.42	75	\$31.50
<b>Total Estimated Biennial Expense and Equipment Cost Savings for the Life of the Rule</b>			<b>\$57.75</b>

**IV. ASSUMPTION**

1. Employee's salaries were calculated using the annual salary multiplied by 48.89% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute.
2. It is anticipated that the total cost savings will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

**PRIVATE ENTITY FISCAL NOTE****I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2070 - State Board of Chiropractic Examiners****Chapter 2 - General Rules****Proposed Amendment - 20 CSR 2070-2.080 Biennial License Renewal**

Prepared July 22, 2008 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

<b>Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:</b>	<b>Classification by type of the business entities which would likely be affected:</b>	<b>Estimated savings from compliance with the rule by affected entities:</b>
75	Audit Candidates Postage @ \$0.42	\$32
75	Audit Candidates Copies @ \$0.80	\$60
<b>Estimated Biennial Savings for the Life of the Rule</b>		<b>\$92</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. The number of entities listed in the table reflect the decrease in the number of entities affected due to the implementation of this amendment.
2. The cost savings for both the public and private sector are related to the elimination of the annual audits replaced with one biennial audit.
3. It is anticipated that the total savings will recur or the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2070—State Board of Chiropractic Examiners  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2070-2.081 Postgraduate Education.** The board is proposing to amend section (1), add a new section (6), renumber the remaining sections, and amend the new section (8).

*PURPOSE: This rule defines postgraduate education, sets out the requirements for sponsoring organizations, and explains procedures for inactive chiropractic physicians to obtain a semester of review prior to reactivation of a license.*

(1) Postgraduate study as used in this rule and as used in section 331.050, RSMo, is defined as a [program which provides instruction in, but not limited to, the following: general anatomy, physiology, general diagnosis, microbiology, hygiene and sanitation, X-ray and radiation protection, biochemistry, neurology, orthopedics, spinal anatomy, pathology, principles of chiropractic, chiropractic adjusting, risk management as defined in 20 CSR 2070-2.080(3)(C), and jurisprudence. The program must provide instruction on a level] **course of study** designed to instruct individuals [who are already] licensed as chiropractic physicians in Missouri. The term postgraduate study may be used interchangeably with the terms continuing education and postgraduate education.

(6) **A continuing education program addressing a topic or combination of topics pursuant to 20 CSR 2070-2.080(3) shall be taught by an instructor with a doctor of chiropractic degree and expertise in the subject matter to be presented.**

(A) **Instructors for continuing education programs addressing a topic, or combination of topics, pursuant to 20 CSR 2070-2.080(3) that do not have a doctor of chiropractic degree shall document training and expertise in the subject matter to be presented. Such documentation shall include:**

1. Undergraduate or graduate course work verified with a transcript; and/or
2. Work experience, seminars, workshops, or training verified with a resume or vitae.

(B) **Continuing education sponsored totally or in part by a distributor, product line, or company or demonstrating, promoting, or endorsing a product or service must utilize instructors in compliance with 20 CSR 2070-2.080(6). The subject matter of the continuing education must address the diagnosis and treatment of conditions as authorized by section 331.010.1, RSMo. Product information shall not be the primary focus relating to diagnosis and/or treatment and shall be presented only as an adjunct to the course material.**

[[6]](7) Any postgraduate program offered for license renewal must carry the following disclaimer: "Approval of this course is not an acknowledgement or ruling by the board that the methods taught in this course are recognized and approved by the board as the appropriate practice of chiropractic as defined in section 331.010, RSMo." This disclaimer shall be on all brochures and handouts or on a separate piece of paper distributed at each program.

[[7]](8) All postgraduate education sponsors shall provide each licensee with a certificate verifying his/her attendance at an approved postgraduate education seminar. The certificate shall be provided to the licensee by the sponsor within thirty (30) days from the date of the licensee's attendance at the seminar and it shall contain, at a minimum, the following information:

(A) Name, address, and telephone number of the sponsoring organization;

(B) Name, address, and license number of the licensee in attendance at the approved seminar;

(C) Course approval number which will be provided to the sponsor at the time the sponsor is notified by the board of its approval of the seminar;

(D) Title, date(s), and location of the seminar; and

(E) The total number of hours that the licensee was in attendance at the seminar. These hours must be reflected [within the following categories:] **according to the categories defined in 20 CSR 2070-2.080(3).**

1. General chiropractic education;
2. Diagnostic imaging;
3. Differential or physical diagnosis;
4. Emergency procedures or boundary training; and
5. Human Immunodeficiency Virus (HIV) or infectious diseases.]

*AUTHORITY: section[s] 331.050, RSMo Supp. [2006] 2007 and section 331.100.2, RSMo 2000. This rule originally filed as 4 CSR 70-2.081. Original rule filed April 16, 1990, effective June 30, 1990. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 15, 2008.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Chiropractic Examiners, Loree Kessler, Executive Director, PO Box 672, Jefferson City, MO 65102 or via email at chiropractic@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2070—State Board of Chiropractic Examiners  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2070-2.090 Fees.** The board is proposing to amend section (1).

*PURPOSE: This amendment deletes the fee to renew the insurance consultant certification and increases the fee for failure to complete the required continuing education prior to the expiration date of the license.*

(1) The following fees hereby are established by the State Board of Chiropractic Examiners:

[[N]] Insurance Consultant Renewal Fee	\$ 100]
[[O]](N) Fingerprinting Fee	

(amount determined by the Missouri State Highway Patrol)

[[P]](O) Continuing Education Sponsor Fee	
(per session)	\$ 5
[[Q]](P) Annual Continuing Education Sponsor Fee	\$500**
[[R]](Q) Continuing Education Late Fee	\$ [50/150
[[S]](R) Bad Check Fee	\$ 25

<i>/(T)/(S)</i> Temporary License Fee	\$100
<i>/(U)/(T)</i> Renewal Temporary License	\$ 25
<i>/(V)/(U)</i> Specialty Certification Review Fee	\$150
<i>/(W)/(V)</i> Specialist Certification Application Fee	\$100

*AUTHORITY: section[s] 43.543, RSMo Supp. [2006] 2007 and sections 331.070 and 331.100.2, RSMo 2000. This rule originally filed as 4 CSR 70-2.090. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Oct. 12, 1981. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 15, 2008.*

*PUBLIC COST: This proposed amendment will increase revenue for state agencies or political subdivisions approximately three thousand seven hundred dollars (\$3,700) biennially for the life of the rule. It is anticipated that the increased revenue will recur for the life of the rule, may vary with inflation, and is expected to increase at the rate projected by the Legislative Oversight Committee.*

*PRIVATE COST: This proposed amendment will cost private entities approximately three thousand seven hundred dollars (\$3,700) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Chiropractic Examiners, Loree Kessler, Executive Director, PO Box 672, Jefferson City, MO 65102 or via email at [chiropractic@pr.mo.gov](mailto:chiropractic@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**PUBLIC ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 20 - Department of Insurance, Financial Institutions and Professional Registration**

**Division 2070 - State Board of Chiropractic Examiners**

**Chapter 2 - General Rules**

**Proposed Amendment - 20 CSR 2070-2.090 Fees**

Prepared July 22, 2008 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

<b>Affected Agency or Political Subdivision</b>	<b>Estimated Biennial Increase in Revenue For the Life of the Rule</b>
<b>Board of Chiropractic Examiners</b>	<b>\$3,700.00</b>

**III. WORKSHEET**

The division is statutorily obligated to enforce and administer the provisions of sections 324.520-324.526, RSMo. Pursuant to Section 324.522, RSMo, the division shall by rule and regulation set the amount of fees authorized by sections 324.520-324.526, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 324.520-324.526, RSMo. The board estimates the projections calculated in the Private Entity Fiscal Notes will be total increase in revenue for the board.

**IV. ASSUMPTION**

1. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

## PRIVATE ENTITY FISCAL NOTE

**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2070 - State Board of Chiropractic Examiners****Chapter 2 - General Rules****Proposed Amendment - 20 CSR 2070-2.090 Fees**

Prepared July 22, 2008 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

<b>Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:</b>	<b>Classification by type of the business entities which would likely be affected:</b>	<b>Estimated cost of compliance with the rule by affected entities:</b>
33	Insurance Consultant (Renewal Fee - \$100 decrease)	(\$3,300)
70	Chiropractors (Late Fee - \$100 increase)	\$7,000
	<b>Estimated Biennial Cost of Compliance for the Life of the Rule</b>	<b>\$3,700</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. The figures reported above are based on FY05 through FY07 actuals.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The division is statutorily obligated to enforce and administer the provisions of sections 324.520-324.526, RSMo. Pursuant to Section 324.522, RSMo, the division shall by rule and regulation set the amount of fees authorized by sections 324.520-324.526, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 324.520-324.526, RSMo.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2070—State Board of Chiropractic Examiners  
Chapter 4—Chiropractic Insurance Consultant**

**PROPOSED AMENDMENT**

**20 CSR 2070-4.030 Renewal and Postgraduate Education.** The board is proposing to amend section (2).

*PURPOSE: This amendment reduces the number of hours of continuing education required for certification in insurance consulting, replaces annual continuing education with a biennial deadline to correspond with the licensure renewal, and allows for other formal continuing education categories that encompass aspects of insurance consulting to apply to the biennial continuing education hours upon approval by the board.*

(2) To renew the certification, the chiropractic insurance consultant *[annually]* **biennially** shall obtain twelve (12) hours of postgraduate education in insurance consulting approved by the board. *[This postgraduate education shall be in compliance with 20 CSR 2070-2.080(4) for the general studies category of continuing education required to renew the consultant's chiropractic license.]* **This continuing education shall apply toward attainment of the twelve (12) required hours of continuing education pursuant to 20 CSR 2070-2.080(5), the general studies category of continuing education.**

**(A) Continuing education in the area of insurance consulting may also be submitted to the board for approval as formal continuing education hours. Hours approved for formal continuing education shall not apply to general study hours.**

*AUTHORITY: sections 331.060, 331.100.2, and 376.423, RSMo 2000 and section 331.050, RSMo Supp. [2006] 2007. This rule originally filed as 4 CSR 70-4.030. Original rule filed Feb. 15, 1991, effective July 8, 1991. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 15, 2008.*

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

*PRIVATE COST: This proposed amendment will save private entities approximately thirteen thousand three hundred forty-four dollars (\$13,344) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Chiropractic Examiners, Loree Kessler, Executive Director, PO Box 672, Jefferson City, MO 65102 or via email at [chiropractic@pr.mo.gov](mailto:chiropractic@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*



## PRIVATE ENTITY FISCAL NOTE

**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2070 - State Board of Chiropractic Examiners****Chapter 4 - Chiropractic Insurance Consultant****Proposed Amendment - 20 CSR 2070-4.030 Renewal and Postgraduate Education**

Prepared July 22, 2008 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

<b>Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:</b>	<b>Classification by type of the business entities which would likely be affected:</b>	<b>Estimated savings from compliance with the rule by affected entities:</b>
33	Licenses Certified in Insurance Consulting Registration Fee @ \$175	\$5,775
33	Licenses Certified in Insurance Consulting Travel Expense @ \$228	\$7,524
3	Continuing Education Providers Application Fee @ \$15 (Average 3 segments at \$5 per segment)	\$45
<b>Estimated Biennial Savings for the Life of the Rule</b>		<b>\$13,344</b>

**III. WORKSHEET**

See table above.

#### IV. ASSUMPTION

1.

In a 2008 survey of licensees, it was noted that because core information does not change over time, the need for twenty-four (24) hours of formal continuing education in insurance consulting annually was cumbersome, repetitive and did not contribute to the licensee's knowledge. Also, given the limited number of licensees certified in insurance consulting (33), seminar providers experience a difficult time in filling a continuing education class every year. Finally, coding and reimbursement are two main areas that are updated because of insurance or Medicare reimbursement. Considering these factors, the proposed amendment replaces the annual continuing education with twelve (12) hours of formal continuing education every two years and due prior to the expiration date of the license.

2.

This proposed amendment expands the applicability of insurance consulting formal continuing education to accommodate seminar providers that are able to combine insurance consulting continuing education hours with other categories as listed in 20 CSR 2070-2.080(3). For example, a four hour seminar on record keeping could apply toward insurance consulting formal hours since the review of a licensee's records is part of the insurance consultant's duties. The expansion of potential topics within insurance consulting continuing education allows greater content latitude for providers and licensees.

3.

Continuing education seminars are typically offered in twelve hour segments over two days. The average cost of a twelve hour seminar is \$175 based upon a review of the registration fees of two major seminar providers. Since the number of hours is being decreased from twenty-four (24) to twelve (12), there is a corresponding cost savings. Continuing education seminars are often held in major metro areas due to the concentration of licensees in those areas. While travel expenses vary based upon location, the estimated expense for attending a seminar in St. Louis is based upon CONUS guidelines for lodging and meals.

4 The number of entities listed in the table reflect the decrease in the number of entities affected due to the implementation of this amendment.

5 It is anticipated that the total cost will recur or the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION**  
**Division 2267—Office of Tattooing, Body Piercing, and  
Branding**  
**Chapter 2—Licensing Requirements**

**PROPOSED RESCISSION**

**20 CSR 2267-2.020 Fees.** This rule established and fixed various fees and charges authorized by section 324.522, RSMo.

*PURPOSE:* This rule is being rescinded and readopted to set fees at an amount which shall not substantially exceed the cost and expense of administering sections 324.240 to 324.275, RSMo.

*AUTHORITY:* section 324.522, RSMo Supp. 2005. This rule originally filed as 4 CSR 267-2.020. Original rule filed Aug. 15, 2002, effective Feb. 28, 2003. Amended: Filed Feb. 15, 2005, effective Aug. 30, 2005. Moved to 20 CSR 2267-2.020, effective Aug. 28, 2006. Amended: Filed July 17, 2006, effective Jan. 30, 2007. Rescinded: Filed Aug. 15, 2008.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Tattooing, Body Piercing, and Branding, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via email at [tattoo@pr.mo.gov](mailto:tattoo@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION**  
**Division 2267—Office of Tattooing, Body Piercing, and  
Branding**  
**Chapter 2—Licensing Requirements**

**PROPOSED RULE**

**20 CSR 2267-2.020 Fees**

*PURPOSE:* This rule establishes and fixes various fees and charges authorized by section 324.522, RSMo.

(1) The operator of a tattoo, body piercing, or branding establishment shall pay a biennial license fee to the office as follows:

(A) Establishment fee	\$100
(B) Combined establishment	\$200
(C) Establishment renewal	\$100
(D) Combined establishment renewal	\$200

(2) The operator of a temporary tattoo, body piercing, and/or branding establishment shall pay a fee to the division as follows:

(A) Temporary establishment (per event)	\$100
(B) Combined temporary (per event)	\$100

(3) A person who wishes to practice as a tattooist, body piercer, or brander shall pay a biennial fee to the division as follows:

(A) Practitioner	\$ 30
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(B) Renewal for practitioner	\$ 30
(C) Combined practitioner	\$ 40
(D) Renewal for combined practitioner	\$ 40

(4) Additional Fees:

(A) Duplicate license fee	\$ 5
(B) Bad check fee	\$ 25

*AUTHORITY:* section 324.522, RSMo Supp. 2007. This rule originally filed as 4 CSR 267-2.020. Original rule filed Aug. 15, 2002, effective Feb. 28, 2003. Amended: Filed Feb. 15, 2005, effective Aug. 30, 2005. Moved to 20 CSR 2267-2.020, effective Aug. 28, 2006. Amended: Filed July 17, 2006, effective Jan. 30, 2007. Rescinded and readopted: Filed Aug. 15, 2008.

*PUBLIC COST:* This proposed amendment will cost state agencies or political subdivisions approximately eighty-one thousand nine hundred fifty dollars (\$81,950) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

*PRIVATE COST:* This proposed amendment will cost private entities approximately eighty-one thousand nine hundred fifty dollars (\$81,950) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Tattooing, Body Piercing, and Branding, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489 or via email at [tattoo@pr.mo.gov](mailto:tattoo@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**PUBLIC ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 20 - Department of Insurance, Financial Institutions and Professional Registration**

**Division 2267 - Office of Tattooing, Body Piercing and Branding**

**Chapter 2 - Licensing Requirements**

**Proposed Rule - 20 CSR 2267-2.020 Fees**

Prepared March 24, 2008 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Biennial Revenue	
Office of Tattooing, Branding & Body Piercing	<b>\$81,950.00</b>	
	<b>Total Revenue Biennially for the Life of the Rule</b>	<b>\$81,950.00</b>

**III. WORKSHEET**

The board estimates the projections calculated in the Private Entity Fiscal Notes will be total revenue for the board.

**IV. ASSUMPTION**

1. The division is statutorily obligated to enforce and administer the provisions of sections 324.240-324.275, RSMo. Pursuant to Section 324.245.(5), RSMo, the division shall by rule and regulation set all applicable fees at an amount which shall not substantially exceed the cost and expense of administering sections 324.240 to 324.275.

## PRIVATE ENTITY FISCAL NOTE

**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2267 - Office of Tattooing, Body Piercing and Branding****Chapter 2 - Licensing Requirements****Proposed Rule - 20 CSR 2267-2.020 Fees**

Prepared July 23, 2008 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

<b>Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:</b>	<b>Classification by type of the business entities which would likely be affected:</b>	<b>Estimated biennial cost of compliance with the rule by affected entities:</b>
45	Establishments (License Fee @ \$100)	\$4,500
95	Establishments (Renewal @ \$100)	\$9,500
50	Combined Tattoo, Body Piercing or Branding Establishment (License Fee @ \$200)	\$10,000
120	Combined Tattoo, Body Piercing and/or Branding Establishment (Renewal Fee @ \$200)	\$24,000
1	Temporary Establishment (Per Event) (Application Fee @ \$100)	\$100
5	Temporary Combined Tattoo, Body Piercing and/or Branding Establishment (Per Event) (Application Fee @ \$100)	\$500
230	Practitioner (Application Fee @ \$30)	\$6,900
600	Practitioner (Renewal Fee @ \$30)	\$18,000
60	Combined Practitioner (Application Fee @ \$40)	\$2,400
150	Combined Practitioner (Renewal Fee @ \$40)	\$6,000
10	Duplicate License (Fee @ \$5)	\$50
0	Bad Check (Fee @ \$25)	\$0
<b>Estimated Biennial Cost of Compliance for the Life of the Rule</b>		<b>\$81,950</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. The figures reported above are based on FY07 actuals and FY08 projections.
2. It is anticipated that the total costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

**NOTE:** The division is statutorily obligated to enforce and administer the provisions of sections 324.240-324.275, RSMo. Pursuant to Section 324.245.(5), RSMo, the division shall by rule and regulation set all applicable fees at an amount which shall not substantially exceed the cost and expense of administering sections 324.240 to 324.275.

**T**his 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*.

**T**he 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 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 7—Wildlife Code: Hunting: Seasons, Methods,  
Limits**

**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 10-7.440 is amended.

This amendment establishes hunting seasons and limits and is excepted by section 536.021, RSMo, from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.440 by establishing seasons and limits for hunting migratory waterfowl during the 2008–2009 seasons.

**3 CSR 10-7.440 Migratory Game Birds and Waterfowl: Seasons, Limits**

*PURPOSE: This establishes season dates and bag limits for hunting waterfowl within frameworks established by the U.S. Fish and Wildlife Service for the 2008–2009 seasons.*

(3) Seasons and limits are as follows:

(F) Ducks and coots may be taken from one-half (1/2) hour before sunrise to sunset from October 25, 2008 through December 23, 2008 in the North Zone (that portion of Missouri north of a line running

west from the Illinois border at Lock and Dam 25; west on Lincoln County Hwy. N to Mo. Hwy. 79; south on Mo. Hwy. 79 to Mo. Hwy. 47; west on Mo. Hwy. 47 to Interstate Hwy. 70; west on Interstate Hwy. 70 to the Kansas border); from November 27, 2008 through January 25, 2009 in the South Zone (that portion of the state south of a line running west from the Illinois border on Mo. Hwy. 34 to Interstate Hwy. 55; south on Interstate Hwy. 55 to U.S. Hwy. 62; west on U.S. Hwy. 62 to Mo. Hwy. 53; north on Mo. Hwy. 53 to Mo. Hwy. 51; north on Mo. Hwy. 51 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Mo. Hwy. 21; north on Mo. Hwy. 21 to Mo. Hwy. 72; west on Mo. Hwy. 72 to Mo. Hwy. 32; west on Mo. Hwy. 32 to U.S. Hwy. 65; north on U.S. Hwy. 65 to U.S. Hwy. 54; west on U.S. Hwy. 54 to the Kansas border); and from November 1, 2008 through December 30, 2008 in the Middle Zone (remainder of Missouri). Ducks and coots may be taken by youth hunters fifteen (15) years of age or younger from one-half (1/2) hour before sunrise to sunset from October 18, 2008 through October 19, 2008 in the North Zone, from October 25, 2008 through October 26, 2008 in the Middle Zone and from November 22, 2008 through November 23, 2008 in the South Zone. Youth hunters must be accompanied by an adult eighteen (18) years of age or older who cannot hunt ducks. Adults must be licensed (i.e. possess any permit that allows small game hunting) unless the youth hunter possesses a valid hunter education certificate card. Limits are as follows:

1. Coots—Fifteen (15) daily; thirty (30) in possession.

2. Ducks—The daily bag limit of ducks is six (6) and may include no more than four (4) mallards (no more than two (2) of which may be a female), one (1) scaup, three (3) wood ducks, three (3) mottled ducks, one (1) black duck, two (2) redheads, two (2) hooded mergansers, and one (1) pintail. The canvasback season is closed. The possession limit is twelve (12), including no more than eight (8) mallards (no more than four (4) of which may be female), two (2) scaup, six (6) wood ducks, six (6) mottled ducks, two (2) black ducks, four (4) redheads, four (4) hooded mergansers, and two (2) pintails.

(G) Geese may be taken from one-half (1/2) hour before sunrise to sunset as follows:

1. Blue, snow, and Ross's geese may be taken from October 25, 2008 through January 30, 2009, statewide.

2. White-fronted geese may be taken from November 22, 2008 through January 30, 2009, statewide.

3. Canada geese and brant may be taken from September 27, 2008 through October 5, 2008, and November 22, 2008 through January 30, 2009, statewide.

4. The daily bag limit is twenty (20) blue, snow, or Ross's geese, one (1) brant and two (2) white-fronted geese, statewide. The possession limit for brant is two (2) and for white-fronted geese is four (4), and there is no possession limit for blue, snow, and Ross's geese.

5. The daily bag limit is three (3) Canada geese from September 27, 2008 through October 5, 2008 and two (2) Canada geese thereafter. The possession limit is six (6) Canada geese from September 27, 2008 through October 5, 2008, and four (4) Canada geese thereafter.

6. Geese and brant may be taken by youth hunters in the North Zone from October 18, 2008 through October 19, 2008, in the Middle Zone from October 25, 2008 through October 26, 2008, and in the South Zone from November 22, 2008 through November 23, 2008. The daily bag limit is twenty (20) blue, snow, and Ross's geese, two (2) white-fronted geese, one (1) brant, and two (2) Canada geese. The possession limit for brant is two (2) and for white-fronted geese is four (4), and for Canada geese is four (4), and there is no possession limit for blue, snow, and Ross's geese.

7. Zones: The North Zone shall be that portion of the state north of a line running west from the Illinois border at Lock and Dam 25; west on Lincoln County Hwy. N to Mo. Hwy. 79; south on Mo. Hwy. 79 to Mo. Hwy. 47; west on Mo. Hwy. 47 to Interstate

Hwy. 70; west on Interstate Hwy. 70 to the Kansas border. The South Zone shall be that portion of Missouri south of a line running west from the Illinois border on Mo. Hwy. 34 to Interstate Hwy. 55; south on Interstate Hwy. 55 to U.S. Hwy. 62; west on U.S. Hwy. 62 to Mo. Hwy. 53; north on Mo. Hwy. 53 to Mo. Hwy. 51; north on Mo. Hwy. 51 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Mo. Hwy. 21; north on Mo. Hwy. 21 to Mo. Hwy. 72; west on Mo. Hwy. 72 to Mo. Hwy. 32; west on Mo. Hwy. 32 to U.S. Hwy. 65; north on U.S. Hwy. 65 to U.S. Hwy. 54; west on U.S. Hwy. 54 to the Kansas border. The Middle Zone shall be the remainder of Missouri.

(I) The hunting season for blue, snow and Ross's geese closes on January 30, 2009, in order to implement a light goose Conservation Order.

1. Persons who possess a valid migratory bird permit may chase, pursue, and take blue, snow, and Ross's geese between the hours of one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset from January 31, 2009 through April 30, 2009. Any other regulation notwithstanding, methods for the taking of blue, snow, and Ross's geese include using shotguns capable of holding more than three (3) shells, and with the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds. Exceptions to the above permit requirement include landowners or lessees, as described in this Code, and persons fifteen (15) years of age or younger, provided s/he is in the immediate presence of a properly licensed adult or has in his/her possession a valid hunter education certificate card. A daily bag limit will not be in effect January 31 through April 30, 2009.

SUMMARY OF PUBLIC COMMENT: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed August 6, 2008, effective **September 1, 2008**.

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 9—Wildlife Code: Confined Wildlife: Privileges, Permits, Standards**

**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 10-9.442 is amended.

This amendment establishes hunting seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-9.442 by adjusting the season for waterfowl hunting by falconers in 2008-2009 to conform to federal frameworks.

**3 CSR 10-9.442 Falconry**

*PURPOSE: This amendment adjusts the season dates for hunting waterfowl by falconry for the 2008-2009 season as provided in the frameworks established by the U.S. Fish and Wildlife Service.*

(2) Only designated types and numbers of birds of prey may be possessed and all these birds shall bear a numbered, nonreusable mark provided by the department. Birds held under a falconry permit may be used, without further permit, to pursue and take wildlife within the following seasons and bag limits:

(E) Ducks, mergansers, and coots may be taken from sunrise to sunset from September 6 through September 21, statewide, and from one-half hour before sunrise to sunset as follows: in the North Zone, October 18 through October 19, October 25 through December 23, and February 10 through March 10; in the Middle Zone, October 25 through October 26, November 1 through December 30, and February 10 through March 10; and, in the South Zone, November 22 through November 23, November 27 through January 25, and February 10 through March 10. Daily limit: three (3) birds singly or in the aggregate, including doves; possession limit: six (6) birds singly or in the aggregate, including doves.

SUMMARY OF PUBLIC COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed August 6, 2008, effective **September 1, 2008**.

**Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION**  
**Division 80—Teacher Quality and Urban Education**  
**Chapter 800—Educator Certification**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Education under section 161.092, RSMo Supp. 2007, the board adopts a rule as follows:

5 CSR 80-800.285 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 15, 2008 (33 MoReg 974-975). The section with changes is reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The board received fifty-eight (58) letters of comment on the proposed rule.

COMMENT #1: Educators submitted thirteen (13) comments suggesting that a temporary certificate of license to teach be granted instead of the initial professional certificate.

RESPONSE: The board considered the response and noted that the statute requires the issuance of a professional certificate.

COMMENT #2: Educators submitted thirty-three (33) comments stating that the student contact hours are insufficient.

RESPONSE: The board considered the response and noted that the contact with students prior to certification is minimal; however, it meets the statutory requirement.

COMMENT #3: Educators submitted six (6) comments stating that the proposed rule does not require the passage of the Praxis II content area test.

RESPONSE: The board considered the response and noted that the licensure through American Board for Certification of Teacher Excellence (ABCTE) does require passing a high-stakes test that is similar to the Praxis II test.

COMMENT #4: Educators submitted fifty (50) comments concerning section (2) of the proposed rule and the lack of requiring additional coursework prior to the applicant receiving full licensure.

RESPONSE: The board considered the response and noted that during the first four (4) years of licensure that newly licensed educators are required to complete thirty (30) clock hours of professional development.



COMMENT #5: Educators submitted thirty-three (33) comments concerning section (2) of the proposed rule and requested the removal of the option for ABCTE-provided mentoring.

RESPONSE: The board considered the response and noted that, while the rule does not explicitly state it, mentoring must meet Missouri standards, whether provided by ABCTE or locally.

COMMENT #6: Educators submitted forty-eight (48) comments requesting annual performance-based evaluations.

RESPONSE AND EXPLANATION OF CHANGE: The board considered the response and has changed the wording to reflect wording used for all other certificate holders in subsection (2)(E).

**5 CSR 80-800.285 Application for Certificates of License to Teach on the Basis of Certification by the American Board for Certification of Teacher Excellence (ABCTE)**

(2) Upon completion of the requirements listed in section (1) of this rule and completion of the requirements listed herein, an applicant shall be eligible to apply for a career continuous professional certificate:

(E) Participate in the district's Performance-Based Teacher Evaluations (PBTEs); and

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 30—Child Support Enforcement  
Chapter 4—Income Withholding**

**ORDER OF RULEMAKING**

By the authority vested in the Family Support Division under section 454.400, RSMo 2000, the division rescinds a rule as follows:

**13 CSR 30-4.010 Interstate Income Withholding Procedure is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on June 2, 2008 (33 MoReg 1078). 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 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—MO HealthNet Division  
Chapter 45—Hearing Aid Program**

**ORDER OF RULEMAKING**

By the authority vested in the MO HealthNet Division under sections 208.152, 208.153, and 208.201, RSMo Supp. 2007, the division amends a rule as follows:

**13 CSR 70-45.010 Hearing Aid Program is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 15, 2008 (33 MoReg 789-790). 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 82—General Licensure Requirements**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under Executive Order 77-9 of the governor filed Jan. 31, 1979, effective Sept. 28, 1979 and sections 198.018, 198.076, 198.079, and 198.073, RSMo Supp. 2007, the department amends a rule as follows:

**19 CSR 30-82.010 General Licensure Requirements is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 15, 2008 (33 MoReg 790-792). 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: The department received one (1) comment on the proposed amendment.

COMMENT #1: Harvey Tettlebaum, with Husch, Blackwell, and Sanders, commented that the proposed change to subsection (1)(C) is too confusing. Mr. Tettlebaum proposed a revision to clarify the requirements for supplementing an application and to delete the phrase "including but not limited to" from the proposed amendment. RESPONSE: The department believes the proposed language is clear as written and that the phrase "including but not limited to" is necessary in order to encompass other changes not enumerated that may affect issuance of a license. No changes have been made to this rule as a result of this comment.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 83—Definition of Terms**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 198.009, RSMo 2000, and section 198.073, RSMo Supp. 2007, the department amends a rule as follows:

**19 CSR 30-83.010 is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 15, 2008 (33 MoReg 792-793). Those 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 received one (1) comment on the proposed amendment.

COMMENT #1: Harvey Tettlebaum, with Husch, Blackwell, and Sanders, commented that there was no definition for the term "involuntary seclusion" which was used in 19 CSR 30-88.010. RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has inserted the definition of "involuntary seclusion" to this rule and renumbered throughout.

**19 CSR 30-83.010 Definition of Terms**

(25) Involuntary seclusion—Shall mean separation of a resident from other residents or from her/his room or confinement to her/his room (with or without roommates) against the resident's will, or the will of the resident's legal representative. Emergency or short term monitored separation from other residents will not be considered involuntary seclusion and may be permitted if used for a limited period of time as a therapeutic intervention to reduce agitation until professional staff can develop a plan of care to meet the resident's needs.

(26) Keeping residents in place—Shall mean maintaining residents in place during a fire in lieu of evacuation where a building's occupants are not capable of evacuation, where evacuation has a low likelihood of success, or where it is recommended in writing by local fire officials as having a better likelihood of success and/or lower risk of injury.

(27) Level I medication aide—Shall mean an individual who has completed a course approved by the department in medication administration in a residential care facility or assisted living facility.

(28) Long-term care facility—Shall mean a facility that is licensed either solely or in combination as a skilled nursing facility, an intermediate care facility, a residential care facility, or assisted living facility.

(29) Long-term care services—Shall mean the assistance and support that a resident receives in a residential care facility, assisted living facility, intermediate care facility, and skilled nursing care facility, to meet the resident's individual need for nursing care, protective oversight, monitoring, medication management, social interactions, cooking, housekeeping, laundry, and recreational activities.

(30) Major fraction thereof—Shall mean anything over fifty percent (50%) of the number of occupied beds.

(31) Major remodeling—Shall mean any remodeling of a long-term care facility which involves the addition of resident-use rooms, which affects fire safety or the structure of the building.

(32) Multistory building—Shall mean any building with more than one (1) floor entirely above the grade. A floor that is partially below grade will be counted as the first story to determine sprinkler requirements only if it contains resident sleeping rooms.

(33) New or newly licensed facility—Shall mean a long-term care facility whose plans are approved or which is licensed after June 10, 1981 for a skilled nursing or intermediate care facility or after November 13, 1980 for residential care facility or assisted living facility except as otherwise indicated in 19 CSR 30-86.012, 19 CSR 30-86.022, and 19 CSR 30-86.032.

(34) Nursing personnel—Shall include any employee, including a nurse's aide or an orderly, who provides or assists in the provision of direct resident health care services.

(35) Operator—Shall mean any person licensed or required to be licensed under the provisions of sections 198.003–198.096, RSMo, in order to establish, conduct, or maintain a facility. The term person required to be licensed shall mean any person having the following, as determined by the department:

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

(B) Ultimate financial control of the operation of a facility; and

(C) Legal right to possession of the premises on which a facility is located.

(36) Person—Shall mean any individual, or any entity, including, but not limited to, a corporation, limited liability company, partnership, association, nonprofit organization, fraternal organization, church, or political subdivision of the state of Missouri.

(37) Physical restraint—Shall mean any manual method or physical or mechanical device, material or equipment attached to or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body. Physical restraints include, but are not limited to, leg restraints, arm restraints, hand mitts, soft ties or vests, lap cushions, and lap trays the resident cannot remove easily. Physical restraints also include facility practices that meet the definition of a restraint, such as the following:

(A) Using side rails that keep a resident from voluntarily getting out of bed;

(B) Tucking in or using Velcro to hold a sheet, fabric, or clothing tightly so that a resident's movement is restricted;

(C) Using devices in conjunction with a chair, such as trays, tables, bars, or belts, that the resident cannot remove easily, that prevent the resident from rising;

(D) Placing the resident in a chair that prevents a resident from rising; and

(E) Placing a chair or bed so close to a wall that the wall prevents the resident from rising out of the chair or voluntarily getting out of bed.

(38) Physician—Shall mean an individual licensed to practice medicine in the state of Missouri under Chapter 334, RSMo.

(39) Premises—Shall mean any structures that are in close proximity one to the other and which are located on a single piece of property.

(40) Protective oversight—Shall mean an awareness twenty-four (24) hours a day of the location of a resident, the ability to intervene on behalf of the resident, supervision of nutrition, medication, or actual provisions of care, and the responsibility for the welfare of the resident, except where the resident is on voluntary leave.

(41) Qualified dietitian—Shall mean an individual who is registered by the American Dietetic Association or who is eligible for registration.

(42) Qualified therapist—Shall mean an individual who is either registered or is eligible for registration by the national accrediting association for that therapy or, if applicable, is licensed by the state of Missouri for the practice of the profession in which s/he is engaged.

(43) Qualified therapy assistant—Shall mean an individual who would be qualified as an occupational therapy or physical therapist assistant as outlined in 42 CFR 484.4.

(44) Residential care facility (RCF)—Shall mean any premises, other than an assisted living facility, intermediate care facility, or skilled nursing facility, which is utilized by its owner, operator, or manager to provide twenty-four (24) hour care to three (3) or more residents, who are not related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility and who need or are provided with shelter, board, and with protective oversight, which may include storage and distribution or administration of medications and care during short-term illness or recuperation, except that, for purposes of eligible residents of facilities formerly licensed as residential care facilities II receiving supplemental welfare assistance payments, any residential care facility that was licensed as a residential care facility II on or before August 27, 2006 that continues to meet the licensure standards for a residential care facility II in effect on August 27, 2006 shall be considered a residential care facility II for purposes of its eligible residents receiving the cash grant payment amount allocated immediately prior to August

28, 2006 for residents of a residential care facility II pursuant to section 208.030, RSMo.

(45) Responsible party—Shall mean an individual who has been designated in writing by the resident to handle matters and receive reports related to his/her general condition.

(46) Self-administration of medication—Shall mean the act of actually taking or applying medication to oneself.

(47) Self-control of medication—Shall mean assuming immediate responsibility by a resident for the storage and administration of medication for oneself while the facility retains ultimate control of medication.

(48) Skilled nursing care—Shall mean services furnished pursuant to physicians' orders which require the skills of licensed nurses and which are provided directly by or under the on-site supervision of these personnel. Examples of skilled nursing care may include, but are not limited to: administration of levine tube or gastrostomy tube feedings; nasopharyngeal and tracheotomy aspiration; insertion of medicated or sterile irrigation solutions and replacement of catheters; administration of parenteral fluids; inhalation therapy treatments; administration of other treatments requiring aseptic technique; and administration of injectable medication other than insulin.

(49) Skilled nursing facility—Shall mean any premises, other than a residential care facility, assisted living facility, or an intermediate care facility, which is utilized by its owner, operator, or manager to provide for twenty-four (24) hour accommodation, board and skilled nursing care and treatment services to at least three (3) residents who are not related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility. Skilled nursing care and treatment services are those services commonly performed by or under the supervision of a registered professional nurse for individuals requiring twenty-four (24) hours a day care by licensed nursing personnel including acts of observation, care, and counsel of the aged, ill, injured, or infirm, the administration of medications and treatments as prescribed by a licensed physician or dentist, and other nursing functions requiring substantial specialized judgment and skill.

(50) Social model of care—means long-term care services based on the abilities, desires, and functional needs of the individual delivered in a setting that is more home-like than institutional, that promote the dignity, individuality, privacy, independence, and autonomy of the individual, that respects residents' differences and promotes residents' choices.

(51) Voluntary leave—Shall mean an off-premises leave initiated by: a) a resident that has not been declared mentally incompetent or incapacitated by a court; or b) a legal guardian of a resident that has been declared mentally incompetent or incapacitated by a court.

(52) Vulnerable person—Shall mean any person in the custody, care, or control of the Department of Mental Health that is receiving services from an operated, funded, licensed, or certified program.

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 84—Training Program for Nursing Assistants**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 198.079, RSMo Supp. 2007, the department amends a rule as follows:

19 CSR 30-84.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 15, 2008 (33 MoReg 793-798). Those 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 received six (6) comments on the proposed amendment.

COMMENT #1: Gavin Allen, with the Missouri Department of Elementary and Secondary Education, Division of Career Education, commented that the certificates mentioned in paragraph (8)(A)2. are no longer issued, and the Division of Career Education does not issue teaching certificates. Mr. Allen requested removal of the term "short-term instructor approval certificate." Also Mr. Allen requested to change the title of the certificate to "Certified Medication Technician teaching certificate."

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has removed the term "short-term instructor approval certificate" and inserted "Certified Medication Technician teaching certificate."

COMMENT #2: Gavin Allen, with the Missouri Department of Elementary and Secondary Education (DESE), Division of Career Education, commented that the phrase "area vocational school" in subsection (1)(C) should be changed to "area career centers."

RESPONSE AND EXPLANATION OF CHANGE: The department has determined that several agencies continue to utilize the title "area vocational school;" therefore, it should not be changed. The department believes that in subsection (1)(C) "area career centers" should be added, because there are agencies who utilize this title.

COMMENT #3: Mary Stassi, with the St. Charles Community College, commented on grammatical changes in the amendment purpose, paragraphs (5)(D)1. and 5., and subsection (9)(A). Ms. Stassi indicates that the information should reflect multiple applications instead of a single application. Ms. Stassi commented on the addition of the word "Medication" in paragraph (5)(D)5.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has amended paragraphs (5)(D)1. and 5. and subsection (9)(A).

COMMENT #4: Mary Stassi, with the St. Charles Community College, commented that in subsection (9)(C), there is no process for registered nurses to be approved as "clinical supervisors." Ms Stassi suggest deleting the phrase "provide the names of the RNs approved as clinical supervisors" in subsection (9)(C).

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has amended subsection (9)(C).

COMMENT #5: Mary Stassi, with the St. Charles Community College, commented on a grammatical change in subsection (7)(B). Ms. Stassi indicates that the information should reflect multiple applications instead of a single application.

RESPONSE: The department believes that the intent in subsection (7)(B) is to address the entire act of medication administration, not the individual applications. No changes have been made to this rule as a result of this comment.

COMMENT #6: Mary Stassi, with the St. Charles Community College, commented that the "Certified Medication Technician" and "Instructor's Guide" manuals in subsections (5)(A) and (B) should be updated to represent the 2008 version.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has amended subsections (5)(A) and (B).

**19 CSR 30-84.020 Certified Medication Technician Training Program**

(1) Definitions. For the purpose of this rule the following definitions shall apply.

(C) Educational training agency—an area vocational-technical school, an area career center, a comprehensive high school, a community college, or an approved four (4)-year institution of higher learning that is approved by the department to conduct the Certified Medication Technician (CMT) Course. A long-term care facility cannot be a training agency.

(5) The course shall consist of at least sixty (60) classroom hours of instruction taught by a department-approved CMT instructor or examiner (instructor/examiner). The course shall include an additional minimum eight (8) hours of clinical practice conducted in a licensed ICF or SNF under the direct supervision of the CMT instructor/examiner or under the direct supervision of an RN employed by the cooperating agency and designated by the educational training agency in section (9) of this rule. The instructor/examiner or the RN employed by the cooperating agency may require the student to complete more than the minimum eight (8) hours of clinical practice based on each student's mastery of course content. A final written examination and a minimum two (2)-hour final practicum examination must be conducted in an ICF/SNF.

(A) For all courses beginning on or after the effective date of this rule, the student manual and course developed by the Department of Elementary and Secondary Education and the Missouri Center for Career Education at University of Central Missouri as outlined in the manual entitled *Certified Medication Technician*, (Revised 2008), incorporated by reference in this rule and available by Internet at: [www.cmttest.org](http://www.cmttest.org) shall be considered the approved course curriculum. This rule does not incorporate any subsequent amendments or additions.

(B) For all courses beginning on or after the effective date of this rule, the approved course curriculum instructor's guide shall be the companion *Instructor's Guide*, (Revised 2008), incorporated by reference in this rule, and accessed by Internet: [www.cmttest.org](http://www.cmttest.org). This rule does not incorporate any subsequent amendments or additions.

(D) The curriculum content shall include procedures and instructions in the following areas:

1. Basic review of body systems and medication effects on each;
2. Medical terminology;
3. Infection control;
4. Medication classifications;
5. Medication dosages, measurements, and forms;
6. Acquisition, storage, and security;
7. Problems of observations in medication therapy; and
8. Administration by oral, rectal, vaginal, otic, ophthalmic, nasal, skin, topical, transdermal patches, and oral metered dose inhaler.

(8) CMT Course Examiner Qualification Requirements.

(A) In order to qualify as an instructor, examiner, or both, the individual:

1. Shall be currently licensed to practice as an RN in Missouri or shall have a temporary permit from the Missouri State Board of Nursing. The instructor/examiner shall not be the subject of current disciplinary action, such as probation, suspension, or revocation of license;
2. Shall hold a current Certified Medication Technician teaching certificate from the Department of Elementary and Secondary Education, Division of Career Education;
3. Shall complete an instructor/examiner program workshop and be listed as a qualified CMT instructor/examiner on the department's Instructor/Examiner Registry;
4. Shall sign an agreement with the department to protect and keep secure the final examination and the PIN used to electronically access the Instructor Guide/Test Bank;

5. May be an employee of the ICF/SNF in which training is conducted, but the ICF/SNF must have a cooperative agreement with an educational training agency;

6. Shall teach the course or facilitate the challenge examination only as permitted by the educational training agency; and

7. May be assisted by pharmacists as guest instructors in the areas of medication systems, regulations governing medications, medication actions, adverse reactions, medication interactions, and medication errors.

(9) Educational Training Agencies.

(A) The following entities are eligible to apply to the department's Health Education Unit to be an approved educational training agency: vocational-technical schools, comprehensive high schools, community colleges or approved four (4)-year institutions of higher learning.

(C) A school requesting approval to teach the CMT Training Course or facilitate challenging the examination shall file an application with the department's Health Education Unit giving the names of the instructors and listing the equipment and classroom space that will be used and shall provide a copy of an agreement with the cooperating agency where the course, clinical practice, or final practicum examination of the program will be conducted and provide the names of the RNs supervising the clinical observation. Educational training agencies shall be approved for a two (2)-year period and shall submit a new application thirty (30) days prior to the expiration date.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 84—Training Program for Nursing Assistants**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under sections 198.073 and 198.076, RSMo Supp. 2007, the department withdraws an amendment as follows:

**19 CSR 30-84.030 Level I Medication Aide is withdrawn.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 15, 2008 (33 MoReg 798-811). This proposed amendment is withdrawn.

SUMMARY OF COMMENTS: A Joint Committee on Administrative Rules (JCAR) hearing on this proposed amendment was held on August 11, 2008, and the public comment period ended May 16, 2008. The department received thirty-two (32) comments on the proposed amendment. Most of the comments were against the proposed amendment.

RESPONSE: The Joint Committee on Administrative Rules voted to disapprove the proposed amendment. As a result of the comments and the JCAR hearing, the department wishes to withdraw this proposed amendment at this time.

COMMENT #1: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the definition of the term "Certifying agency" in subsection (1)(A) should not include the phrase "other entity."

RESPONSE: The department believes that the proposed definition in subsection (1)(A) is in accordance with department standards. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #2: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the definition of the term "Educational training

agency” in subsection (1)(C) is inconsistent with information in subsection (16)(B).

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department’s decision to withdraw this proposed amendment.

COMMENT #3: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the definition of the term “Group home” in subsection (1)(D) should reference the *Code of State Regulations* number instead of the definition.

RESPONSE: The department believes that the proposed definition in subsection (1)(D) is in accordance with department standards. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #4: Rebecca Carson, with the Division of Comprehensive Psychiatric Services, commented that the definition of the term “Group home” in subsections (1)(D) and (13)(A) should include references to residential care facilities operated by the Department of Mental Health.

RESPONSE: The department believes that the proposed definition in subsections (1)(D) and (13)(A) is in accordance with department standards. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #5: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the definition of the term “Long term care association” in subsection (1)(E) should include the term “or their successor organization.”

RESPONSE: The department believes that the proposed definition in subsection (1)(E) is in accordance with department standards. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #6: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the title “Missouri registered nurse present” should be revised to be “Registered nurse licensed by the state of Missouri which meets the qualifications of subsection,” the definition of “Missouri registered nurse presenter” in subsection (1)(F) should be revised.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department’s decision to withdraw this proposed amendment.

COMMENT #7: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the definition of “Simulated classroom situation” in subsection (1)(G) should be “Simulated training setting.”

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department’s decision to withdraw this proposed amendment.

COMMENT #8: Rebecca Farley, with New Horizons Community Support Services, commented that the minimum requirements in the “Clinical Competency” are different than the simulated training requirements.

RESPONSE: The minimum requirements for the simulated training in subsection (1)(G) do not contradict the Clinical Competency form, because the topic of simulation is not addressed on the form. The form matches the training program requirements. Further, the form is not referenced in this rule and therefore will not be revised. However, due to other comments received against the proposed

amendment, the department is withdrawing this proposed amendment.

COMMENT #9: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the term “unusual” should be reinserted in section (4).

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department’s decision to withdraw this proposed amendment.

COMMENT #10: Kerri Hock, with the Missouri Assisted Living Association, Ronald Conway, with Colonial Retirement Center, Jhan Hurn, with Community Support Services, and John Foley, with The Arc of the Ozarks, commented that the term “access” should be inserted in section (7).

RESPONSE: The department believes that students are to be provided a manual that is their choice to keep, not just to lend the student a copy; they may want it in the future for reference. Each student should have a copy of the manual. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #11: Rebecca Farley, with New Horizons Community Support Services, commented that the information in the course manual is outdated.

RESPONSE: The department has determined that the manual is not being addressed in this proposed amendment. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #12: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the Department of Mental Health’s “medication aide certificate” and “letters of endorsement” should be inserted in paragraph (9)(B)2.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department’s decision to withdraw this proposed amendment.

COMMENT #13: Kerri Hock, with the Missouri Assisted Living Association, Ronald Conway, with Colonial Retirement Center, and Rebecca Farley, with New Horizons Community Support Services, commented that the phrase “Train the Trainer Workshop Instructor” in section (10) needs to be defined.

RESPONSE: The department believes that the “Train the Trainer Workshop Instructor” qualifications are determined by the department. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #14: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that, in section (11), the two (2)-year disqualification requirement for a level I medication aide course instructor with a censured license was excessive.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department’s decision to withdraw this proposed amendment.

COMMENT #15: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the term “LTC association” should be reinserted in subsection (13)(A).

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department’s decision to withdraw this proposed amendment.

COMMENT #16: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that, in subsection (13)(B), the requirement for the "Social Security" number should be replaced with the "nursing license" number.

RESPONSE: The department has determined that the Social Security number in subsection (13)(B) is required. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #17: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the term "Classroom" in subsection (13)(C) should be replaced.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #18: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that in subsection (13)(D) the term "educational training" should be inserted.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #19: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that in subsection (13)(E) the term "clinical" should be removed.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #20: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the proposed language in section (14) should be removed.

RESPONSE: The department believes that the proposed language in section (14) is in accordance with department standards. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #21: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the proposed language in paragraph (14)(A)1. should include the phrase "objectives using a test created by the instructor."

RESPONSE: The department has determined that a standardized test format will be developed in accordance with department standards. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #22: The department agrees and has reinserted the requirement to return the "test booklet" in paragraphs (15)(A)1. and (15)(B)1. The form referenced in paragraphs (15)(A)1. and 2. and the "transcript" referenced in paragraph (15)(A)3. are the same document and the references have been corrected to use the correct name of the form, which is "Score Sheet for Level I Medication Aide Examination." In paragraph (15)(A)2. the word "individual" has been replaced with "student" in order to address the comment's concern with consistency. Paragraph (15)(B)1. has been rewritten to clarify the certifying agencies' responsibilities and address the "notice of successful completion" comment.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #23: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the phrase "since last submission" should be inserted in paragraph (15)(B)2.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #24: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the phrase "through the education training agency" should be inserted in subsection (16)(D) and separate the phrase "provide the department with the names of those receiving certificates" into another letter category.

RESPONSE: The department disagrees with the addition of the phrase "through the education training agency" in subsection (16)(D). As a result, it was the department's decision to withdraw this proposed amendment. The department agrees with separating the phrase "Provide the department with the names of those receiving certificates." However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #25: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the term "Database accessible online by all certifying agencies and educational training agencies" should be inserted in subsection (18)(A) to allow for online access.

RESPONSE: The department has determined that the current database does not have the technical capabilities to integrate into a public online database. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #26: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that, in subsection (18)(B) of the proposed amendment, "Any individual seeking employment in an RCF of ALF as a level I medication aide must be certified as a level I medication aide and listed in the department's level I medication aide database" exceeds the scope of the rule. Ms. Hock and Mr. Conway believe that this proposed amendment should be deleted.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #27: Mary Sullivan-Thomas, with Community Opportunities, Jhan Hurn, with Community Support Services, John Foley, with Arc of the Ozarks, Todd Rodemeyer, with Division of Mental Retardation and Developmental Disabilities, Lisa Denish, with Hannibal Regional Center, and Karla Jones, with Fink & Associates Inc., commented that the Department of Mental Health (DMH) level of care entitled "Individualized Supported Living" (ISL) should be included as a level 1 medication aide practice site.

RESPONSE: The department has reviewed the "ISL" and has determined that the definition is too vague, and the ISL does not have a licensure category with specific rules and regulations to guide the operation of the services. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #28: Lisa Denish, with Hannibal Regional Center, commented that the requirement to contact the department to verify an individual's certificate status in subsection (18)(C) is unnecessary.

RESPONSE: The department believes that the proposed language in subsection (18)(C) is in accordance with department standards. However, due to other comments received against the proposed

amendment, the department is withdrawing this proposed amendment.

COMMENT #29: Rebecca Carson, with the Division of Comprehensive Psychiatric Services, commented that the department should add new sections that are specific to Department of Mental Health (DMH).

RESPONSE: The department believes that the proposed amendment contains the language that is in accordance with department standards. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #30: Todd Rodemeyer, with Division of Mental Retardation and Developmental Disabilities, commented that the cost estimate is inaccurate because students in ISL programs who participate will have to purchase their own manuals.

RESPONSE: The private cost estimate was calculated to incorporate two hundred ninety (290) DMH group homes. The department has determined that due to lack of licensure requirements, limitations on individuals who participate in the ISL program, and the relative flexibility of ISL operations and functions, this program has not been included as a practice site for the level 1 medication aide certification. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #31: Margy Mangini and Shari Whelan, with Division of Mental Retardation and Developmental Disabilities, commented that the terms "certified or operated" should be inserted to represent DMH participation in the proposed amendment.

RESPONSE: The department believes that this language has been addressed in the DMH statutes and regulations. The department specializes in licensing of facilities and the terms "certified or operated" are specific to DMH. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #32: Kerri Hock, with the Missouri Assisted Living Association, Ronald Conway, with Colonial Retirement Center, Mary Sullivan-Thomas, with Community Opportunities, Jhan Hurn, with Community Support Services, John Foley, with Arc of the Ozarks, Todd Rodemeyer, with Division of Mental Retardation and Developmental Disabilities, Lisa Denish, with Hannibal Regional Center, and Karla Jones, with Fink & Associates Inc., commented that the term "serving a minimum of six (6)" should be removed throughout the rule.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #33: Department staff commented that subsection (1)(F) contains the redundant phrase "as an instructor."

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #34: Jorgen Schlemeier, a representative for Missouri Assisted Living Association (MALA), commented at the hearing that the revised "Level I Medication Aide Manual" was not available for public review during the public comment period, the cost of the manual was not reflected in the fiscal note, and there would be an increase in training hours. Also, Mr. Schlemeier commented that the department did not respond to eleven (11) of the agencies' comments.

RESPONSE: The department responded that the manual was available for review at the Department of Health and Senior Services (DHSS) headquarters.

The department responded that section 536.021.2(3), RSMo, provides "A proposed rule may incorporate by reference only if the

material so incorporated is retained at the headquarters of the state agency and made available to any interested person at a cost not to exceed the actual cost of the reproduction of a copy." DHSS has had a copy of the manual available for review since it was published in 2002, but did not receive any such requests.

The department responded that some training requirements will be changed based on the updated manual. However, it is the department's belief that the change in requirements will require some adjustments by the instructors rather than a substantial increase in training time. The requirement for a minimum of sixteen (16) training hours has not changed. Also, the department indicated nine (9) comments were missed and was an inadvertent oversight.

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 85—Intermediate Care and Skilled Nursing  
Facility**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under sections 198.074 and 198.079, RSMo Supp. 2007, the department withdraws an amendment as follows:

**19 CSR 30-85.022** Fire Safety Standards for New and Existing Intermediate Care and Skilled Nursing Facilities **is withdrawn.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 15, 2008 (33 MoReg 812-817). This proposed amendment is withdrawn.

SUMMARY OF COMMENTS: A Joint Committee on Administrative Rules (JCAR) hearing on this proposed amendment was held August 11, 2008, and the public comment period ended May 16, 2008. The department received sixteen (16) comments on the proposed amendment. Most of the comments were against the proposed amendment.

RESPONSE: The Joint Committee on Administrative Rules voted to disapprove the proposed amendment. As a result of the comments and the JCAR hearing, the department wishes to withdraw this proposed amendment at this time.

COMMENT #1: Kevin Notz, with the Missouri Division of Fire Safety, commented that the definition in subsection (1)(B) for complete fire alarm system was unclear.

RESPONSE: Section 198.074.7(1), RSMo Supp. 2007, provides the definition for a complete fire alarm system. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #2: Denise Clemonds, with the Missouri Association of Homes for the Aging, and Kevin Notz, with the Missouri Division of Fire Safety, requested revisions to clarify the smoke detector spacing requirements in subsection (10)(A) and the addition of the terms "dispatching agency, or central monitoring company" as agencies that can receive automatic transmission of a fire alarm.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #3: Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that in subsection (1)(C) the definition of "Major Renovation" contains the phrase "Addition of any room that is accessed by residents." Ms. Clemonds has indicated that the phrase is an unreasonable standard.

RESPONSE: Section 198.074.1, RSMo Supp. 2007, authorizes the department to define and approve major renovations. The definition

of “major renovation” to include “addition of any room that is accessed by residents” is reasonable to promote resident safety in terms of fire prevention and also in evacuating residents and extinguishing fires. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**COMMENT #4:** Kevin Notz, with the Missouri Division of Fire Safety, commented that the definition of “Hazardous area” should be removed from current rule 19 CSR 30-83.010(20) and placed in this proposed amendment.

**RESPONSE:** The department has determined that the “Hazardous area” definition is in the current rule, and it is not necessary to move and/or duplicate the definition in this proposed amendment. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**COMMENT #5:** Kevin Notz, with the Missouri Division of Fire Safety, commented that, when the department receives notice of a fire, they should contact the state fire marshal’s office.

**RESPONSE:** The department has determined that this comment will be addressed in a memorandum of understanding between the department and the state fire marshal. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**COMMENT #6:** Kevin Notz, with the Missouri Division of Fire Safety, commented that the department should add carbon monoxide regulations to the proposed amendment.

**RESPONSE:** The department has determined that this comment will be addressed in upcoming rule sessions. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**COMMENT #7:** Kevin Notz, with the Missouri Division of Fire Safety, commented that in section (4) the department should add the following phrase “When the sprinkler option is chosen, the areas shall be separated from other spaces by smoke-resisting partitions and doors. The doors shall be self-closing or automatic closing.”

**RESPONSE:** The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department’s decision to withdraw this proposed amendment.

**COMMENT #8:** Kevin Notz, with the Missouri Division of Fire Safety, commented that the department should delete the reference in paragraph (8)(C)1. to 19 CSR 30-83.010(20) since the definition should be included in the rule.

**RESPONSE:** The department has determined that the “Hazardous area” definition is in the current rule, and it is not necessary to move and/or duplicate the definition in this proposed amendment. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**COMMENT #9:** Kevin Notz, with the Missouri Division of Fire Safety, commented that the reference to the term “Chapter 33” in paragraph (11)(B)2. was incorrect.

**RESPONSE:** The department has determined that the reference in paragraph (11)(B)2. is in accordance with statutory language. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**COMMENT #10:** Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that in section (12) local fire departments and fire protection districts should be authorized to do fire safety certifications.

**RESPONSE:** The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department’s decision to withdraw this proposed amendment.

**COMMENT #11:** Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that her association strongly supports the proposed changes in section (31).

**RESPONSE:** The department would like to thank the Missouri Association of Homes for the Aging for their support. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**COMMENT #12:** Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that the department should add the term “if applicable” in paragraph (33)(B)1.

**RESPONSE:** The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department’s decision to withdraw this proposed amendment.

**COMMENT #13:** Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that, in subsection (34)(A), the six (6)-month requirement for fire safety training of new employees is unreasonable and needs to be returned to the annual requirement.

**RESPONSE:** The department believes that six (6) months is a reasonable standard for fire safety training. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**COMMENT #14:** Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that the department should add the term “if applicable” in paragraph (34)(B)3.

**RESPONSE:** The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department’s decision to withdraw this proposed amendment.

**COMMENT #15:** Harvey Tettlebaum, with Husch, Blackwell, and Sanders, Jon Dolan with Missouri Health Care Association, and Don Gard, an independent life safety code consultant, commented that the proposed rule definition of a “Complete Fire Alarm System” would create a substantial cost to facilities which was not reflected in the fiscal note. Also, the proposed amendment would create dual track enforcement between the state fire marshal and Department of Health and Senior Services.

**RESPONSE:** The state fire marshal responded by indicating that their interpretation of a complete fire alarm system was based on guidelines established in the National Fire Protection Association (NFPA) 72, 1999 manual. The department responded by indicating that sections 536.200 and 536.205, RSMo, require agencies to estimate the cost of compliance with the proposed rule or amendment, not the cost of the legislation which the proposed rule or amendment implements. This information is contained in sections 536.200 and 536.205, RSMo, and Op. Atty. Gen. No. 21-92, Wagner, April 6, 1992. The cost to install the sprinklers pursuant to NFPA 72 is a cost associated with the legislation, not the rule implementing the legislation. The cost of implementing the legislation was addressed in the fiscal note prepared pursuant to section 23.140, RSMo, initial definition of complete fire alarm system. The department responded that while rules promulgation authority remains with DHSS, House Bills 952 and 674 clearly authorizes the state fire marshal to enforce the fire safety requirements contained in section 198.074.9, RSMo, which reads in part “The provisions of this section shall be enforced by the state fire marshal . . .”

**COMMENT #16:** Terry Allen, a representative for Missouri Association of Homes for the Aging (MoAHA), and Larry Rohrbach, with MoAHA, commented that the definition of “Major Renovation,” in particular the phrase “any room assessed by residents,” was too vague, and the department does not have the statutory authority to



deny a facility a sprinkler system exception if they meet the statutory requirements for an exception.

RESPONSE: The department responded that section 198.074.1, RSMo, mandates facilities completing a major renovation (as defined and approved by the department) to install an NFPA 13 commercial system. In accordance with sections 198.009, 198.076(10), and 198.079(9), RSMo, 19 CSR 30-85.012(1), (2), and (3), and 19 CSR 30-86.012(2) and (3), the department is authorized to review and approve all additions to licensed facilities. The department agreed to change the definition to "Addition of any room(s), accessible by residents, that either exceeds 50% of the total square footage of the facility or exceeds forty-five hundred square feet." Also, the department agreed to change the proposed amendment language to allow facilities that meet the sprinkler system requirements the ability to obtain an exception. However, the Joint Committee on Administrative Rules voted to disapprove the proposed amendment; as a result, the department is withdrawing this rulemaking.

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 85—Intermediate Care and Skilled Nursing  
Facility**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under section 198.079, RSMo Supp. 2007, the department amends a rule as follows:

19 CSR 30-85.032 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 15, 2008 (33 MoReg 817-819). Those 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 received four (4) comments on the proposed amendment.

COMMENT #1: Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that her association strongly supports the proposed changes in section (27).

RESPONSE: The department would like to thank the Missouri Association of Homes for the Aging for their support.

COMMENT #2: Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that the proposed language in subsection (31)(A) allows the department to determine if the current electrical wiring in a facility is safe for residents. The association requests that the department add the term "through consultation with an electrical engineer."

RESPONSE: The department's staff are trained and qualified to make these determinations. No changes have been made to this rule as a result of this comment.

COMMENT #3: Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that the requirement in subsection (31)(B) for an electrical inspection should be returned to every two (2) years instead of every year as proposed in the amendment.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has reinstated the term "Every two (2) years" in subsection (31)(B).

COMMENT #4: Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that the proposed language in sub-

section (48)(B) is an attempt to regulate an adult day care program in a facility.

RESPONSE: The language being commented on is already in section (2) of the current rule and is merely being moved to new section (48). These provisions regulate the facility, not the adult day care, and are intended to protect the health, safety, and welfare of facility residents.

**19 CSR 30-85.032 Physical Plant Requirements for New and Existing Intermediate Care and Skilled Nursing Facilities**

(31) Electrical Wiring Requirements.

(B) Every two (2) years, a qualified electrician will be required to certify in writing that the electrical system is being maintained and operated in accordance with the standards outlined by the NFPA 70, 1999 edition or the earlier NFPA 70 edition with which the facility was complying prior to the effective date of this rule. II/III

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 86—Residential Care Facilities and Assisted  
Living Facilities**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under sections 198.073 and 198.076, RSMo Supp. 2007, the department amends a rule as follows:

19 CSR 30-86.012 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 15, 2008 (33 MoReg 819-820). Those 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 received two (2) comments on the proposed amendment.

COMMENT #1: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the department should reinstate the existing language and class determinations in section (24) because Assisted Living Facilities (ALF) have additional requirements for evacuation.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees that Assisted Living Facilities have different resident care and evacuation standards and has revised the proposed language in section (24) to make the section applicable only to residential care facilities.

COMMENT #2: Wm. H. "Bill" Stouffer, with the Missouri Senate, commented that the proposed amendment in section (24) would force residential care facilities to purchase new visual or tactile alarm systems.

RESPONSE: The department believes that section 198.074.7(1), RSMo, requires facilities to have a fire alarm system that would include horns and strobes. The facility has the option to add additional tactile devices to the fire alarm panel. No changes have been made as a result of this comment.

**19 CSR 30-86.012 Construction Standards for Assisted Living Facilities and Residential Care Facilities**

(24) Residential care facilities that accept deaf residents, shall have appropriate assistive devices to enable each deaf person to negotiate

a path to safety, including, but not limited to, visual or tactile alarm systems. II/III

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES**  
**Division 30—Division of Regulation and Licensure**  
**Chapter 86—Residential Care Facilities and Assisted  
Living Facilities**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under sections 198.073, 198.074, and 198.076, RSMo Supp. 2007, the department withdraws an amendment as follows:

**19 CSR 30-86.022** Fire Safety Standards for Residential Care Facilities and Assisted Living Facilities **is withdrawn.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 15, 2008 (33 MoReg 820-827). This proposed amendment is withdrawn.

**SUMMARY OF COMMENTS:** A Joint Committee on Administrative Rules (JCAR) hearing on this proposed amendment was held August 11, 2008, and the public comment period ended May 16, 2008. The department received thirty-one (31) comments on the proposed amendment. Most of the comments were against the proposed amendment.

**RESPONSE:** The Joint Committee on Administrative Rules voted to disapprove the proposed amendment. As a result of the comments and the JCAR hearing, the department wishes to withdraw this proposed amendment at this time.

**COMMENT #1:** Kevin Notz, with the Missouri Division of Fire Safety, commented that the definition in subsection (1)(B) for a complete fire alarm system was unclear.

**RESPONSE:** Section 198.074.7(1), RSMo, provides the definition for a complete fire alarm system. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**COMMENT #2:** Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the proposed language in subsection (9)(A) should include the terms “dispatching agency, or central monitoring company.”

**RESPONSE:** The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department’s decision to withdraw this proposed amendment.

**COMMENT #3:** Denise Clemonds, with the Missouri Association of Homes for the Aging, and Kevin Notz, with the Missouri Division of Fire Safety, commented that the smoke detector spacing requirements in subsection (9)(A) were unclear.

**RESPONSE:** The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department’s decision to withdraw this proposed amendment.

**COMMENT #4:** Kevin Notz, with the Missouri Division of Fire Safety, commented that the definition of “Hazardous area” should be placed in the proposed amendment.

**RESPONSE:** The department has determined that the “Hazardous area” definition is in current rule. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**COMMENT #5:** Kevin Notz, with the Missouri Division of Fire Safety, commented that the department should add carbon monoxide regulations to the proposed amendment.

**RESPONSE:** The department has determined that this comment shall be addressed in upcoming rule sessions. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**COMMENT #6:** Kevin Notz, with the Missouri Division of Fire Safety, commented that the department should delete a rule reference in paragraph (8)(C)1. and insert a reference to “Hazardous area” as mentioned in COMMENT #4.

**RESPONSE:** The department has determined that the “Hazardous area” definition is in current rule. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**COMMENT #7:** Kerri Hock, with the Missouri Assisted Living Association, Ronald Conway, with Colonial Retirement Center, and Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that the definition of “Major Renovation” should be deleted and/or remove the “Addition of any room that is accessed by resident” sentence.

**RESPONSE:** Section 198.074.1, RSMo, authorizes the department to define and approve major renovations. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**COMMENT #8:** Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the proposed language in subsection (2)(A) which allows the department to determine if the facility is following the appropriate fire safety manuals exceeds their scope of authority.

**RESPONSE:** Section 198.076, RSMo, authorizes the department to promulgate reasonable rules regarding the requirements for resident safety in residential care facilities and assisted living facilities. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**COMMENT #9:** Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the proposed language in subsection (2)(B) be deleted and the current language in subsection (2)(D) be used. If this is not possible, they request replacing “immediately” with “timely.”

**RESPONSE:** Section 198.076(3), RSMo, authorizes the department to promulgate reasonable rules regarding the requirements for notification of a fire. The department believes that fire safety standards should include the immediate notification of any fire regardless of potential outcomes. The term “timely” is too vague and can be subjective which may result in various resident and/or fire safety concerns. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**COMMENT #10:** Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the classification in subsection (2)(B) was incorrect and should match ICF/SNF standards.

**RESPONSE:** The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department’s decision to withdraw this proposed amendment.

**COMMENT #11:** Kerri Hock, with the Missouri Assisted Living Association, Ronald Conway, with Colonial Retirement Center, and Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that the term “surrounding grounds” in subsection (2)(B) should be deleted or defined.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #12: Kevin Notz, with the Missouri Division of Fire Safety, commented that when the department receives notice of a fire they should contact the state fire marshal's office.

RESPONSE: The department believes that this comment shall be addressed in the memorandum of understanding between the department and the state fire marshal. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #13: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the twenty-four (24)-hour time frame in subsection (2)(C) for a fire watch after the discovery of a fire should read as "for an appropriate period of time."

RESPONSE: The department believes that the proposed language is too vague and could lead to potential problems, as the term "appropriate" is subjective. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #14: Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that the term "facility structure" in subsection (2)(C) needs to be defined.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #15: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that in subsection (5)(A) obtaining consultation and assistance in review of the facilities' emergency plans could take considerable time. Ms. Hock and Mr. Conway believe that the term "immediately" should be deleted and replaced with "reasonable time."

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #16: Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that the term "if applicable" should be added in paragraph (5)(B)1.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #17: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the term "if necessary" should be inserted at the end of paragraph (5)(B)7.

RESPONSE: The department believes that the intent is to assure that the plan includes instructions to call for emergency services. The instructions may provide guidance to staff to determine if a call for emergency services is necessary. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #18: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the term "coded message" in subsection (5)(E) needs to be defined.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #19: Kerri Hock, with the Missouri Assisted Living Association, Ronald Conway, with Colonial Retirement Center, and Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that the six (6)-month requirement for fire safety training of new employees is unreasonable and should return to annual.

RESPONSE: The department believes that six (6) months is a reasonable standard for new employee fire safety training. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #20: Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that the department should add the term "if applicable" in paragraph (6)(B)3.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #21: Kerri Hock, with the Missouri Assisted Living Association, and Ronald Conway, with Colonial Retirement Center, commented that the phrase "Approved qualified service representative" in subsection (9)(B) is not defined in rule and there is no indication as to who "approves" the qualified service representative.

RESPONSE: The department has determined that the National Fire Protection Agency (NFPA) 72, 1999 is the approval authority. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #22: Kerri Hock, with the Missouri Assisted Living Association, Ronald Conway, with Colonial Retirement Center, and Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that the term "as applicable" should be added to subsection (9)(C).

RESPONSE: The department believes that the intent of the regulation is to address the facilities that require any of the fire alarm devices. If a facility is not required to have any of the devices listed in this rule, then this rule does not apply. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #23: Kerri Hock, with the Missouri Assisted Living Association, commented that in subsection (9)(G) the requirement for notification to the department should be removed, and that notification of a fire to the local authority should be sufficient.

RESPONSE: Section 198.076(3), RSMo, requires the notification of fires and fire watches be sent to the department. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #24: Kevin Notz, with the Missouri Division of Fire Safety, commented that in subsection (10)(A) the department should add the following phrase "When the sprinkler option is chosen, the areas shall be separated from other spaces by smoke-resisting partitions and doors. The doors shall be self-closing or automatic closing."

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #25: Kevin Notz, with the Missouri Division of Fire Safety, commented in subsection (10)(G) that the department should delete the term "sprinkler system" as it is not acceptable to control electromagnetic hold open devices.

RESPONSE: The department received numerous comments expressing concerns regarding this proposed amendment. As a result, it was the department's decision to withdraw this proposed amendment.

COMMENT #26: Kerri Hock, with the Missouri Assisted Living Association, and Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that in subsection (11)(C) the department's option to grant an exception exceeds the statutory authority.

RESPONSE: The department believes that use of the word "may" means the department is permitted to grant exceptions to sprinkler requirements if the facility meets the requirements of Chapter 33, RSMo. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #27: Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that in subsection (11)(C) the department's use of the term "licensed for more than twenty (20) beds" exceeds statutory authority.

RESPONSE: The department believes that it is logical and rational to equate number of residents with number of licensed beds. The number of residents in a facility can fluctuate from day to day. Given the substantial capital investment required to install a complete sprinkler system, facilities would want some certainty to apply to the issue of whether a system is required. Further, if the suggested change were made, if the department were to find that a facility licensed for more than twenty (20) beds had at least twenty-one (21) residents and no sprinkler system, the department would cite the facility for violating the sprinkler system requirement. In a worst-case scenario, the facility might try to correct the deficiency by discharging a resident; once the deficiency was corrected, the facility could admit the same resident or another, starting the cycle of noncompliance over again. This would allow the facility to avoid the intent of the legislation by creating a never-ending cycle of citations and corrections without having to install a complete sprinkler system. It is not in the interest of facility residents, the department, or facilities themselves to foster such uncertainty. A mechanism exists for facilities that do not expect to ever have more than twenty (20) residents: licensed capacity may be decreased as provided in 19 CSR 30-82.010. If the facility decided to increase its licensed capacity thereafter, it could do so; however, at that time, the facility would have to have a complete sprinkler system by December 31, 2012 or qualify for the exception provided in this rule. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #28: Kerri Hock, with the Missouri Assisted Living Association, asked who has the authority to approve the "Qualified service representative" in subsection (11)(F)?

RESPONSE: The department has determined that the National Fire Protection Agency (NFPA) 25, 1998 is the approval authority. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #29: Kerri Hock, with the Missouri Assisted Living Association, commented that in subsection (11)(G) the requirement for notification to the department that a sprinkler system has been out of service and a fire watch has been instituted is unnecessary and requested replacement of the term "department" with "fire department."

RESPONSE: Section 198.076(3), RSMo, requires the department to receive notification of a fire watch. The proposed amendment requires the implementation of an approved fire watch if a sprinkler system is or has been out of service for a specific time frame, which has been established in this amendment. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #30: Harvey Tettlebaum, with Husch, Blackwell, and Sanders, Jon Dolan, with Missouri Health Care Association, and

Don Gard, an independent life safety code consultant, commented that the proposed amendment definition of a "Complete Fire Alarm System" would create a substantial cost to facilities which was not reflected in the fiscal note. Also, the proposed amendment would create dual track enforcement between the state fire marshal and the Department of Health and Senior Services.

RESPONSE: The state fire marshal responded by indicating that their interpretation of a complete fire alarm system was based on guidelines established in the National Fire Protection Association (NFPA) 72, 1999 manual. The department responded that sections 536.200 and 536.205, RSMo, require agencies to estimate the cost of compliance with the proposed rule or amendment, not the cost of the legislation which the proposed rule or amendment implements. This information is contained in section 536.200 and 536.205, RSMo, and Op. Atty. Gen. No. 21-92, Wagner, April 6, 1992. The cost to install the sprinklers pursuant to NFPA 72 is a cost associated with the legislation, not the rule implementing the legislation. The cost of implementing the legislation was addressed in the fiscal note prepared pursuant to section 23.140, RSMo, initial definition of complete fire alarm system. The department responded that while rule promulgation authority remains with the department, House Bills 952 and 674 clearly authorizes the state fire marshal to enforce the fire safety requirements contained in section 198.074.9, RSMo, which reads in part "The provisions of this section shall be enforced by the state fire marshal. . ."

COMMENT #31: Terry Allen, a representative for Missouri Association of Homes for the Aging (MoAHA), and Larry Rohrbach, with MoAHA, commented that the definition of "Major Renovation," in particular the phrase "any room assessed by residents," was too vague, that the department does not have the statutory authority to deny a facility a sprinkler system exception if they meet the statutory requirements, and that the proposed amendment contains the phrase "licensed for more than twenty (20) beds" which is not consistent with statutory requirements.

RESPONSE: The department responded that section 198.074.1, RSMo, mandates facilities completing a major renovation (as defined and approved by the department) to install an NFPA 13 commercial system. In accordance with sections 198.009, 198.076(10), 198.079(9), RSMo, and 19 CSR 30-85.012(1), (2), and (3), and 19 CSR 30-86.012(2) and (3), the department is authorized to review and approve all additions to licensed facilities. The department agreed to change the definition to "Addition of any room(s), accessible by residents, that either exceeds 50% of the total square footage of the facility or exceeds forty-five hundred square feet." Also, the department agreed to change the proposed amendment language to allow facilities that meet the sprinkler system requirements the ability to obtain an exception.

The department responded that it is logical and appropriate to equate "number of residents" as used in section 198.074.4, RSMo, with number of licensed beds. The number of residents in a facility can fluctuate from day to day. Given the substantial capital investment required to install a complete sprinkler system, facilities would want some certainty regarding where a sprinkler system is required. Further, if the number of residents were used as the criterion, and if the department were to find that a facility licensed for more than twenty (20) beds had at least twenty-one (21) residents and no sprinkler system, the department would be required to cite the facility for violating the sprinkler system requirement. In a worst-case scenario, the facility might try to correct the deficiency by discharging a resident; once the deficiency was corrected, the facility could admit the same resident or another, starting the cycle of noncompliance over again. This would allow the facility to avoid the intent of the legislation by creating a never-ending cycle of citations and corrections without having to install a complete sprinkler system. It is not in the interest of facility residents, the department, or facilities themselves to foster such uncertainty.

The Joint Committee on Administrative Rules voted to disapprove

the proposed rule; as a result, the department is withdrawing this rulemaking.

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 86—Residential Care Facilities and Assisted  
Living Facilities**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under sections 198.073 and 198.076, RSMo Supp. 2007, the department withdraws an amendment as follows:

**19 CSR 30-86.032** Physical Plant Requirements for Residential Care Facilities and Assisted Living Facilities **is withdrawn.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 15, 2008 (33 MoReg 827-829). This proposed amendment is withdrawn.

SUMMARY OF COMMENTS: The department received two (2) comments on the proposed amendment.

COMMENT #1: Denise Clemonds, with the Missouri Association of Homes for the Aging, commented that the requirement in subsection (15)(B) for an electrical inspection should be returned to every two (2) years instead of every year as proposed in the amendment.

RESPONSE: The department agrees and has reinstated the term "Every two (2) years." However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

COMMENT #2: Denise Clemonds, with the Missouri Association of Homes for the Aging, and Kerri Hock, with the Missouri Assisted Living Association, commented that the proposed language in subsection (36)(B) is an attempt to regulate an adult day care program in a facility.

RESPONSE: The language being commented on is already in subsection (3)(B) of the current rule and is merely being moved to new subsection (36)(B). These provisions regulate the facility, not the adult day care, and are intended to protect the health, safety, and welfare of facility residents. However, due to other comments received against the proposed amendment, the department is withdrawing this proposed amendment.

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 86—Residential Care Facilities and Assisted  
Living Facilities**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under sections 198.073 and 198.076, RSMo Supp. 2007, the department amends a rule as follows:

**19 CSR 30-86.045** Standards and Requirements for Assisted Living Facilities Which Provide Services to Residents with a Physical, Cognitive, or Other Impairment that Prevents the Individual from Safely Evacuating the Facility with Minimal Assistance **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 15, 2008 (33 MoReg 829-830). 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 86—Residential Care Facilities and Assisted  
Living Facilities**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under sections 198.073 and 198.076, RSMo Supp. 2007, the department amends a rule as follows:

19 CSR 30-86.047 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 15, 2008 (33 MoReg 830-835). Those 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 received one (1) comment on the proposed amendment.

COMMENT #1: Susan McCann, with the department's Bureau of Narcotics and Dangerous Drugs, commented that the proposed changes to section (14) address controlled substance medications included in emergency kits. The original text addressed controlled substance medications that are being administered in the facility. Ms. McCann believes that the department should reinstate the original text to address the overall administration of controlled substance medications in a facility.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has reinstated the original text in section (14).

**19 CSR 30-86.047 Administrative, Personnel and Resident Care Requirements for Assisted Living Facilities**

(14) A facility shall not employ, as an agent or employee who has access to controlled substances, any person who has been found guilty or entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States for any offense related to controlled substances. II

(A) A facility may apply in writing to the department for a waiver of this section of this rule for a specific employee.

(B) The department may issue a written waiver to a facility upon determination that a waiver would be consistent with the public health and safety. In making this determination, the department shall consider the duties of the employee, the circumstances surrounding the conviction, the length of time since the conviction was entered, whether a waiver has been granted by the department's Bureau of Narcotics and Dangerous Drugs pursuant to 19 CSR 30-1.034 when the facility is registered with that agency, whether a waiver has been granted by the federal Drug Enforcement Administration (DEA) pursuant to 21 CFR 1301.76 when the facility is also registered with that agency, the security measures taken by the facility to prevent the theft and diversion of controlled substances, and any other factors consistent with public health and safety. II

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES  
Division 30—Division of Regulation and Licensure  
Chapter 88—Resident’s Rights and Handling Resident  
Funds and Property in Long-Term Care Facilities**

**ORDER OF RULEMAKING**

By the authority vested in the Department of Health and Senior Services under sections 198.009 and 198.088, RSMo 2000, and sections 198.073, 198.076, 198.079, and 660.050, RSMo Supp. 2007, the department amends a rule as follows:

19 CSR 30-88.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 15, 2008 (33 MoReg 836–837). Those 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 received three (3) comments on the proposed amendment.

**COMMENT #1:** Harvey Tettlebaum, with Husch, Blackwell, and Sanders, commented that there was no definition for “involuntary seclusion.”

**RESPONSE AND EXPLANATION OF CHANGE:** The department agrees and has inserted the definition of “involuntary seclusion” in proposed amendment 19 CSR 30-83.010(25).

**COMMENT #2:** Harvey Tettlebaum, with Husch, Blackwell, and Sanders, commented that the requirement in section (23) for reporting abuse and neglect of “vulnerable persons” to the Department of Mental Health is confusing and requests revising the proposed amendment to require dual reporting only if a facility is dually licensed.

**RESPONSE:** Section 630.005(34), RSMo Supp. 2007, defines “vulnerable person” to mean “any person in the custody, care, or control of the department that is receiving services from an operated, funded, licensed, or certified program” and sections 565.218.1 and 630.165.1, RSMo Supp. 2007, require long-term care facility administrators and employees to report suspected vulnerable person abuse to the Department of Mental Health. If a resident meets the definition of “vulnerable person,” then suspected abuse must be reported to the Department of Mental Health whether or not the facility has a license from that department. No changes have been made to the rule as a result of this comment.

**COMMENT #3:** Harvey Tettlebaum, with Husch, Blackwell, and Sanders, commented that the proposal in section (24) requires the administrator to assure compliance with all laws for reporting suspected abuse and neglect. Mr. Tettlebaum suggests deletion of section (24).

**RESPONSE AND EXPLANATION OF CHANGE:** The intent of the proposed amendment is to ensure staff have received abuse and neglect training. The department has revised section (24) to more accurately reflect this intent.

**19 CSR 30-88.010 Resident Rights**

(24) The facility shall ensure all staff are trained on the applicable laws and rules regarding reporting of suspected abuse and neglect of any resident. II