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April 15, 2008

SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."

ROBIN CARNAHAN

SECRETARY OF STATE

MISSOURI REGISTER

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at http://www.sos.mo.gov/adrules/pubsched.asp

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

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

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

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

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

RSMo—The most recent version of the statute containing the section number and the date.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2007.

EXECUTIVE ORDER

08-09

WHEREAS, DURING 1861-1865, the nation was engulfed in a great Civil War to determine whether the union of states established by the founding fathers following the American Revolution would endure or be sundered into two nations; and

WHEREAS, Missouri experienced fully the "hard hand of war," and ranked third among states participating in the Civil War with over 1,162 engagements fought on her soil; and

WHEREAS, some 160,000 Missourians fought in the war on both sides with an average of 122 men killed for every county in the state; and

WHEREAS, the Civil War and Reconstruction have left a lasting legacy that continues to influence our state in many ways; and

WHEREAS, there is an enduring interest in the Civil War that is seen in numerous Civil War organizations, a multitude of publications, exhibits, reenactments, internet and multimedia resources, historic sites, and battlefield preservation associations; and

WHEREAS, the years 2011 through 2015 mark the sesquicentennial of the Civil War; and

WHEREAS, the sesquicentennial of the Civil War presents a significant opportunity for Missourians to recall the sacrifice and service of all Missourians who participated in the Civil War and to reflect upon its legacy.

NOW THEREFORE, I, Matt Blunt, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and the laws of the State of Missouri, do hereby establish the Missouri Civil War Sesquicentennial Commission, whose composition will be as follows:

The Governor or his designee; the Secretary of State or her designee; the directors or their designees of the Department of Natural Resources, the Division of Tourism, the Department of Elementary and Secondary Education, the Department of Transportation, and the Missouri National Guard; the director or his designee of the State Historical Society of Missouri; and nine persons appointed by the Governor and such other members as the Governor may from time to time appoint. The Governor will designate two members of the commission as co-chairs.

The commission's purpose is to commemorate the bravery and sacrifice of all Missourians who participated in the Civil War and to foster an inclusive spirit of reconciliation that appropriately recognizes the experiences and points of view of all people affected by the Civil War and its aftermath.

The commission will recommend to the Governor and the citizens of Missouri effective means by which to observe the Sesquicentennial of the Civil War in Missouri.

The commission will promote public awareness of the important historical significance of the Civil War in Missouri, as well as cultural tourism in and around the state of Missouri in relation to the Civil War and its legacies.

The commission will serve as the official liaison between other states and other public and private sesquicentennial committees to coordinate and plan activities that foster recognition of the Civil War in Missouri.

The commission will report to the Governor in December of each year.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 6th day of March, 2008.

Matt Blunt

Governor

ATTEST:

Robin Carnahan

Secretary of State

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

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

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

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

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

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

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

PROPOSED AMENDMENT

13 CSR 70-3.170 Medicaid Managed Care Organization Reimbursement Allowance. The division is amending the Purpose statement and section (1) and adding a new section (5).

PURPOSE: This amendment will establish the Medicaid Managed Care Organizations' Reimbursement Allowance for the twelve (12)-month period of July 2008 through June 2009 at five and forty-nine hundredths percent (5.49%). It also changes the name of the state's medical assistance program to MO HealthNet and revises the name of the program's administering agency to MO HealthNet Division to comply with state law. The amendment also updates the name of the Department of Insurance to Department of Insurance, Financial Institutions and Professional Registration.

PURPOSE: This rule establishes the formula for determining the Medicaid Managed Care Organizations' Reimbursement Allowance each Medicaid Managed Care Organization is required to pay for the privilege of engaging in the business of providing health benefit services in this state as required by [Senate Bill 189, 93rd General Assembly] ***sections 208.431 to 208.437, RSMo****.*

(1) Medicaid Managed Care Organization Reimbursement Allowance (MCORA) shall be assessed as described in this section.

(A) Definitions.

1. Medicaid Managed Care Organization (MCO). A health benefit plan, as defined in section 376.1350, RSMo, with a contract under 42 U.S.C. section 1396b(m) to provide health benefit services to *[Missouri MC+]* **MO HealthNet** managed care program eligibility groups.

2. Department. Department of Social Services.

3. Director. Director of the Department of Social Services.

4. Division. *[Division of Medical Services]* **MO HealthNet Division**.

5. Health annual statement. The National Association of Insurance Commissioners (NAIC) annual financial statement filed with the Missouri Department of Insurance**, Financial Institutions and Professional Registration**.

6. Effective July 1, 2005 **through June 30, 2006**, Total Revenues. Total Revenues reported for Title XIX—Medicaid on the NAIC annual statement schedule "Analysis of Operations by Lines of Business." Column No. 8, Line 7.

7. Engaging in the business of providing health benefit services. Accepting payment for health benefit services.

8. Effective July 1, 2006, Total Revenues. Total capitated payments a Medicaid managed care organization receives from the division for providing, or arranging for the provision of, health care services to its members or enrollees.

(B) Beginning July 1, 2005, each Medicaid MCO in this state shall, in addition to all other fees and taxes now required or paid, pay a Medicaid Managed Care Organization Reimbursement Allowance (MCORA) for the privilege of engaging in the business of providing health benefit services in this state. Collection of the MCORA shall begin upon **Centers for Medicare and Medicaid Services (**CMS**)** approval of the changes in Medicaid capitation rates that are effective July 1, 2005.

1. Effective July 1, 2005 **through June 30, 2006**, the Medicaid MCORA owed for existing Medicaid MCOs shall be calculated by multiplying the Medicaid MCORA tax rate by the Total Revenues, as defined above. The most recent available NAIC Health Annual Statement shall be used. The Medicaid MCORA shall be divided by and collected over the number of months for which each Medicaid MCORA is effective. The Medicaid MCORA rates, effective dates, and applicable NAIC Health Annual Statements are set forth in section (2).

A. Exceptions.

(I) If an existing Medicaid MCO's applicable NAIC Health Annual Statement, as set forth in section (2), does not represent a full calendar year worth of revenue due to the Medicaid MCO entering the Medicaid market during the calendar year, the Total Revenues used to determine the *[Medicaid]* MCORA shall be the partial year Total Revenues reported on the NAIC Health Annual Statements schedule titled Analysis of Operations by Lines of Business annualized.

(II) If an existing Medicaid MCO did not have Total Revenues reported on the applicable NAIC Health Annual Statement due to the Medicaid MCO not entering the Medicaid market until after the calendar year, the Total Revenue used to determine the

Medicaid MCORA shall be the MC+ regional weighted average per member per month net capitation rate in effect during the same calendar year multiplied by the Medicaid MCO's estimated annualized member months based on the most recent complete month.

2. Effective July 1, 2006, the Medicaid MCORA owed for existing Medicaid MCOs shall be calculated by multiplying the Medicaid MCORA tax rate by the prior month Total Revenue, as defined above.

A. Exceptions.

(I) For the month of July 2006, the Medicaid MCORA owed for existing Medicaid MCOs shall be calculated by multiplying the Medicaid MCORA tax rate by the current month Total Revenue, as defined above.

(C) Effective July 1, 2005 **through June 30, 2006**, the Department of Social Services shall prepare a confirmation schedule of the information from each Medicaid MCO's NAIC Health Annual Statement Analysis of Operations by Lines of Business. Effective July 1, 2006, the Department of Social Services shall prepare a confirmation schedule of the Medicaid MCORA calculation. The Department of Social Services shall provide each Medicaid MCO with this schedule.

1. Effective July 1, 2005 **through June 30, 2006**, the schedule shall include:

A. Medicaid MCO name;

B. Medicaid MCO provider number;

C. Calendar year from the NAIC Health Annual Statement; and

D. Total Revenues reported on the Analysis of Operations by Lines of Business schedule.

2. Effective July 1, 2006, the schedule shall include:

A. Medicaid MCO name;

B. Medicaid MCO provider number; and

C. Medicaid MCORA tax rate.

3. Each Medicaid MCO required to pay the Medicaid MCORA shall review the information in the schedule referenced in paragraph (1)(C)1. of this regulation and if necessary, provide the department with correct information. If the information supplied by the department is incorrect, the Medicaid MCO, within fifteen (15) calendar days of receiving the confirmation schedule, must notify the division and explain the corrections. If the division does not receive corrected information within fifteen (15) calendar days, it will be assumed to be correct, unless the Medicaid MCO files a protest in accordance with subsection (1)(E) of this regulation.

(D) Payment of the Medicaid MCORA.

1. Offset. Each Medicaid MCO may request that their Medicaid MCORA be offset against any Missouri Medicaid payment due to that MCO. A statement authorizing the offset must be on file with the division before any offset may be made relative to the Medicaid MCORA by the MCO. Assessments shall be allocated and deducted over the applicable service period. Any balance due after the offset shall be remitted by the Medicaid MCO to the department. The remittance shall be made payable to the director of the Department of Revenue and deposited in the state treasury to the credit of the Medicaid MCORA Fund. If the remittance is not received before the next *[Medicaid]* **MO HealthNet** payment cycle, the division shall offset the balance due from that check.

2. Check. If no offset has been authorized by the Medicaid MCO, the division will begin collecting the Medicaid MCORA on the first day of each month. The Medicaid MCORA shall be remitted by the Medicaid MCO to the department. The remittance shall be made payable to the director of the Department of Revenue and deposited in the state treasury to the credit of the Medicaid MCORA Fund.

3. Failure to pay the Medicaid MCORA. If a Medicaid MCO fails to pay its Medicaid MCORA within thirty (30) days of notice, the Medicaid MCORA shall be delinquent. For any delinquent Medicaid MCORA, the department may compel the payment of such reimbursement allowance in the circuit court having jurisdiction in the county where the main offices of the Medicaid MCO is located. In addition, the director of the Department of Social Services or the director's designee may cancel or refuse to issue, extend, or reinstate a *[Medicaid]* **MO HealthNet** contract agreement to any Medicaid MCO that fails to pay such delinquent reimbursement allowance required unless under appeal. Furthermore, except as otherwise noted, failure to pay a delinquent reimbursement allowance imposed shall be grounds for denial, suspension, or revocation of a license granted by the Department of Insurance**, Financial Institutions and Professional Registration**. The director of the Department of Insurance**, Financial Institutions and Professional Registration** may deny, suspend, or revoke the license of the Medicaid MCO with a contract under 42 U.S.C. section 1396b(m) that fails to pay a MCO's delinquent reimbursement allowance unless under appeal.

(5) Medicaid MCORA Rates for SFY 2009. The Medicaid MCORA rates for SFY 2009 determined by the division, as set forth in (1)(B) above, are as follows:

(A) The Medicaid MCORA will be five and forty-nine hundredths percent (5.49%) of the prior month Total Revenue received by each Medicaid MCO. The Medicaid MCORA will be collected each month for SFY 2009 (July 2008 through June 2009). No Medicaid MCORA shall be collected by the Department of Social Services if the federal Centers for Medicare and Medicaid Services (CMS) determines that such reimbursement allowance is not authorized under Title XIX of the Social Security Act.

AUTHORITY: sections 208.201, [RSMo 2000 and] 208.431, and 208.435, RSMo Supp. [2006] 2007. Original rule filed June 1, 2005, effective Dec. 30, 2005. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed March 17, 2008.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions an estimated fifty thousand dollars ($50,000) in the aggregate in state fiscal year 2009.

PRIVATE COST: This proposed amendment will cost private entities $58,706,812 in the aggregate in state fiscal year 2009.

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.*

FISCAL NOTE
PUBLIC COST

I. Department Title: Department of Social Services
Division Title: MO HealthNet Division
Chapter Title: Chapter 3 – Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

Rule Number and Name:	13 CSR 70-3.170 Medicaid Managed Care Organization Reimbursement Allowance
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services MO HealthNet Division	SFY 2009 - $50,000

III. WORKSHEET

For SFY 2008, since the capitation rates must be increased to reflect the additional cost to the Medicaid MCOs and the capitation payments must be actuarially sound, additional administrative costs will be incurred by the Department to obtain this actuarial certification to satisfy federal managed care rules. The Department estimates an additional $50,000 in actuarial costs for this certification.

IV. ASSUMPTIONS

Since the provider tax is a cost of doing business in the state, the administration portion of the Medicaid MCO capitation payment would increase to take into account the tax paid on a per member, per month basis. All amounts remitted shall be deposited in the Medicaid Managed Care Organization Reimbursement Allowance Fund for the sole purpose of providing payment to the Medicaid managed care organizations.

FISCAL NOTE
PRIVATE COST

I. Department Title: Department of Social Services
Division Title: MO HealthNet Division
Chapter Title: Chapter 3 – Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

Rule Number and Title:	13 CSR 70-3.170 Medicaid Managed Care Organization Reimbursement Allowance (MCORA)
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
6	Medicaid Managed Care Organizations doing business in the State of Missouri	SFY 2009=$58,706,812

III. WORKSHEET

The fiscal note is based on establishing the SFY 2009 MCORA assessment percentage at 5.49% for the twelve month period of July 2008 through June 2009.

IV. ASSUMPTIONS

The SFY 2009 MCORA assessment is based on prior month total revenue multiplied by 5.49% tax assessment rate for July 2008 through June 2009. The estimated impact is $58.7 million.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—*[Division of Medical Services]*
MO HealthNet Division
Chapter 45—Hearing Aid Program

PROPOSED AMENDMENT

13 CSR 70-45.010 Hearing Aid Program. The division is amending the Purpose statement and sections (1), (2), (4), (5), (6), (9), (10), (11), (14), and (16).

PURPOSE: This amendment changes the name of the state's medical assistance program to MO HealthNet and revises the name of the program's administering agency to MO HealthNet Division to comply with state law. The amendment also changes reference to program recipients to participants and updates the division's website address.

*PURPOSE: This rule is to establish the regulatory basis for the administration of the Hearing Aid Program, including the method of purchasing hearing aids; designation of professional persons who may perform the medical ear examination and testing; and the method of reimbursement for the aids and related services. More specific details of the conditions for provider participation, criteria and methodology of provider reimbursement, [recipient] **participant** eligibility and amount, duration and scope of services covered are included in the provider program manual.*

(1) Administration. The Hearing Aid Program shall be administered by the Department of Social Services, *[Division of Medical Services]* **MO HealthNet Division**. The services and items covered and not covered, the program limitations and the maximum allowable fees for all covered services shall be determined by the Department of Social Services, *[Division of Medical Services]* **MO HealthNet Division** through the hearing aid manual and hearing aid bulletins, which are incorporated by reference and made a part of this rule, as published by the Department of Social Services, *[Division of Medical Services]* **MO HealthNet Division**, 615 Howerton Court, Jefferson City, MO 65109, at its website at *[www.dss.mo.gov/dms, July 15, 2006]* **www.dss.mo.gov/mhd, April 15, 2008**. This rule does not incorporate any subsequent amendments or additions.

(2) Persons Eligible. The *[Missouri Medicaid]* **MO HealthNet** Program pays for approved *[Medicaid]* **MO HealthNet** services for hearing aid services when furnished within the provider's scope of practice to *[Medicaid]* **MO HealthNet** eligible needy children or persons receiving *[Medicaid]* **MO HealthNet** under a category of assistance for pregnant women or the blind. The *[recipient]* **participant** must be eligible on the date the service is furnished. *[Recipients]* **Participants** may have specific limitations for hearing aid services according to the type of assistance for which they have been determined eligible. It is the provider's responsibility to determine the coverage benefits for a *[recipient]* **participant** based on their type of assistance as outlined in the provider program manual. The provider shall ascertain the patient's *[Medicaid/MC+]* **MO HealthNet** and managed care or other lock-in status before any service is performed. The *[recipient's]* **participant's** eligibility shall be verified in accordance with methodology outlined in the provider program manual.

(4) Audiological Requirements. An audiological examination must be performed by an audiologist, hearing aid dealer/fitter**,** or physician (MD or DO) prior to the submission of a Prior Authorization Request form. This testing, when administered for the purpose of prescribing a hearing aid, will be reimbursed by the *[Medicaid]* **MO HealthNet** program. Audiological testing performed in relation to a medical or surgical diagnosis or treatment for hearing deficits or related medical problems for purposes other than determining the need for a hearing aid is a noncovered service and is not reimbursable by the *[Medicaid]* **MO HealthNet** Hearing Aid Program. The audiological tests for a hearing aid must include, at a minimum, air conduction thresholds, bone conduction thresholds (with masking when necessary), speech reception thresholds and speech discrimination scores. The results obtained from these basic audiological tests must be clear and internally consistent, and must demonstrate that a hearing aid is needed, that it will benefit the *[recipient]* **participant** and will support the recommendation of which ear is to be fitted. Testing must be provided in accordance with sound professional practice and the standards under which the provider is licensed.

(5) Hearing Loss (HL) Requirement. A *[recipient's]* **participant's** pure-tone average (PTA) must be thirty decibels (30dB) HL or greater in the better ear to qualify for a hearing aid. The PTA is the average air-conduction threshold for five hundred (500), one thousand (1,000)**,** and two thousand (2,000) Hertz (Hz) measured with an earphone. A *[recipient's]* **participant's** speech discrimination must be at least forty percent (40%) without visual cues in the ear to be aided to qualify for a hearing aid. The speech discrimination is measured with an earphone using a CID W-22 word list or equivalent. The speech discrimination test materials that are used must be specified.

(6) Medical Ear Examination Requirements. The *[recipient]* **participant** must receive a medical ear examination for pathology or disease by a physician licensed as an MD or DO. The medical ear examination must be performed within six (6) months prior to the date a hearing aid is dispensed.

(9) Reimbursement for Hearing Aids and Related Services. Payment will be made for each unit of service or item provided in accordance with the fee schedule determined by the *[Division of Medical Services]* **MO HealthNet Division**. Providers must bill their costs for the hearing aids. Reimbursement will not exceed the lesser of the maximum allowed amount determined by the *[Division of Medical Services]* **MO HealthNet Division** or the provider's billed charge.

(10) Services/Items Provided in a Nursing Home. A request for audiological testing and a hearing aid must originate with the *[recipient]* **participant** and must proceed with the *[recipient's]* **participant's** full knowledge and consent. All hearing aids and related services performed or provided in a nursing home, boarding home, domiciliary home**,** or institution require prior authorization as specified in section (3), with the exception that audiological testing performed in these places of service also requires prior authorization.

(11) Binaural Hearing Aids. Binaural hearing aids may be covered by *[Medicaid]* **MO HealthNet** if medically necessary and if prescribed by an otolaryngologist, otologist**,** or otorhinolaryngologist.

(14) Hearing Aid Repairs. *[Medicaid]* **MO HealthNet** will cover necessary repairs to any eligible *[recipient's]* **participant's** hearing aid that is no longer under warranty. The warranty period on new aids or repairs will be for one (1) year from the date the hearing aid is dispensed. The methods of reimbursement for repairs are as follows:

(16) Basic Program Limitations. Benefits under the hearing aid program are limited by the following:

(A) A *[recipient]* **participant** is entitled to one (1) new hearing aid and related services (testing, earmold, fitting, dispensing**,** and post-fitting evaluation) per four (4) years;

(E) *[Medicaid]* **MO HealthNet** will not reimburse for repairs to a hearing aid that is five (5) years of age or older; and

*AUTHORITY: sections 208.152, [RSMo Supp. 2005 and] 208.153, and 208.201, RSMo [2000] **Supp. 2007**. This rule was previously filed as 13 CSR 40-81.120. Emergency rule filed June 1, 1979, effective June 11, 1979, expired Sept. 13, 1979. Original rule filed June 1, 1979, effective Sept. 14, 1979. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 17, 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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 82—General Licensure Requirements

PROPOSED AMENDMENT

19 CSR 30-82.010 General Licensure Requirements. The department is amending sections (1), (3), and (7).

PURPOSE: This amendment adds the requirement for disclosure concerning whether or not the facility has a Department of Mental Health license; deletes a facility operator's option to make special arrangements with the department for temporary closure; deletes the requirement for notarized signatures when submitting applications to operate a long-term care facility and submitting corrections to application information; adds the requirement that application and correction forms must contain a statement attesting by signature that the information submitted is true and correct to the best of the applicant's knowledge and belief.

(1) Persons wishing to operate a skilled nursing facility, intermediate care facility, assisted living facility or residential care facility shall complete form MO 580-2631 *[(12-06)]* **(8-07)**, Application for License to Operate a Long-Term Care Facility, incorporated by reference in this rule and available through the Department of Health and Senior Services' (department's) website at www.dhss.mo.gov, or by mail at: Department of Health and Senior Services *[Warehouse, Attention General Services Warehouse]*, **Section for Long-Term Care Regulation, Licensure Unit,** PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) *[526-3861]* **526-8524**. This rule does not incorporate any subsequent amendments or additions. The *[completed]* application shall *[contain a statement]* **be signed by a person with the express authority to sign on behalf of the operator, who shall attest by signature** that the information submitted is true and correct to the *[operator's]* **best of the applicant's** knowledge and belief and *[shall be signed under oath or affirmation before a notary public by a person with the express authority to sign on behalf of the operator]* **that all required documents are either included with the application or are currently on file with the department**. The completed application form *[shall be submitted to Fee Receipts, Section for Long Term Care,]* **may be submitted by mail or electronically. If submitted electronically, send the completed application to LTCapplication@dhss.mo.gov. The application fee for application processing should be submitted by separate mail. If submitted by mail, send the application form and fee to** Department of Health and Senior Services, **Section for Long-Term Care Regulation, Fee Receipts,** PO Box 570, *[930]* **920** Wildwood, Jefferson City, MO *[65109]* **65102**. One (1) application may be used to license multiple facilities if located on the same premises.

(A) The applicant shall submit the following documents and information as listed in the application:

1. Financial information demonstrating that the applicant has the financial capacity to operate the facility;

2. A document disclosing the location, capacity**,** and type of licensure and certification of any support buildings, wings**,** or floors housing residents on the same or adjoining premises or plots of ground;

3. A document disclosing the name, address**,** and type of license of all other long-term care facilities owned or operated by either the applicant or by the owner of the facility for which the application is being submitted;

4. A copy of any executed management contracts between the applicant and the manager of the facility;

5. A copy of any executed contract conveying the legal right to the facility premises, including, but not limited to, leases, subleases, rental agreements, contracts for deed**,** and any amendments to those contracts;

6. A copy of any contract by which the facility's land, building, improvements, furnishings, fixtures**,** or accounts receivable are pledged in whole or in part as security, if the value of the asset pledged is greater than five hundred dollars ($500);

7. A nursing home surety bond or noncancelable escrow agreement, if the applicant holds or will hold facility residents' personal funds in trust;

8. A document disclosing the name, address, title**,** and percentage of ownership of each affiliate of any general partnership, limited partnership, general business corporation, nonprofit corporation, limited liability company**,** or governmental entity which owns or operates the facility or is an affiliate of an entity which owns or operates the facility. If an affiliate is a corporation, partnership, or LLC, a list of the affiliate's affiliates must also be submitted. As used in this rule, the word "affiliate" means:

A. With respect to a partnership, each partner thereof;

B. With respect to a limited partnership, the general partner and each limited partner with an interest of five percent (5%) or more in the limited partnership;

C. With respect to a corporation, each person who owns, holds, or has the power to vote five percent (5%) or more of any class of securities issued by the corporation, and each officer and director;

D. With respect to an LLC, the LLC managers and members with an interest of five percent (5%) or more;

9. If applicable, a document stating the name and nature of any additional businesses in operation on the facility premises and the document issued by the division giving its prior written approval for each business;

10. A list of all principals in the operation of the facility and their addresses and titles and, so that the department may verify the information disclosed pursuant to paragraphs (1)(A)11. and (1)(A)12. of this rule, the Social Security numbers or employer identification numbers of the operator and all principals in the operation of the facility. As used in this rule, "principal" means officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities;

11. Disclosure concerning whether the operator or any principals in the operation of the facility are excluded from participation in the Title XVIII (Medicare) or Title XIX (Medicaid) program of any state or territory;

12. Disclosure concerning whether the operator or any principals in the operation of the facility have ever been convicted of a felony in any state or federal court concerning conduct involving either management of a long-term care facility or the provision or receipt of health care services; *[and]*

13. Emergency telephone, fax**,** and email contact information for the facility administrator, director of nursing**,** and the operator's corporate office*[.]***; and**

14. Disclosure concerning whether the facility has a Department of Mental Health (DMH) license.

(B) Every facility that provides specialized Alzheimer's or dementia care services, as defined in sections 198.500 to 198.515, RSMo, by means of an Alzheimer's special care unit or program shall submit to the department with the licensure application or renewal, the following:

1. Form MO 580-2637, Alzheimer's Special Care Services Disclosure *[(2-03)]* **(2-07)**, incorporated by reference in this rule and available through the department's website: www.dhss.mo.gov, or by mail at: Department of Health and Senior Services *[Warehouse, Attention General Services Warehouse],* **Section for Long-Term Care Regulation, Licensure Unit,** PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) *[526-3861]* **526-8524**. This rule does not incorporate any subsequent amendments or additions. The form shall be completed showing how the care provided by the special care unit or program differs from care provided in the rest of the facility in the following areas:

A. The Alzheimer's special care unit's or program's written statement of its overall philosophy and mission which reflects the needs of residents afflicted with dementia;

B. The process and criteria for placement in, or transfer or discharge from, the unit or program;

C. The process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition;

D. Staff training and continuing education practices;

E. The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;

F. The frequency and types of resident activities;

G. The involvement of families and the availability of family support programs;

H. The costs of care and any additional fees; and

I. Safety and security measures; and

2. Form *Guide to Selecting an Alzheimer's Special Care Unit* (6/06) #455, incorporated by reference in this rule and available through the department's website: at http://www.dhss.mo.gov/**Ombudsman**, or by mail at: Department of Health and Senior Services *[Warehouse, Attention General Services Warehouse],* **Section for Long-Term Care Regulation, Licensure Unit,** PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) *[526-3861]* **526-8524** or a document of choice which contains, but is not limited to all information on selecting an Alzheimer's special care unit or program that is contained in the *Guide to Selecting an Alzheimer's Special Care Unit [(12/03)]* **(6/06)** #455. This rule does not incorporate any subsequent amendments or additions.

(C) If, after filing an application, the operator identifies an error or if any information changes the issuance of the license, **including but not limited to, a change in the administrator, board of directors, officers, level of care, number of beds, or change in the name of the operating entity,** the operator shall—

1. Submit the correction or additional information to the department's Licensure and Certification Unit in a letter *[accompanied by a notarized statement]***. The letter shall be signed by a person with express authority to sign on behalf of the operator attesting by signature** that the information being submitted is true and correct to the best of the operator's knowledge and belief; or

2. Submit the correction or additional information to the department's Licensure and Certification Unit. **The additional information may be submitted electronically or by mail.** Information shall be submitted using form MO 580-2623 *[(12-06)]* **(8-07)**, Corrections For Long-Term Care Facility License Application, incorporated by reference in this rule and available through the Department of Health and Senior Services' (department's) website at www.dhss.mo.gov, or by mail at: Department of Health and Senior Services *[Warehouse, Attention General Services Warehouse],* **Section for Long-Term Care Regulation, Licensure Unit,** PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) *[526-3861]* **526-8524**. This rule does not incorporate any subsequent amendments or additions. The completed *[application]* **correction** form shall be signed by a person with express authority to sign on behalf of the operator **attesting by signature that the information submitted is true and correct to the best of the operator's knowledge and belief** and shall be submitted **by electronic mail to LTCapplication@dhss.mo.gov, or by mail** to**:** *[Fee Receipts, Section for Long-Term Care,]* Department of Health and Senior Services, **Section for Long-Term Care Regulation, Fee Receipts,** PO Box 570, *[930]* **920** Wildwood, Jefferson City, MO *[65109]* **65102**.

(D) If, as a result of an application review, the department requests a correction or additional information, the operator, within ten (10) working days of receipt of the written request shall—

1. Submit the correction or additional information to the department in a letter *[accompanied by a notarized statement]* **attesting by signature** that the information being submitted is true and correct to the best of the operator's knowledge and belief; or

2. Submit the correction or additional information using form MO 580-2623 *[(12-06)]* **(8-07)**, Corrections For Long-Term Care Facility License Application referenced in paragraph (1)(C)2. of this rule.

(G) If, during the license's effective period, an operator which is a partnership, limited partnership or corporation undergoes any of the changes described in section 198.015.*[3]***4**, RSMo, or a new corporation, partnership, limited partnership, limited liability company or other entity assumes facility operation, within ten (10) working days of the effective date of that change, the operator shall submit an application for a new license.

(M) If, during the period in which a license is in effect, a change occurs which causes the statements in the application to no longer be correct, including change of administrator, or if any document is executed which replaces, succeeds or amends any of the documents filed with the application, within ten (10) working days of the effective date of the change, the operator shall—

1. Submit a letter to the department's Licensure and Certification Unit that contains a correction of the application with notification of the effective date of the change and a copy of any new documents. The operator must ensure the letter is *[accompanied by a notarized statement]* **signed by a person with the express authority to sign on behalf of the operator, who shall attest by signature** that the information being submitted is true and correct to the best of the operator's knowledge and belief; or

2. Submit to the department a correction of the application and a copy of any new documentation and information by submitting form Corrections for Long-Term Care Facility License Application referenced in paragraph (1)(C) 2. of this rule.

(N) If from an analysis of financial information submitted with the application, or if from information obtained during the term of a license, the operator appears insolvent or **shows** a tendency toward insolvency, the department shall have the right to request additional financial information from the operator. Within ten (10) working days after receiving a written request from the department, the operator shall—

1. Submit to the department the additional information requested in a letter accompanied by a *[notarized]* statement **attesting by signature** that the information being submitted is true and correct to the best of the operator's knowledge and belief; or

2. Submit the financial information to the department *[submitting]* **on** form Corrections for Long-Term Care Facility License Application referenced in paragraph (1)(C)2. of this rule.

(P) To obtain a license for an additional level of care on the premises, the licensed operator shall submit a written request **by electronic mail to LTCapplication@dhss.mo.gov, or mail** to the department for the issuance of a license for the desired level of care. The request shall indicate the level of care, the number of beds desired, the name and address of the facility, the name and address of the operator, and shall include the *[notarized]* signature of the operator. **The request shall be signed by a person with the express authority to sign on behalf of the operator, who shall attest by signature that the information submitted is true and correct to the best of the operator's knowledge and belief.** The licensure fee shall accompany this request. Requests are subject to department approval. The operator shall submit this request no less than sixty (60) days prior to the initiation date of the new level of care. The department shall coordinate this license's expiration date with that of the original license and the department shall prorate the license fee accordingly.

(T) If the department issues a temporary operating permit, and then *[issues]* **subsequently issues** a regular license *[later]*, the licensing period shall include the period of operation under the temporary operating permit. The licensing period shall also include any period during which the department was enjoined or stayed from revoking or denying a license or rendering the temporary operating permit null and void.

(U) Unless an operator indicates otherwise, all the rooms and space on the premises and all persons eighteen (18) years of age and over living on the premises shall be considered as part of the facility and its licensed capacity or staff and shall be subject to compliance with all rules governing the operation of a licensed facility. If an operator, when applying or reapplying for a license, wants to exclude some portion of the premises from being licensed or wants to exclude a relative as a resident, a *[notarized]* statement to that effect shall be filed as a separate document indicating the use which will be made of that area of the premises and who or what occupies the area, and what the relationship is of the relative(s) being excluded. **The statement shall be signed by a person with the express authority to sign on behalf of the operator, who shall attest by signature that the information submitted is true and correct to the best of the operator's knowledge and belief.**

(3) If a licensed facility discontinues operation as evidenced by the fact that no residents are in care or at any time the department is unable to freely gain entry into the facility to conduct an inspection, *[unless the facility operator has made special arrangements with the department for temporary closure,]* the facility shall be considered closed. The department shall notify the operator in writing requesting the voluntary surrender of the license. If the department does not receive the license within thirty (30) days, it shall be void. *[Later, if operation is to resume]* **If the operator should choose to again license the facility**, the operator shall *[file a new]* **submit a complete** application**.** *[and fee and the]* **The** provisions of section (1) shall apply.

(7) The department shall make available **by Internet at www.dhss.mo.gov** to interested individuals **or** without charge a single copy of—

*AUTHORITY: Executive Order 77-9 of the Governor filed Jan. 31, 1979, effective Sept. 28, 1979 and sections 198.018, 198.073, 198.076, and 198.079 [and 198.515, RSMo 2000 and 198.005, 198.022] RSMo Supp. [2006] **2007**. This rule was originally filed as 13 CSR 15-10.010. Emergency rule filed Aug. 13, 1979, effective Oct. 1, 1979, expired Jan. 25, 1980. Original rule filed Aug. 13, 1979, effective Dec. 13, 1979. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 13, 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 Kimberly O'Brien, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. 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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 83—Definition of Terms

PROPOSED AMENDMENT

19 CSR 30-83.010 Definition of Terms. The department is amending section (35) and adding new section (51).

PURPOSE: This amendment revises the definition for "person" and adds the definition of "vulnerable person."

(35) 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.

(51) 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.

*AUTHORITY: section 198.009, RSMo 2000 and section [198.005, 198.006 and] 198.073, RSMo Supp. [2006] **2007**. Emergency rule filed Sept. 7, 1979, effective Sept. 28, 1979, expired Jan. 24, 1980. This rule originally filed as 13 CSR 15-11.010. Original rule filed Sept. 7, 1979, effective Jan. 12, 1980. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 13, 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 Kimberly O'Brien, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. 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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 84—Training Program for Nursing Assistants

PROPOSED AMENDMENT

19 CSR 30-84.020 Certified Medication Technician Training Program. The department is amending the Purpose of the rule, adding new sections (1), (7), and (11), deleting sections (2) and (10), amending sections (2), (3), (4), (5), (6), (8), (9), and (10), and renumbering throughout.

PURPOSE: This amendment deletes archaic terminology and replaces it with current rule numbers, licensure levels and agency names; defines the terms "Cooperating agency," "Course," and "Educational training agency," clarifies the purpose of the training program, course curriculum, and objective; clarifies student and instructor/examiner qualification; clarifies instructor/examiner disqualification criteria; clarifies eligibility to become a training agency or certifying agency; updates requirements for the course curriculum, course testing, record keeping, and certification; clarifies information regarding the department's CMT Registry; clarifies who is employable as a CMT in long-term care facilities; and deletes requirements for the CMT update course.

PURPOSE: Individuals who administer medications in intermediate care and skilled nursing facilities are required by [13 CSR 15-14.042(49)] ***rule*** *to have successfully completed a medication administration training program approved by the [Division of Aging]* ***Department of Health and Senior Services****. This rule sets forth the requirements for the approval of a medication technician training program designating the required course curriculum content, outlining the qualifications required of students and instructors, designating approved training facilities, outlining the testing and certification requirements, and establishing an update course.*

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

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

(A) Cooperating agency—an intermediate care facility (ICF) or skilled nursing facility (SNF) licensed by the Department of Health and Senior Services (the department) which has entered into a written agreement with the educational training agency to provide the setting for the clinical portion of the course.

(B) Course—the sixty (60) hours of classroom training, eight (8) hours of clinical practice, and a two (2)-part final examination of the department-approved certified medication technician course curriculum.

(C) Educational training agency—an area vocational-technical school, 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.

*[(1)]***(2)** The *[purpose of the Certified Medication Technician Training Program]* **CMT course** shall be *[to prepare individuals for employment as certified medication technicians in intermediate care or skilled nursing facilities (ICF/SNF).]* **prescribed by the department in order to prepare individuals for employment as certified medication technicians in intermediate care facilities and skilled nursing facilities (ICF/SNF).** The program shall be designed to teach skills in medication administration of nonparenteral medications, which will qualify students to perform this procedure to assist licensed practical nurses **(LPNs)** or registered *[professional]* nurses **(RNs)** in *[drug]* **medication** therapy. **All aspects of the CMT course included in this rule shall be met in order for a program to be approved.**

[(2) All aspects of the Certified Medication Technician Training Program included in this rule shall be met in order for a program to be approved.]

(3) If the *[program]* **CMT course** is to be *[offered]* **conducted** in an ICF/SNF, the *[administrator of that]* facility *[shall make the arrangements with the sponsoring]* **must enter into an agreement with an** educational **training** agency *[to—]* **which is responsible to:**

(A) Provide administration of the Test of Adult Basic Education (TABE) and review of the student's qualifications;

(B) Arrange for a *[certified]* **department-approved** instructor;

(C) *[Administer]* **Arrange for administration of** the final examination; and

(D) Certify the students through a *[state-approved]* **department-approved** certifying agency which is any one (1) of the long-term care associations or any other *[division]* **department-**approved agency authorized to issue certificates.

*[(3)]***(4)** The objective of the *[Certified Medication Technician]* **CMT** Training Program shall be to ensure that the medication technician will be able to*[—]* **do the following:**

(A) Prepare, administer**,** and *[chart]* **document administration of** medications by all routes except those *[given]* **administered** by the parenteral route;

(B) Observe*, [evaluate,]* report**,** and *[record]* **document** responses of residents to medications *[given]* **administered**;

(C) Identify responsibilities associated with *[control and storage]* **acquisition, storage, and security** of medications;

(D) Identify appropriate **medication** reference materials;

(E) *[Relate side effects, interactions and nursing implications of common medications]* **Observe, report, and document responses of residents to medications**;

(F) Identify lines of authority and areas of responsibility; and

(G) Identify what constitutes a medication error.

*[(4)]***(5)** The course shall consist of at least sixty (60) classroom hours of instruction *[and a]* **taught by a department-approved CMT instructor or examiner (instructor/examiner). The course shall include an additional** minimum *[of]* eight (8) hours of clinical practice **conducted in a licensed ICF or SNF** under the direct supervision of *[an]* **the CMT** instructor/**examiner** or **under the direct supervision of an** *[licensed registered nurse ([]*RN*[]) designated by the sponsoring]* **employed by the cooperating agency and designated by the** educational **training** agency*[, including]* **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 *[of a]* two (2)-hour final practicum **examination must be conducted** in a**n** *[licensed]* ICF/SNF**.** *[and a final written examination. The hours of a student's clinical practice required by an instructor may be greater, based on each student's mastery of course content as determined by the instructor.]*

(A) *[The approved course curriculum shall be the course developed by the Missouri Department of Elementary and Secondary Education and the Division of Aging as outlined in the manual entitled Medication Technician produced by the Instructional Materials Laboratory, University of Missouri-Columbia, revised 1994, catalogue number 50-6010-S. Students shall each have a copy of this manual. The instructor shall use the companion Instructor's Guide, catalogue number 50-6010-I. These manuals and materials are incorporated in this rule by reference.]* **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 2005), incorporated by reference in this rule and available by Internet at: 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 2005), incorporated by reference in this rule, and accessed by Internet: www.cmttest.org. This rule does not incorporate any subsequent amendments or additions.

(C) Students and instructors shall each have a copy of the approved course curriculum manual.

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

1. Basic review of body systems and *[drug]* **medication** effect on each;

2. Medical terminology;

3. Infection control;

4. *[Drug]* **Medication** classifications;

5. Dosage, measurements**,** and forms;

6. **Acquisition,** *[S]***s**torage**,** and *[accountability]* **security**;

7. Problems of observations in *[drug]* **medication** therapy; **and**

8. Administration by oral, rectal, vaginal, otic, opthalmic, nasal, skin, topical, transdermal patches, and oral metered dose inhaler**.***[; and]*

[9. Special categories.]

*[(C)]***(E)** A student shall not be allowed to independently administer medications until successfully completing the **CMT** course. *[The final score sheet]* **The CMT Course Evaluation Record** may be used as authorization to independently administer medications for up to *[ninety (90)]* **sixty (60)** days. After this period the student must *[have a certificate and]* be listed on the Missouri *[State Certified Medication Technician]* **CNA** Registry **as an active CMT**.

*[(5)]***(6)** Student Qualifications.

(A) Any individual employable in an ICF/SNF who will be involved in direct resident care shall be eligible to enroll as a student in the course if the following criteria are also met:

1. High school diploma or General Education Development (GED) Certificate;

2. A minimum score of 8.9 on both Vocabulary and Comprehension tests and a minimum score of 7.0 on Mathematics Concepts and Application tests on the D level of the *[Test of Adult Basic Education (]*TABE*[)]*. The tests shall be administered by the *[public educational sector;]* **educational training agency;**

3. Six (6) months of employment as a *[certified nurse assistant]* **CNA** who is listed *[on the Missouri State Nurse Assistant Register and who has a letter of recommendation submitted to the training agency or school by the administrator or director of nursing of the facility, or, if now unemployed, by a previous employer; and]* **as active on the Missouri CNA Registry;**

4. *[Nursing assistants who plan to enroll in the course may or may not be currently employed in a long-term care facility.]* **For an individual currently employed in a long-term care facility, a letter of recommendation submitted to the educational training agency by the administrator or director of nursing of the facility, or for an individual not currently employed in a long-term care facility, a letter of recommendation submitted to the educational training agency by a previous long-term care facility employer;**

5. The individual is not listed on the department's Employee Disqualification List (EDL) and does not have a Federal Indicator on the Missouri CNA Registry or any other state's CNA Registry that the educational training agency has checked based on a belief that information on the individual may be included;

6. The individual has not been convicted of or entered a plea of guilty or *nolo contendere* to a crime in this state or any other state, which if committed in Missouri would be a Class A or Class B felony violation of Chapters 565, 566, or 569, RSMo, or any violation of subsection 3 of section 198.070, or section 568.020, RSMo, unless a good cause waiver has been granted by the department under the provisions of 19 CSR 30-82.060; and

7. The individual meets the employment requirements listed in 19 CSR 30-85.042(32).

(B) Students who drop the CMT course due to illness or incapacity may reenroll within six (6) months of the date the student withdrew from the course and make up the missed course material upon presenting proof of prior attendance and materials covered if allowed by the educational training agency's policy.

*[(B)]***(C)** *[The following]* Individuals *[may qualify as certified medication technicians by successfully challenging the course through a written and performance final examination:]* **seeking to challenge the CMT examination shall be listed as active on the Missouri CNA Registry and shall meet the criteria in paragraph (6)(A)6. of this rule. If not listed as active on the Missouri CNA Registry, the individual shall first apply to challenge and successfully pass the CNA written and practicum examination. The following individuals may qualify to challenge the final written and practicum CMT examination:**

1. **A** *[S]***s**tudent*[s]* enrolled in a professional nursing school or in a practical nursing program who *[have]* **has** completed a medication administration course and who *[have]* **has** a letter of endorsement from the school or program director;

2. **An** *[I]***i**ndividual*[s]* who successfully completed a professional or practical nursing program **in the last five (5) years** but who failed the professional (RN) or practical (LPN) state licensure examination;

3. **An** *[I]***i**ndividual*[s]* who provide**s** evidence of successful completion of a *[state]* **department**-approved *[certified medication technician]* **CMT** course while working as **an** aide*[s]* at a facility operated by the Missouri Department of Mental Health *[providing that an individual successfully complete the orientation module of the approved Nurse Assistant Training Program and challenges the course by successfully completing the final examination of that program so that his or her name appears on the Missouri Certified Nurse Assistant Register. This shall be completed prior to challenging the Certified Medication Technician course]* **who is listed as a CNA on the Missouri CNA Registry***[;]***.**

*[4.]***(D) An** *[I]*individual*[s]* who *[have successfully completed a state-approved medication technician course in another state, who are currently listed as Certified Medication Technicians in good standing in that state, and who submit*

a letter of recommendation to the division from an administrator or director of nursing of a facility in which he or she served as a medication technician; and] **provides evidence of successful completion of a Missouri Department of Mental Health (DMH)-approved CMT course while working at a facility operated by the DMH but who is not listed as a CNA on the department's Missouri CNA Registry may challenge the CMT examination. The CMT challenge may only be made after first completing the orientation module of the department's approved Nurse Assistant Training Program and successfully challenging the final CNA examination so that the individual's name appears on the department's Missouri CNA Registry.**

*[5.]***(E)** *[Individuals listed on the Certified Nurse Assistant (CNA) register. All individuals who qualify to challenge the final examination must first challenge the Certified Nurse Assistant final examination if not already listed on the registry as a CNA.]* **An individual who has successfully completed a department-approved medication technician course in another state, who is currently listed as a CMT in good standing in that state, and who submits a letter of recommendation to the department's Health Education Unit from an administrator or director of nursing of a facility in which the individual worked as a medication technician.**

[(C) Individuals who have successfully completed a professional or practical nursing program and who have not yet taken or received the results of the state licensure examination may request a letter from the division which entitles them to administer medication in a long-term care facility. However, if more than ninety (90) days have lapsed since graduation or since taking the Missouri State Board Examination with no results confirmed, the individual must ask for permission to challenge the final examination for certification as a medication technician. Challenge letters shall be valid for one hundred twenty (120) days.]

[(D) Those persons designated in subsections (5)(B) and (C) who want to challenge the final examination or receive a letter of qualification, shall submit a request in writing to the division enclosing any applicable documentation. If approved to—

1. Challenge the examination, a letter so stating will be sent from the division and may be presented to a sponsoring educational agency so that arrangements can be made for testing; or

2. Qualify without taking the course or challenging the examination, a letter so stating will be sent by the division and shall be presented and used in lieu of a certificate.]

[(E) individuals who must qualify by successfully completing the final examination or by special qualifying criteria shall not be allowed to administer medications until successfully completing the challenge process or receiving a letter of qualification from the division.]

(7) Obtaining Approval to Challenge the CMT Examination.

(A) An individual wanting to challenge the written and practicum final examination shall submit a request in writing to the department's Health Education Unit enclosing documentation required by this rule. If approved to challenge the examination, a letter so stating will be sent from the department to be presented to the educational training agency. The educational training agency shall review and maintain a copy of the letter in the agency's file prior to scheduling the individual for testing. Challenge approval letters shall be valid for one hundred twenty (120) days from the date of the department's approval.

(B) An individual who has successfully completed a professional or practical nursing program and who has not yet taken or received the results of the state licensure examination may request a qualifying letter from the department's Health Education Unit allowing the individual to administer medication in a long-term care facility. The qualifying letter allows the individual to administer medications according to this regulation in lieu of a certificate or the individual being listed on the Missouri CNA Registry as an active CMT. However, if more than ninety (90) days have lapsed since graduation or since taking the Missouri State Board Examination with no successful results confirmed, the individual shall request department approval to challenge the final examination for certification as a medication technician.

(C) An individual shall not administer medications without the instructor present until the individual has successfully completed the challenge examination and holds an authorized signed CMT Course Evaluation Record. An authorized signed CMT Course Evaluation Record is good for up to sixty (60) calendar days from the examination date pending receipt of the certificate or of listing on the Missouri CNA Registry as an active CMT.

*[(6)]***(8) CMT Course** Instructor/**Examiner** Qualification*[s for Basic Course]* **Requirements**.

(A) *[An instructor shall be currently licensed to practice as a registered nurse in Missouri or shall have a temporary permit from the Missouri State Board of Nursing. The instructor shall not be the subject of current disciplinary action, such as censure, probation, suspension or revocation of license.]* **In order to qualify as an instructor, examiner, or both, the individual:**

[(B) The instructor shall meet state certification requirements as follows:

1. Hold a current full-time teaching certificate or a short-term instructor approval certificate from the Department of Elementary and Secondary Education, Division of Vocational and Adult Education;

2. Complete an instructor/examiner workshop to implement the program; and

3. Be responsible to a sponsoring educational agency, such as an area vocational-technical school, a comprehensive high school, a community college or an approved four (4)-year institution of higher learning.]

1. Shall be currently licensed to practice as an RN in Missouri or shall have a temporary permit from the 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 full-time teaching certificate or a short-term instructor approval 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.

[(C) Instructor may be assisted by pharmacists as guest instructors in to the areas of drug distribution systems, regulations governing drugs, drug actions, adverse reactions and drug interactions.

(D) When the instructor is an employee of the ICF/SNF in which training is conducted, a qualified registered nurse

approved by the sponsoring educational agency shall conduct the final examinations. The examiner may also be the instructor.]

(B) CMT Instructor/Examiner Disqualification Criteria.

*[(E)]***1. An** *[person]* **individual** shall not be approved to be an instructor *[or]*/examiner if he or she has ever been found to have knowingly acted or omitted any duty in a manner which would materially and adversely affect the health, safety, welfare**,** or property of a resident.

*[(F)]***2. An** *[person]* **individual** who has been approved to be an instructor *[or]*/examiner shall have that status revoked if, after an investigation by the *[division]* **department**, it is found that the *[person]* **individual**:

*[1.]***A.** Knowingly acted or omitted any duty in a manner which materially and adversely affected the health, safety, welfare**,** or property of a resident;

*[2.]***B.** Defrauded a**n** *[training]* **educational** agency or student by taking payment and not completing a course or following through with certification **documentation required by 19 CSR 30-84.020**;

*[3.]***C.** *[Did not administer the final examination as required, or was not on-site while students were being trained; or]* **Failed to teach, examine, or clinically supervise in accordance with 19 CSR 30-84.020;**

*[4.]***D.** Falsified information on the *[final score sheet]* **CMT Course Evaluation Record** or any other required documentation*[.]***;**

E. Failed to keep secure the automated PIN access system;

F. Failed to keep secure the CMT web-based, department-approved Instructor Guide/Test Bank;

G. Copied test questions or answer keys; or

H. Prepared students directly from the exam or utilized unfair or subjective testing techniques.

*[(G)]***(C)** When an individual is no longer qualified to be an instructor *[or]*/examiner, the *[division]* **department** shall *[notify]*:

1. *[The]* **Notify the** individual that he or she is no longer eligible to be an instructor *[or]*/examiner; *[and]*

2. *[All approved training and]* **Notify all** certifying agencies *[if it has been determined that an individual]* **that the individual** is no longer considered an approved instructor or examiner**;** and *[that the person's name shall be removed from the list of approved instructors and examiners maintained by the division.]*

3. Remove the individual's name from the department's Instructor/Examiner Registry.

*[(H)]***(D)** To be reinstated as an approved instructor *[or]*/examiner the individual shall submit a request in writing to the *[division director]* **department's Health Education Unit** stating the reasons why reinstatement is warranted. **If the individual has not attended the Train-the-Trainer Program Workshop within two (2) years of the date of request, the individual shall retake the Train-the-Trainer Program Workshop.** The *[division director]* **Section for Long-Term Care administrator** or *[the director's]* designee shall respond in writing to the request.

*[(7)]***(9) Educational** Training Agencies.

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

(B) All classrooms shall contain sufficient space, equipment and teaching aids to meet the course objectives *[as determined by the sponsoring educational agency]*.

(C) A school *[desiring divisional]* **requesting** approval to teach the *[Certified Medication Technician]* **CMT Training** Course **or facilitate challenging the examination** shall file an application with the *[division]* **department's Health Education Unit** giving the names of the instructors, listing the equipment and classroom space that will be used and **shall** provide a copy of an agreement with the *[nursing facility conducting the clinical portion of 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 approved as clinical supervisors. 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**.

(D) The *[ICF/SNF]* **cooperating agency** in which clinical practice and the final practicum examination are conducted shall allow students, instructors and examiners access to the medication room, supervised access to residents and access to the medication *[recording]* **documentation** area.

(E) There shall be a signed written agreement between the *[sponsoring]* educational **training** agency and each cooperating *[ICF/SNF]* **agency** which specifies the rules, responsibilities**,** and liabilities of each party.

(F) The *[sponsoring]* educational **training** agency is responsible for sending the *[division]* **department's Health Education Unit** a copy of the most current signed agreement with the cooperating *[ICF/SNF]* **agency** where *[clinicals]* **any portion of the course or the entire course** will be conducted. The *[division]* **department** shall review all signed agreements **of cooperation**. On-site inspections of the *[training site]* **cooperating agency** or **the** educational **training** agency may be made by the *[division]* **department** if problems occur or complaints are received. If requirements are not met, the status as a**n educational** training *[site]* **agency** may be revoked by the *[division]* **department**.

(G) The classroom portion **of the course** may be taught in an ICF/SNF if there is an approved educational **training** agency as a sponsor.

*[(8)]***(10)** *[Basic]* **Certified Medication Technician** Course Testing.

(A) Prior to the student's enrollment, the TABE shall be administered by qualified examiners *[from the public educational sector designated by the sponsoring]* **designated by the** educational **training** agency. See paragraph *[(5)]***(6)**(A)2. of this rule.

(B) To be eligible for the final **course** examination, students shall have achieved a score of at least eighty percent (80%) on each written examination in the course curriculum.

(C) *[The final examination shall consist of a written and practicum examination.*

1. The written examination shall include fifty (50) multiple choice questions based on the course objectives. A score of at least eighty percent (80%) is required for passing.] **Courses beginning on or after the effective date of this rule require the instructor/examiner to administer the department-approved written final examination accessed through the department's website at www.cmttest.org using a secure PIN system. The final examination shall include fifty (50) multiple choice questions based on course objectives. A score of at least eighty percent (80%) is required for passing.**

*[2.]***(D)** The practicum examination shall include preparing and administering all nonparenteral routes and *[recording]* **documenting administration** of medications administered to residents. *[It]* **The practicum examination** shall be conducted under the direct supervision of the **department-approved** instructor *[or]*/examiner and the *[person]* **individual** responsible for medication administered in the ICF/SNF. Testing on medications not available in the ICF/SNF shall be done in a simulated classroom situation.

*[3.]***(E)** The final examination may be retaken one (1) time within ninety (90) days **of the first fail date** without repeating the course.

*[4.]***(F)** A challenge examination may be taken one (1) time. If failed, the entire course shall be taken *[before retesting is allowed]*.

*[(D)]***(G)** The instructor *[and]*/examiner shall complete the *[final records and the record sheet shall]* **CMT Course Evaluation**

Record, which includes competencies**,** *[and]* scores**,** and other identifying information.

*[(9)]***(11)** Records and Certification.

(A) Records.

1. **The educational training agency shall maintain records** *[F]***f**or at least two (2) years*[, the sponsoring educational agency shall maintain records of individuals]* **for those individuals** who have completed the *[Certified Medication Technician Training Program]* **CMT Course** and shall submit to *[one (1) of the state-approved certifying agencies]* **a department-approved certifying agency within thirty (30) calendar days from the examination date the following:** the student's **legal** name, *[student's]* Social Security number, class beginning date and completion date, **whether certified by** a challenge or full course**,** and other identifying information from the *[final score sheet]* **CMT Course Evaluation Record**.

2. *[A copy of the final record shall be provided]* **The educational training agency shall provide a copy of the CMT Course Evaluation Record** to the certified medication technician.

3. *[A transcript may be released]* **The educational training agency may release a transcript** with written permission from the student in accordance with the provisions of the **Family Education Rights and** Privacy Act**,** *[—P.L. 90-247]* **20 U.S.C. section 1232g**.

(B) Certification.

1. The *[sponsoring]* educational **training** agency shall maintain the records of individuals who have been enrolled in the *[Certified Medication Technician Program]* **CMT course** and shall submit to a *[state approved certifying agency the names and address of]* **department-approved certifying agency, the legal name, date of birth, Social Security number, certificate number, certification date, educational training agency and cooperating agency for** all individuals who successfully complete the *[program.]* **course and final examination within thirty (30) calendar days from the examination date.** Upon receipt of the successful completion of **the** course**,** *[material and final examination, the state-approved certifying agency]* **a department-approved certifying agency** shall issue a certificate of completion to the student through the *[sponsoring]* educational **training** agency *[(school)]*. Any final examination documentation over *[ninety (90)]* **sixty (60)** days old shall be invalid.

2. *[On a monthly basis,]* **Each week** the certifying agency shall provide the *[division]* **department's Health Education Unit** with names and other identifying information of those receiving certificates.

3. The *[division]* **department** shall maintain a list of certifying agencies approved to *[handle the issuance of]* **issue** certificates for the *[Certified Medication Technician]* **CMT** Training Program. In order for a certifying agency to be approved by the *[division]* **department**, *[it]* **the agency** shall enter into an annually renewable agreement of cooperation with the *[division]* **department**.

[(10) Certified Medication Technician Update Course.

(A) All medication technicians with certificates from state-approved certifying agencies who have not taken the new sixty-eight (68)-hour course using the 1994 edition, curriculum catalog number 50-6010-S shall successfully complete the Certified Medication Technician Update Course (number 50-6015-S) to remain qualified certified medication technicians. Any individual taking the update course shall be certified as a nurse assistant with his or her name listed on the Missouri State Nurse Assistant Registry. Any previously qualified student who does not attend the update course prior to June 30, 2000, must take the complete sixty-eight (68)-hour course.

(B) The certifying agency must receive the score sheet and accompanying documentation within ninety (90) days after the Certified Medication Technician Update Course final examination is administered. Score sheets and documents shall become invalid if not properly submitted within ninety (90) days after the final examination is given.

(C) The following may request permission from the division to take the Certified Medication Technician Training Update Course:

1. Individuals trained by the then existing Missouri Division of Health Institutional Advisory Nurses prior to 1978;

2. Individuals certified through the vocational educational system using the Department of Health-approved curriculum;

3. Individuals who have completed a long-term care medication technician course in another state which has been approved by the appropriate state agency and who have a letter from the division giving permission to work as certified medication technicians;

4. All medication technicians with valid certificates from the Department of Elementary and Secondary Education; and

5. All medication technicians with valid certificates from state-approved certifying agencies who have not taken the new sixty-eight (68)-hour course using the 1994 revised curriculum catalog number 50-6010-S.

(D) Prior to a sponsoring educational agency accepting a Certified Medication Technician Update Course student, the sponsoring educational agency, the student's employing facility or the student him/herself shall send the division the following information: current legal name and any prior name(s); address; a copy of the student's Social Security card; a copy of the student's current certified medication technician certificate or qualifying information and a copy of the student's current certified nurse assistant certificate. This information will be used for student validation and placement in an update course. No student may be admitted to the update course without first presenting a letter from the division allowing him or her to take the update course. The division will complete the processing of all update course requests within twelve (12) working days of receipt of the appropriate and complete information.

(E) The update course shall consist of at least seven (7) hours of classroom instruction, to include demonstrations on apical pulse, ophthalmic medication, transdermal patch, oral metered dose, and inhaler medications. The update course also includes information on body systems and infection control. In order to be approved, the certified medication technician training agency, school, or ICF/SNF, under the auspices of the approved training agency shall have an area that will be designated during training sessions as a classroom with sufficient space to allow at least twenty (20) students to be seated with room for note-taking and appropriate equipment as needed for teaching the update course. Each student and instructor shall have an update course manual.

(F) The final examination shall consist of at least fifty (50) multiple choice questions taken from one (1) of the two (2) tests found in the 50-6015-I manual for instructors and examiners. Test time may be no longer than one (1) hour. A score of eighty percent (80%) is required for passing. If not successfully passed, a second test from the same manual may be administered one (1) time within the next ninety (90) days. Any individual who fails the examination on the first attempt, may no longer administer medication. If the examination is failed the second time, the full sixty-eight (68)-hour course must be taken or retaken.

(G) The instructor or examiner shall complete the final Score Sheet for Certified Medication Technician Update

Course Examination and shall include competencies, scores and signatures which shall be sent to a certifying agency for recertification as stated in section (10) of this rule. The letter of permission to take the update course must also be sent to the certifying agency.

(H) The instructor or examiner of the Certified Medication Technician Update Course shall be an approved instructor as designated in section (6) of this rule.

(I) The sponsoring educational agency shall maintain, for at least two (2) years, the records of individuals who have taken the update course. The sponsoring educational agency shall provide a certifying agency approved by the division with documentation showing successful completion and testing of the update course and the Score Sheet for Certified Medication Technician Update Course. Any final examination score sheet not received within (90) days by the certifying agency after the final examination is given shall be invalid. The certifying agency shall provide a certificate to the student which documents successful completion of the state-approved Certified Medication Technician Update Course.

(J) The division shall maintain a list of long-term care associations or other agencies that issue certificates to individuals who have successfully completed the course. On at least a monthly basis, the long-term care associations or certifying agencies shall provide the division with the names and other identifying data of those individuals receiving update course certificates. The long-term care associations or certifying agencies shall maintain these update course records for at least two (2) years.

(K) The division shall maintain a Certified Medication Technician Register listing names and other relevant and identifying information.]

(12) Requirements for Hiring an Individual as a CMT.

(A) The department shall maintain a CNA Registry, which will list the names of CMTs and other relevant and identifying information.

(B) Any individual seeking employment in an ICF/SNF as a CMT must be employable as a CNA and be listed with active status as a CNA and CMT on the department's CNA Registry.

(C) When employing an individual as a CMT, the facility shall contact the department's website at www.dhss.mo.gov/cnaregistry in order to verify current certification status of the individual. Current registry status must be verified even though the individual presents a CMT certificate.

*AUTHORITY: section 198.079, RSMo [1994] **Supp. 2007**. This rule originally filed as 13 CSR 15-13.020. Original rule filed Aug. 13, 1982, effective Jan. 13, 1983. Amended: Filed Oct. 13, 1987, effective Jan. 29, 1988. Amended: Filed July 13, 1998, effective Feb. 28, 1999. Moved to 19 CSR 30-84.020, effective Aug. 28, 2001. Amended: Filed March 13, 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 Kimberly O'Brien, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. 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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 84—Training Program for Nursing Assistants

PROPOSED AMENDMENT

19 CSR 30-84.030 Level I Medication Aide. The department has amended the Purpose statement, added sections (1) and (18), and amended and renumbered sections (2)–(17).

PURPOSE: This amendment redefines the purpose of this rule in order to delete archaic terms and replace with current licensure level terms and rule numbers; defines the terms "certifying agency," "challenge the final examination," "cooperating agency," "educational training agency," "long-term care association," "Missouri registered nurse presenter," and "simulated classroom situation;" clarifies the objectives and curriculum of the level I medication aide training program; updates the training manual edition required to be used; clarifies that the practicum final examination shall be conducted in a residential care facility or assisted living facility licensed by the department or group home licensed by the department of mental health serving a minimum of six (6) individuals; clarifies student and instructor qualification requirements and criteria for disqualification; clarifies testing requirements for the final course examination; clarifies the records and certification requirements; and adds requirements for verifying an individual's current certification status.

*PURPOSE: Individuals who administer medications in residential care facilities [I and II] **and assisted living facilities** are required by [13 CSR 15-15.042(49)] **rule** to be either a physician, a licensed nurse, a certified medication technician or a level I medication aide. This rule sets forth the requirements for approval of a Level I Medication Aide Training Program designating the required course curriculum content, outlining the qualifications required of students and instructors, designating approved educational training agencies and outlining [the] testing, [and] certification, **record keeping, and hiring** requirements.*

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

(A) Certifying agency—a long-term care association or other entity approved by the department to issue level I medication aide certificates as required by subsection (15)(B) of this rule.

(B) Challenge the final examination—taking the final examination of the course described in sections (5) and (6) of this rule without enrolling in and taking the entire course.

(C) Educational training agency—the entity that sponsors the department-approved training program. An approved educational training agency is approved by the department under section (13) of this rule.

(D) Group home—a residential facility serving nine (9) or fewer residents, similar in appearance to a single-family dwelling and providing basic health supervision, habilitation training in skills of daily and independent living and community integration, and social support. Group homes do not include family living arrangements or individualized supported living.

(E) Long-term care association—the Missouri Association of Nursing Home Administrators, the Missouri Assisted Living Association, the Missouri Association of Homes for the Aging, or the Missouri Health Care Association.

(F) Missouri registered nurse presenter—a Registered nurse approved by the department as an instructor to teach the Train-the-Trainer Workshops and prepare instructors to teach the Level I Medication Aide Course.

(G) Simulated classroom situation—a combined practical and verbal process that simulates all aspects of actual medication

administration, including, at a minimum, reading a medication order, setting up the medication, verbally explaining how to administer the medication to a resident, and recording the administration of the medication.

*[(1)]***(2)** The Level I Medication Aide Training Program shall be administered by the Department of Health and Senior Services (the department) in order to prepare individuals for employment as level I medication aides in residential care facilities (RCFs) and assisted living facilities (ALFs). The program shall be designed to teach skills in medication administration of nonparenteral medications in order to qualify students to perform this procedure only in RCFs and ALFs in Missouri.

*[(2)]***(3)** All aspects of the *[l]* **L**evel I Medication Aide Training Program included in this rule shall be met in order for a program to be considered approved.

*[(3)]***(4)** The objective of the *[l]***L**evel I Medication Aide Training Program shall be to ensure that the medication aide will be able to *[—]* define the role**, limitations, and responsibilities** of a level I medication aide; prepare, administer, and *[chart]* **document administration of** medications by *[nonparenteral routes]* **all routes except those administered by the parenteral route**; observe, report, and *[record unusual]* **document** responses **of residents** to medications **administered**; identify responsibilities associated with *[control and]* **acquisition,** storage, **and security** of medications; and *[utilize]* **identify** appropriate *[drug]* **medication** reference materials **and identify what constitutes a medication error**.

*[(4)]***(5)** The course shall be an independent self-study course with a minimum of sixteen (16) hours of integrated formal instruction and practice sessions supervised by a*[n]* **department-**approved **level I medication aide** instructor which shall include a final written **examination** and **a final** practicum examination **that must be conducted in an RCF or ALF licensed by the department or a group home licensed by the Department of Mental Health (DMH) serving a minimum of six (6) individuals**.

*[(5)]***(6)** The curriculum content shall include procedures and instructions in the following areas: basic human needs and relationships; *[drug]* **medication** classifications and their implications; *[assessing drug]* **observing and reporting medication** reactions; techniques of *[drug]* **medication** administration; medication **acquisition,** storage, and *[control]* **security**; *[drug]* **medication** reference resources; and infection control.

*[(6)]***(7) Course Curriculum Manual Requirements.**

(A) The course **curriculum** developed by the Missouri Department of Elementary and Secondary Education and the Department of Health and Senior Services as outlined in the manual entitled *Level I Medication Aide***, catalog number** *[(]*50-6064-S *[and 50-6064-I) 1993 edition]* **(Revised 2002)**, produced by the Instructional Materials Laboratory, University of Missouri-Columbia*[,]* **and** incorporated by reference in this rule *[and available through the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570]*, shall be considered the approved course curriculum. *[This rule does not incorporate any subsequent amendments or additions to the materials incorporated by reference. Students and instructors each shall have a copy of this manual.]* **Each student shall have a copy of this manual. The manual is for sale by Instructional Materials Laboratory, University of Missouri-Columbia, 1400 Rock Quarry Center, Columbia, MO 65211-3280, or may be ordered by telephone toll free at 1-800-669-2465; fax (573) 882-1992 or via the Internet at www.iml.missouri.edu. This rule does not incorporate any subsequent amendments or additions.**

(B) The approved instructor's course curriculum Instructor's Guide shall be the companion Instructor's Guide (Revised 2002), catalog number 50-6064-I. The course curriculum developed by the Missouri Department of Elementary and Secondary Education and the Department of Health and Senior Services as outlined in the manual entitled *Level I Medication Aide* (50-6064-I) 2002 edition, produced by the Instructional Materials Laboratory, University of Missouri-Columbia and incorporated by reference in this rule, shall be considered the approved course curriculum. Each instructors shall have a copy of this manual. The manual is for sale by Instructional Materials Laboratory, University of Missouri-Columbia, 1400 Rock Quarry Center, Columbia, MO 65211-3280, or may be ordered by telephone toll free at 1-800-669-2465; fax (573) 882-1992 or via the Internet at www.iml.missouri.edu. This rule does not incorporate any subsequent amendments or additions.

*[(7)]***(8)** A student shall not administer medications without the instructor present until *[s/he]* **the student** successfully completes the course and obtains a certificate.

*[(8)]***(9)** Student Qualification*[s]* **Requirements**.

(A) Any individual employable by an RCF or ALF to be involved in direct resident care shall be eligible to enroll as a student in the course. Employable shall mean an individual who is at least eighteen (18) years of age; not listed on the department's Employee Disqualification List (EDL) and has not been convicted of, or entered a plea of guilty or *nolo contendere* to a crime in this state or any other state, which if committed in Missouri would be a class A or B felony violation of Chapters 565, 566, and 569, RSMo, any violation of section 568.020, RSMo**,** or any violation of section 198.070.3, RSMo, unless a good cause waiver has been granted by the department pursuant to the provisions of 19 CSR 30-82.060.

(B) The following individuals may qualify as level I medication aides by successfully challenging the final examination: Individuals either enrolled in or who have been enrolled in a professional nursing school or in a practical nursing program who have completed the medication administration or pharmacology course and who have letters of endorsement from the directors of their respective programs.

*[(9)]***(10)** Those persons wanting to challenge the final examination shall submit a request in writing to the department's *[Section for Long-Term Care director]* **Health Education Unit** enclosing *[applicable]* documentation **required by this rule**. If approved to challenge the examination, a letter so stating will be sent from the *[division]* **department** to present to an approved instructor so that arrangements can be made for testing. **Individuals requesting approval for challenging the examination shall be employable by a RCF or ALF licensed by the department or a group home licensed by DMH serving a minimum of six (6) individuals as provided in subsection (9)(A) of this rule.**

*[(10)]***(11)** Instructor Qualification*[s]* **Requirements**.

(A) An instructor shall be currently licensed to practice as either a registered nurse or practical nurse in Missouri or shall hold a current temporary permit from the State Board of Nursing. The licensee shall not be subject to current disciplinary action such as censure**,** probation, suspension**, or revocation and shall not be listed on the department's EDL. A licensee who has been censured is disqualified from participation as a level I medication aide course instructor for two (2) years from the date of censure.** If the individual is a licensed practical nurse, the following additional requirements shall be met:

1. Shall be a graduate of an accredited program which has pharmacology in the curriculum.

2. This additional requirement shall not be waived.

(B) In order to be qualified as an instructor, the individual shall have had one (1)-year's experience working in a long-term care

(LTC) facility licensed by the department or the Department of Mental Health within the past five (5) years; or shall be currently employed in an LTC facility licensed by the department or the Department of Mental Health and shall have been employed by that facility for *[at least]* **a minimum of** six (6) months; or shall be an instructor in a Health Occupations Education program; and shall have attended **and successfully completed** a "Train the Trainer" workshop to implement the Level I Medication Aide Program conducted by a Missouri registered nurse presenter approved by the department.

(C) Upon completion of the workshop and receipt of all credentials validating qualifications, the **Missouri registered nurse** presenter shall *[issue a certificate indicating that an instructor]* **provide a certificate documenting that the individual** is approved to teach the level I medication aide course**. The Missouri registered nurse presenter** *[and]* shall submit the names of the approved instructors to the *[approved LTC association]* **department's Health Education Unit**. **The department shall maintain a list of all instructors approved to teach the level I medication aide course. The list of approved instructors shall be accessed through www.dhss.mo.gov/cnaregistry.**

*[(D)]***(12) Instructor Disqualification.**

(A) A person who has been approved as an instructor shall have that status revoked if, after an investigation by the division, it is found that the instructor:

1. Accepted money from a student and did not follow through with the class or upon successful completion of the class **and final written and practicum examination** did not follow through with certification;

2. Falsified information on the final score sheet or any other required documentation; *[or]*

3. Failed to teach or clinically supervise in accordance with the provisions of this rule; or

*[3.]***4.** Administered the final examination incorrectly and not in accordance with section *[(12)]* **(14)** of this rule.

*[(E)]***(B)** Once an instructor's status is revoked**,** only the *[director of the division]* **department's section for Long-Term Care administrator** or his/her designee may reinstate the individual **and only** after the individual *[requests]* **has made a written request for** reinstatement documenting new circumstances. If *[the]* **an** instructor's status is revoked or reinstated, the *[division]* **department** shall *[immediately notify]* **make such information available to** all **approved** certifying **and educational training** agencies *[of the action]*.

*[(11)]***(13)** *[Sponsoring]* **Educational Training** Agencies.

(A) The following entities are **deemed** eligible *[to apply to the department]* to be an approved **educational** training agency: an area vocational-technical school, a comprehensive high school, a community college, an approved four (4)-year institution of higher learning, or an RCF or ALF licensed by the department or *[an LTC association.]* **a group home licensed by DMH serving a minimum of six (6) individuals.**

(B) The *[sponsoring]* **educational training** agency is responsible for obtaining an approved instructor, determining the number of **course curriculum** manuals *[needed]* **required** for a given *[program]* **class**, ordering **and obtaining** the **course curriculum** manuals *[for the students]*, and presenting a class schedule for approval by an approved *[LTC association]* **certifying agency**. The required information will include: the name of the approved instructor; the instructor's Social Security number, current address, and telephone number; the number of students enrolled; the name, address, telephone number, Social Security number, and age of each student; the name and address of the facility that employs the student, if applicable; the date and location of each class to be held; and the date and location of the final examination. The *[LTC association]* **certifying agency** which approved the course shall be notified in advance if there are any changes in dates or locations.

(C) Classrooms used for training shall contain sufficient space, equipment, and teaching aids to meet the course objectives *[as determined by an approved LTC association]* **and number of students**.

(D) If the instructor is not directly employed by the agency, there shall be a signed written agreement **of cooperation** between the *[sponsoring]* **educational training** agency and the instructor which *[shall specify]* **specifies** the role, responsibilities, and liabilities of each party.

(E) If the educational training agency is a school or other entity that is not an RCF or ALF licensed by the department or a group home licensed by DMH serving a minimum of six (6) individuals, a copy of a written agreement of cooperation currently in effect with the RCF or ALF licensed by the department or a group home licensed by DMH serving a minimum of six (6) individuals conducting the clinical and final practicum examination portion of the course must be provided to the department's Health Education Unit.

*[(12)]***(14)** Testing **Requirements**.

(A) The final examination shall consist of a written and a practicum examination administered by *[the]* **an** instructor **approved by the department**.

1. The written examination shall include twenty-five (25) questions based on the course objectives.

2. The practicum examination shall be *[done]* **conducted** in a *[n LTC facility which shall]* **RCF or ALF licensed by the department or a group home licensed by DMH serving a minimum of six (6) individuals. The practicum examination shall** include the preparation and administration by nonparenteral routes and *[recording]* **documentation** of medications administered to residents**. The practicum examination shall be conducted** under the direct supervision of the instructor and the *[person]* **individual** responsible for medication administration in the long-term care facility. Testing on medications not available in the *[LTC facility]* **RCF or ALF licensed by the department or a group home licensed by DMH serving a minimum of six (6) individuals** shall be done in a simulated classroom situation.

(B) A score of eighty percent (80%) is required for passing the final written examination and one hundred percent (100%) accuracy in the performance of the steps of procedure in the practicum examination.

(C) The final examination*[, if not successfully passed,]* may be retaken *[within ninety (90) days]* one (1) time **within ninety (90) days of the first fail date** without repeating the course**.** *[, however, those challenging the final examination must complete the course if the examination is not passed in the challenge process.]* **An individual challenging the final examination who does not successfully pass the examination during the challenge process, will be required to complete the course in order to retake the examination.**

(D) The instructor shall complete final records and shall submit these and all test booklets to the *[sponsoring]* **certifying** agency.

*[(13)]***(15)** Records and Certification **Requirements**.

(A) Records.

1. The *[sponsoring]* **educational training** agency shall maintain records *[of all]* **for a minimum of (2) years for those** individuals who have *[been enrolled in]* **completed** the level I medication aide *[Program]* **course** and shall submit to *[the LTC association which approved the course all test booklets, a copy of the score sheets and a complete class roster.]* **a certifying agency within thirty (30) days from the examination date the following: the student's legal name and date of birth, Social Security number, class beginning date and completion date, whether certified by a challenge or full course, and other identifying information**

from the Level I Medication Aide Course Evaluation Record.

2. *[A copy of the final record shall be provided to any individual enrolled in the course.]* **The educational training agency shall provide a copy of the Level I Medication Aide Course Evaluation Record to any individual enrolled in the course.**

3. *[A final record may be released only]* **The educational training agency may release a transcript** with written permission from the student in accordance with the provisions of the **Family Education Rights and** Privacy Act **of 1974,** *[(PL 90-247)]* **20 U.S.C. section 1232g**.

(B) Certification.

1. *[The LTC association which approved the course shall award a Level I medication aide certificate to any individual successfully completing the course upon receiving the required final records and test booklets from the sponsoring agency.]* **Upon receipt of the notice of the successful completion of the course, a certifying agency shall issue a certificate of completion to the student through the educational training agency.**

2. *[The LTC association which approved the course]* **Once each week, the certifying agency** shall *[submit to]* **provide** the department **with** the names **and other identifying information** of all individuals receiving certificates.

*[(14)]***(16)** The department shall maintain a list of *[LTC associations]* **certifying agencies** approved to *[handle]* **issue certificates for the** the Level I Medication Aide Training Program. In order for *[an LTC association]* **a certifying agency** to be approved by the department the *[association]* **agency** shall enter into an agreement of cooperation with the department which shall be renewable annually and shall effectively carry out the following responsibilities:

(A) *[Maintain]* **Access** a roster of *[approved]* **department-approved** instructors;

(B) Approve *[sponsoring]* **educational training** agencies *[,]* **and** class schedules *[and classroom space]*;

(C) Distribute final examinations, review test booklets, score sheets, and class rosters;

(D) *[Award]* **Issue** certificates to individuals who successfully complete the course, provide the department with the names of those receiving certificates; and

(E) Maintain records.

*[(15)]***(17) Requirements for** Maintaining Certification.

(A) If the department, upon completion of an investigation, finds that the *[L]***l**evel I medication aide has stolen or diverted *[drugs]* **medications** from a resident or facility or has had his/her name added to the *[employee disqualification list]* **department's EDL**, the *[division]* **department** shall delete *[such person's]* **the individual's** name from the department's level I medication aide *[listing]* **database**. Such deletion shall render the medication aide's certificate invalid.

(18) Requirements for Hiring an Individual as a Level I Medication Aide.

(A) The department shall maintain a level I medication aide database listing names and other relevant and identifying information;

(B) Any individual seeking employment in an RCF or 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; and

(C) When employing an individual as a level I medication aide, the facility shall contact the department by telephone at: (573) 522-6203, in order to verify certification of the individual. Certification must be verified even though the individual presents a level I medication aide certificate.

AUTHORITY: sections 198.076 [, RSMo 2000 and 198.005] and 198.073, RSMo ***Supp. 2007****. This rule originally filed as 13 CSR 15-13.030. Original rule filed May 14, 1985, effective Sept. 1, 1985. Amended: Filed Oct. 16, 1985, effective Jan. 12, 1986. Amended: Filed May 26, 1998, effective Jan. 30, 1999. Moved to 19 CSR 30-84.030, effective Aug. 28, 2001. Amended: Filed Aug. 23, 2006, effective April 30, 2007. Amended: Filed March 13, 2008.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions two thousand five hundred sixty-three dollars ($2,563) in the aggregate for the first full fiscal year of implementation and will cost one thousand three hundred forty-seven dollars ($1,347) annually in the aggregate thereafter.

PRIVATE COST: This proposed amendment will cost private entities ninety-seven thousand four hundred fifty-one dollars ($97,451) in the aggregate for the first full fiscal year of implementation and will cost thirty-three thousand eight hundred seventy-nine dollars ($33,879) annually in the aggregate thereafter.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Kimberly O'Brien, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. Department Title: DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division Title: Division of Regulation and Licensure
Chapter Title: Chapter 84 Training Program for Nursing Assistants

Rule Number and Title:	19 CSR 30-84.030 Level I Medication Aide
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
16	Residential Care Facilities (RCF) and Assisted Living Facilities (ALF)	$2061 in the aggregate for the first year. $917 annually in the aggregate thereafter.
1	Comprehensive High school	$502 in the aggregate for the first year. $430 annually in the aggregate thereafter.
	Total cost	$2563 in the aggregate for the first year. $1347 annually in the aggregate thereafter.

III. WORKSHEET

This proposed amendment updates the required Level I Medication Aide manuals (50-6064-S for students and 50-6064-I for instructors), to the revised 2002 edition, which is for sale by the Instructional Materials Laboratory (IML), University of Missouri, Columbia. This proposed amendment requires each student to have his or her own course manual (on-going cost) and also requires the instructor of the course to have a

companion Instructor's Guide manual (a one-time cost). Either the instructor or the Educational Training Agency (school or facility) sponsoring the course must purchase a new companion Instructor's Guide. For the purpose of this public fiscal note the department assumes the school or facility will purchase the companion Instructor's Guide manual.

The fiscal cost of the amendment is the increase in cost of the 2002 edition beyond what is now charged for the 1993 edition for student manuals (on-going cost) and the total one-time cost for the revised 2002 edition of the companion Instructor's Guide manual for the Educational Training Agency (facility or school).

IML provided the following projected cost information:

The current charge for a student manual is $19.00. IML projects that the charge for the Revised 2002, edition of the student manual will be $47.66 for an increased cost per student manual of $28.66 ($47.66 - $19.00 = $28.66).

The current charge for a companion Instructor's Guide manual (1993 edition) is $38.25. IML projects that the charge for the Revised 2002 edition companion Instructor's Guide will be $71.51.

Cost to publicly owned RCFs and ALFs – RCFs and ALFs are deemed eligible to be an approved Educational Training Agency simply by being licensed with the department.

Sixteen of 615 licensed RCFs and ALFs are publicly owned. One RCF is city owned, 12 RCFs are owned by nursing home districts and three ALFs are owned by nursing home districts (1 + 12 + 3 = 16) for 16 publicly owned facilities).

This fiscal note is based on the assumption that any of these RCFs and ALFs may choose to sponsor the Level I Medication Aide course and would then be required to use the 2002 Revised manuals. Although these facilities may sponsor the Level I Medication Aide course, facilities typically only sponsor the course based on the current training needs of facility staff. The department does not have information available showing how many of these 16 publicly owned facilities currently sponsor the Level I Medication Aide course or will need to sponsor the course in upcoming years. For the purpose of this rule, the department assumes each of the facilities will choose at some time during each year to sponsor the course.

Companion Instructor's Guide manuals – Each facility that sponsors the course must have a Revised 2002 companion Instructor's Guide manual. Sixteen publicly owned facilities are deemed eligible to sponsor the course (16 x $71.51 = $1144.16). The department assumes that each facility will retain the purchased copy of this manual for use each time it sponsors a course. There will be a total one-time cost for companion Instructor's Guide manuals in the aggregate of $1144.16.

Student manuals - IML provided the following projected cost information based on past manual sales for student manuals:

Student Sales for fiscal year 2006:

Purchased by facilities –791 manuals;
Purchased by individuals – 87 manuals;
Total manuals sold for FY 2006: 1258.

Student Sales July 1, 2006 through June 13, 2007:

Purchased by facilities – 779 manuals;
Purchased by individuals – 91 manuals;
Total sold during SFY 2007: 1134.

IML did not provide information regarding the types of individuals purchasing the student manuals. These individuals could have been students or employees of the school purchasing them on behalf of the facility. IML staff assumed most of the manuals were purchased for training classes and later reimbursed by an Educational Training Agency. The average yearly number of student manuals purchased is 1196 (1258 + 1134 = 2392 divided by two years = 1196) student manuals purchased per year.

The department does not have information available to show how many publicly owned facilities purchased the student manuals. For the purpose of this fiscal note, the department has averaged the total number of student manuals sold by the total number of licensed RCFs and ALFs (615) deemed eligible to be Educational Training Agencies (1196 divided by 615 = 1.94 or two manuals per facility). The department therefore estimates that a total of 32 student manuals will be purchased for students by these facilities each year (Two student manuals x 16 publicly operated facilities = 32). The cost of this proposed amendment for student manuals will be an ongoing cost of $917.32 (32 x $28.66 = $917.12) annually.

Cost to Comprehensive high schools –

Companion Instructor's Guide manuals - Information provided by the Missouri Department of Elementary and Secondary Education shows one comprehensive high school sponsors the Level I Medication Aide course. The projected cost of this proposed amendment to the comprehensive high school for the companion Instructor's Guide manual is a one-time cost of $71.51($71.51 x one comprehensive high school = $71.51).

Student manuals – Based on information from the Superintendent of the Bolivar School district, the Bolivar high school offers the Level I medication Aide course and averages approximately 15 students per academic year.

The projected annual cost of this proposed amendment to this comprehensive high school for student manuals will be an ongoing cost of $429.90 ($28.66 x 15 students = $429.90) per academic year.

Area Vocational Schools– There are 57 area vocational schools associated with school districts. Based on information received from Missouri Department of Elementary and Secondary Education, no area vocational schools currently offer the Level I Medication Aide course in their programs.

Community Colleges and four-year colleges – Information obtained shows 20 community colleges and 16 public four-year colleges. Based on information received from Missouri Department of Higher Education, no colleges currently have programs offering the Level I Medication Aide course.

Since none of the vocational schools, community colleges of four-year colleges currently offer the course; the department has not included them in its assumptions and calculations.

IV. ASSUMPTIONS

This fiscal note is based on the assumption that any of these RCFs and ALFs may choose to sponsor the Level I Medication Aide course and would then be required to use the 2002 Revised manuals. Although these facilities may sponsor the Level I Medication Aide course, facilities typically only sponsor the course based on the current training needs of facility staff.

The department does not have information available showing how many publicly owned facilities currently sponsor the Level I Medication Aide course or will need to sponsor the course in upcoming years. For the purpose of this rule, the department assumes each of the facilities will choose at some time during each year to sponsor the course.

Instructor's Guide manuals – Each facility that sponsors the course must have a Revised 2002 companion Instructor's Guide manual. The department assumes that each facility will retain the purchased copy of this manual for use each time it sponsors a course.

Student manuals - IML provided the following projected cost information based on past manual sales for student manuals:

Student Sales for fiscal year 2006:

Purchased by facilities –791 manuals;
Purchased by individuals – 87 manuals;
Total manuals sold for FY 2006: 1258.

Student Sales July 1, 2006 through June 13, 2007:

Purchased by facilities – 779 manuals;
Purchased by individuals – 91 manuals;
Total sold during SFY 2007: 1134.

IML did not provide information regarding the types of individuals purchasing the student manuals. These individuals could have been students or employees of the school purchasing them on behalf of the facility. IML staff assumed most of the manuals were purchased for training classes and later reimbursed by an Educational Training Agency.

For the purpose of this fiscal note, the department has averaged the total number of student manuals sold by the total number of licensed RCFs and ALFs eligible to be Educational Training Agencies.

Based on information received from Missouri Department of Elementary and Secondary Education, there are no area vocational schools currently offering the Level I Medication Aide course in their programs.

Based on information received from Missouri Department of Higher Education, there are no colleges currently offering the Level I Medication Aide course.

Since none of the vocational schools, community colleges of four-year colleges currently offer the course; the department has not included them in its assumptions and calculations.

FISCAL NOTE
PRIVATE COST

I. Department Title: DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division Title: Division of Regulation and Licensure
Chapter Title: Chapter 84 Training Program for Nursing Assistants

Rule Number and Title:	19 CSR 30-84.030 Level I Medication Aide
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
599	Licensed Residential Care Facilities (RCF) and Assisted Living Facilities (ALF)	$65,676 in the aggregate for the first year. $22,842 annually in the aggregate thereafter.
290	Department Mental Health Group Homes	$31,775 in the aggregate for the first year. $11,037 annually in the aggregate thereafter.
	Total cost	$97,451 in the aggregate for the first year. $33,879 annually in the aggregate thereafter.

III. WORKSHEET

This proposed amendment updates the required Level I Medication Aide manuals (50-6064-S for students and 50-6064-I for instructors), to the revised 2002 edition, which is for sale by the Instructional Materials Laboratory (IML), University of Missouri-Columbia. This proposed amendment requires each student to have his or her own course manual (on-going cost student manuals) and also requires the instructor of the course to have a companion Instructor's Guide manual (a one-time cost). Either the instructor or the Educational Training Agency (school or facility) sponsoring the course must purchase a new companion Instructor's Guide manual. For the purpose of this private fiscal note the department assumes the school or facility will purchase the companion Instructor's Guide manual. The fiscal cost of the amendment is the increase in cost of the 2002 edition beyond what is now charged for the 1993 edition for the

student manuals (on-going cost) and the total one-time cost for the revised 2002 edition of the companion Instructor's Guide manual for the (facility or school).

IML provided the following projected cost information:

The current charge for a student manual is $19.00. IML projects that the charge for the Revised 2002, edition of the student manual will be $47.66 for an increased cost per student manual of $28.66 ($47.66 - $19.00 = $28.66).

The current charge for a companion Instructor's Guide manual (1993 edition) is $38.25. IML projects that the charge for the Revised 2002 edition companion Instructor's Guide will be $71.51.

Cost to privately owned RCFs and ALFs – RCFs and ALFs are deemed eligible to be an approved Educational Training Agency simply by being licensed with DHSS.

Sixteen of the 615 RCFs and ALFs licensed with DHSS are publicly owned (615 –16 = 599) for 599 privately owned facilities).

This fiscal note is based on the assumption that any of the RCFs and ALFs may choose to sponsor the Level I Medication Aide course and would then be required to use the 2002 Revised manuals. Although these facilities may sponsor the Level I Medication Aide course, facilities typically only sponsor the course based on the current training needs of the facility staff. DHSS does not have information available showing how many of these 599 privately owned facilities currently sponsor the Level I Medication Aide course or will need to sponsor the course in upcoming years. For the purpose of this rule, the department assumes each of the facilities will choose at some time during each year to sponsor the course.

Instructor manuals – Each facility that sponsors the course must have a Revised 2002 companion Instructor's Guide manual. Five hundred ninety nine privately owned facilities are deemed eligible to sponsor the Level I Medication Aide course (599 x $71.51 = $42, 834.49). The department assumes that each facility will retain the purchased copy of this manual for use each time it sponsors a course. The projected cost of this proposed amendment to the RCFs and ALFs for the companion Instructor's Guide manuals is a one-time cost in the aggregate of $42, 834.49.

Student manuals - IML provided the following projected cost information based on past manual sales for student manuals:

Student Sales for fiscal year 2006:
Purchased by facilities – 791 manuals;
Purchased by individuals – 87 manuals.

Total manuals sold for FY 2006 – 1258

Student Sales July 1, 2006 through June 13, 2007:
Purchased by facilities – 779 manuals;
Purchased by individuals – 91 manuals.
Total sold during SFY 2007 – 1134

IML did not provide information regarding the types of individuals purchasing the student manuals. These individuals could have been students or employees of the school purchasing them on behalf of the facility. IML staff assumed most of the manuals were purchased for training classes and later reimbursed by an Educational Training Agency. The average yearly number of student manuals purchased is 1196 (1258 + 1134 = 2392 divided by two years = 1196) student manuals purchased per year.

DHSS does not have information available to show how many publicly owned RCFs and ALFs licensed by DHSS purchased the student manuals. For the purpose of this fiscal note, DHSS has averaged the total number of student manuals sold by the total number of RCFs and ALFs (615) deemed eligible to be Educational Training Agencies and the total number of DMH Group Homes as defined in subsection (1) (D) of this proposed amendment (1196 divided by 905 facilities = 1.33 or one and one third manuals per facility). The department estimates that a total of 1198 student manuals will be purchased for students by eligible facilities (RCF, ALF and DMH Group homes) each year (One and one third manual x 599 privately owned RCFs and ALFs licensed by DHSS = 797 manuals). The projected annual cost of this proposed amendment to RCFs and ALFs for student manuals is an ongoing cost of $22,571.04 (797 x $28.66 = $22, 842.02).

Cost to DMH Group homes– Group Homes as defined in subsection (1) (D) of the proposed amendment are deemed eligible to be an approved Educational Training Agency.

DMH has 290 facilities meeting the definition of Group home as defined in subsection (1) (D) of the proposed amendment.

This fiscal note is based on the assumption that any of these 290 DMH Group homes may choose to sponsor the Level I Medication Aide course and would then be required to use the 2002 Revised manuals. Although these facilities may sponsor the Level I Medication Aide course, facilities typically only sponsor the course based on the current training needs of the facility staff. DHSS does not have information available showing how many of these 290 privately owned DMH Group homes currently sponsor the Level I Medication Aide course or will need to sponsor the course in upcoming years. For the purpose of this rule, DHSS assumes each of the Group homes will choose at some time during each year to sponsor the course

Companion Instructor's Guide manuals – Each DMH Group home that sponsors the course must have a Revised 2002 companion Instructor's Companion Guide manual. Two hundred ninety privately owned Group homes are deemed eligible to sponsor the Level I Medication Aide course (290 x $71.51 = $20,737.90). DHSS assumes that each Group home will retain the purchased copy of this manual for use each time it sponsors a course. The projected cost of this proposed amendment to the DMH Group homes for the companion Instructor's Guide manual will be a total one-time cost in the Aggregate of $20,737.90.

Student manuals - IML provided the following projected cost information based on past manual sales for student manuals:

Student Sales for fiscal year 2006:
Purchased by facilities – 791 manuals;
Purchased by individuals – 87 manuals.

Total manuals sold for FY 2006 – 1258

Student Sales July 1, 2006 through June 13, 2007:
Purchased by facilities – 779 manuals;
Purchased by individuals – 91 manuals.
Total sold during SFY 2007 – 1134

IML did not provide information regarding the types of individuals purchasing the student manuals. These individuals could have been students or employees of the school purchasing them on behalf of the facility. IML staff assumed most of the manuals were purchased for training classes and later reimbursed by an Educational Training Agency. The average yearly number of student manuals purchased is 1196 (1258 + 1134 = 2392 divided by two years = 1196) student manuals purchased per year.

For the purpose of this fiscal note, the department has averaged the total number of student manuals sold by the total number of DHSS licensed RCFs and ALFs (615) and the total number of DMH Group homes deemed eligible to be Educational Training Agencies (1196 student manuals divided by 905 facilities = 1.33 or one and one third manuals per facility). DHSS therefore estimates that a total of 1198 student manuals will be purchased for students by eligible facilities (RCF, ALFs and DMH Group homes) each year (One and one third manual x 290 DMH Group homes = 385.1). The projected annual cost of this proposed amendment to DMH Group homes for student manuals will be an ongoing cost of $11,036.97 (385.1 x $28.66 = $11,036.97).

Cost to Privately Owned Schools -

Proprietary Schools - Based on information received from the Proprietary School Certification unit of Department of Higher Education, there are currently no proprietary schools in Missouri sponsoring the Level I Medication Aide course. Of the 194 schools listed as proprietary schools none currently sponsor the Level I Medication Aide Course.

Since none of the proprietary schools currently offer the course, the department has not included them in its assumptions and calculations.

IV. ASSUMPTIONS

This fiscal note is based on the assumption that any of the RCFs, ALFs and DMH Group homes may choose to sponsor the Level I Medication Aide course and would then be required to use the 2002 Revised manuals. Although these facilities may sponsor the Level I Medication Aide course, facilities typically only sponsor the course based on the current training needs of the facility staff.

DHSS does not have information available showing how many of these privately owned facilities currently sponsor the Level I Medication Aide course or will need to sponsor the course in upcoming years. For the purpose of this rule, the department assumes each of the facilities will choose at some time during each year to sponsor the course

Instructor manuals – Each facility that sponsors the course must have a Revised 2002 companion Instructor's Guide manual. For the purpose of this private fiscal note the department assumes the school or facility will purchase the companion Instructor's Guide manual and that each school or facility will retain the purchased copy of this manual for use each time it sponsors a course.

Student manuals - IML provided the following projected cost information based on past manual sales for student manuals:

Student Sales for fiscal year 2006:
Purchased by facilities – 791 manuals;
Purchased by individuals – 87 manuals.

Total manuals sold for FY 2006 – 1258

Student Sales July 1, 2006 through June 13, 2007:
Purchased by facilities – 779 manuals;
Purchased by individuals – 91 manuals.
Total sold during SFY 2007 – 1134

IML did not provide information regarding the types of individuals purchasing the student manuals. These individuals could have been students or employees of the school purchasing them on behalf of the facility. IML staff assumed most of the manuals were purchased for training classes and later reimbursed by an Educational Training Agency.

For the purpose of this fiscal note, the department has averaged the total number of student manuals sold by the total number of DHSS licensed RCFs and ALFs and the total number of DMH Group homes deemed eligible to be Educational Training Agencies.

Based on information received from the Proprietary School Certification unit of Department of Higher Education, there are currently no proprietary schools in Missouri sponsoring the Level I Medication Aide course. Since none of the proprietary schools currently offer the course, the department has not included them in its assumptions and calculations.

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

PROPOSED AMENDMENT

19 CSR 30-85.022 Fire Safety Standards for New and Existing Intermediate Care and Skilled Nursing Facilities. The department is adding sections (1), (2), (8), (10), (11), (12), (25), (28), (29), (32), (33), and (34); deleting sections (4), (5), (8)–(12), (14)–(24), (40), (41), (43), (44), (45), and (52); amending sections (2), (3), (6), (13), (25), (26), (28), (35), (36), (37), (42), (46), (47), (49), (50), and (57); and renumbering throughout.

PURPOSE: This amendment adds the definition of "area of refuge," "complete fire alarm system," and "major renovation;" updates the incorporated by reference material; clarifies the requirements for notifying and submitting written reports to the Department of Health and Senior Services (department) when there is a fire in the building and premises; clarifies and amends the requirements for smoke sections, designated smoke areas, fire drills, evacuation drills, fire safety training, oxygen storage, rangehood extinguishing systems, and maintenance and height and width of treads and risers on stairways; adds the requirements for one (1)-hour fire-rated separation for the lobby and conducting a fire watch upon discovery of a fire; revises the requirements for emergency lighting, installation of new floor covering and the installation, operation, maintenance, and testing for sprinkler and fire alarm systems, and adds the requirement for all facilities to submit a plan of compliance to the state fire marshal describing how the facility meets the standards of NFPA 13, 1999 edition, for sprinkler systems and NFPA 72, 1999 edition, for fire alarm systems as required by section 198.074, RSMo Supp. 2007 (H.B. 952 and 674 (94th General Assembly, First Regular Session (2007)).

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

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

(A) Area of refuge—A space located in or immediately adjacent to a path of travel leading to an exit that is protected from the effects of fire, either by means of separation from other spaces in the same building or its location, permitting a delay in evacuation. An area of refuge may be temporarily used as a staging area that provides some relative safety to its occupants while potential emergencies are assessed, decisions are made, and if applicable, evacuation has begun.

(B) Complete fire alarm system—shall include, but not be limited to, interconnected smoke detectors throughout the facility, automatic transmission to the fire department, dispatching agency, or central monitoring company, manual pull stations at each required exit and attendant's station, heat detectors, and audible and visual alarm indicators.

(C) Major renovation—shall include the following:

1. Addition of any room that is accessed by residents;

2. Repairs, remodeling, or renovations that involve more than fifty percent (50%) of the building; or

3. Repairs, remodeling, or renovations that involve more than forty-five hundred (4,500) square feet of a smoke section.

(2) General Requirements.

(A) All National Fire Protection Association (NFPA) codes and standards cited in this rule: NFPA 10, *Standard for Portable Fire Extinguishers,* 1998 edition; NFPA 13, *Standard for the Installation of Sprinkler Systems*, 1999 edition; NFPA 96, *Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations*, 1998 edition; NFPA 99, Standard for Health Care Facilities, 1999 edition; NFPA 101, *The Life Safety Code*, 2000 edition; NFPA 72, *National Fire Alarm Code*, 1999 edition; NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems*, 1998 edition; NFPA 253, Standard Method of Test of Surface Burning Characteristics of Building Materials, 2000 edition; NFPA 701, Standard Methods of Fire Tests for Flame Propagation of Textiles and Films, 1999 edition; NFPA 211, Chimneys, Fireplaces, Vents and Solid Fuel-Burning Appliances, 2000 edition; and NFPA 101A, *Guide to Alternative Approaches to Life Safety*, 2001 edition are incorporated by reference in this rule and available for purchase from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101; www.nfpa.org; by telephone at (617) 770-3000 or 1-800-344-3555. This rule does not incorporate any subsequent amendments or additions to the materials listed above.

(B) This rule does not prohibit facilities from complying with standards set forth in newer editions of the incorporated by reference material listed in subsection (2)(A) of this rule if approved by the department.

(C) The department shall have the right of inspection of any portion of a building in which a licensed facility is located unless the unlicensed portion is separated by two (2)-hour fire-resistant construction. I/II

(D) Facilities shall not use space under stairways to store combustible materials. I/II

(E) No section of the building shall present a fire hazard. I/II

(F) All facilities shall notify the department immediately if there is a fire in the facility structure or surrounding grounds and shall submit a completed fire report to the department within seven (7) days of the fire, regardless of the size of the fire or the loss involved. II/III

(G) All facilities shall conduct an approved fire watch, in accordance with NFPA 101, 2000 edition, for twenty-four (24) hours following the discovery of any fire in the facility structure or surrounding grounds. I/II

(H) All electrical appliances shall be Underwriters Laboratories (UL)-approved, shall be maintained in good repair and no appliances or electrical equipment shall be used which emit fumes or which could in any other way present a hazard to the residents. I/II

*[(1)]***(3)** All openings that could permit the passage of fire, smoke, or both, between floors shall be fire-stopped with a suitable noncombustible material. II/III

*[(2)]***(4)** Hazardous areas shall be separated by construction of at least one (1)-hour fire-resistant construction. *[Hazardous area may be protected by an approved automatic fire detection or automatic sprinkler system in lieu of one (1)-hour fire-resistant construction.]* **Hazardous areas may be protected by an automatic sprinkler system in lieu of a one (1)-hour rated fire-resistant construction.** II

*[(3)]***(5)** The *[division]* **department** prohibits the storage of any unnecessary combustible materials in any part of a building in which a licensed facility is located. No section of the building shall present a fire hazard. I/II

[(4) The division shall have the right to inspect any portion of a building in which a licensed facility is located unless the unlicensed portion is separated by two (2)-hour fire-resistant

construction. Facilities shall not use space under stairways to store combustible materials. II/III]

[(5) Facilities shall store oxygen cylinders in a separate room or area free of combustible materials. If oxygen is stored in excess of fifteen hundred (1500) cubic feet in total, it shall be located in a room vented to the outside. I/II]

(6) **Oxygen storage shall be in accordance with NFPA 99, 1999 edition.** Facilities shall use permanent racks or fasteners to prevent accidental damage or dislocation of oxygen cylinders. Safety caps shall remain intact except where a cylinder is in actual use or where the regulator has been attached and the cylinder is ready for use. Individual oxygen cylinders in use or with an attached regulator shall be supported by cylinder collars or by stable cylinder carts. II/III

[(8) All new or replacement portable fire extinguishers shall be ABC-type extinguisher. II]

[(9) In or immediately adjacent to hazardous areas, the facility shall maintain an extinguisher of at least ten (10)-pound dry powder, or the equivalent. II]

[(10) In other areas, the facility shall maintain an extinguisher of at least five (5)-pound dry powder. II]

[(11) The facility shall provide a minimum of one (1) fire extinguisher per floor, so that there is no more than a one hundred foot (100') travel distance from any point on that floor to an extinguisher. I/II]

[(12) All fire extinguishers shall be installed and maintained in accordance with the National Fire Protection Association NFPA 10. Facilities with plans approved on or before December 31, 1998, shall comply with the requirements of the 1978 NFPA 10, Standard for Portable Fire Extinguishers. Facilities with plans approved on or after January 1, 1999, shall comply with the requirements of the 1994 NFPA 10, incorporated by reference in this rule. This includes the documentation and dating of a monthly pressure check. II/III]

(8) Fire Extinguishers.

(A) Fire extinguishers shall be provided at a minimum of one (1) per floor, so that there is no more than seventy-five feet (75') travel distance from any point on that floor to an extinguisher. I/II

(B) All new or replacement portable fire extinguishers shall be ABC-rated extinguishers, in accordance with the provisions of NFPA 10, 1998 edition. A K-rated extinguisher or its equivalent shall be used in lieu of an ABC-rated extinguisher in the kitchen cooking areas. II

(C) Fire extinguishers shall have a rating of at least:

1. Ten (10) pounds, ABC-rated or the equivalent, in or within fifteen feet (15') of hazardous areas as defined in 19 CSR 30-83.010; II and

2. Five (5) pounds ABC-rated or the equivalent in other areas. II

(D) All fire extinguishers shall bear the label of the UL or the Factory Mutual (FM) Laboratories and shall be installed and maintained in accordance with the NFPA 10, 1998 edition. This includes the documentation and dating of a monthly pressure check. II/III

*[(13)]***(9)** *[Unless there is an approved sprinkler system, f]***F**acilities shall provide every cooking range with a range hood and approved *[automatic class BC or ABC]* range hood extinguishing system *[which shall also have the capability of being manually operated. II]* **installed, tested, and maintained in accordance with NFPA 96, 1998 edition. The range hood and its extinguishing system shall be certified at least twice annually in accordance with the NFPA 96, 1998 edition. II/III**

[(14) The facility shall install the range hood extinguishing system and maintain it in accordance with the NFPA 96. Facilities with plans approved on or before December 31, 1998, shall comply with the requirements of NFPA 96 referenced in the 1967 Life Safety Code, and facilities with plans approved on or after January 1, 1999, shall comply with the requirements of the 1994 NFPA 96, incorporated by reference in this rule. III]

[(15) Every existing licensed facility with plans approved after April 8, 1972 and prior to January 1, 1999, shall install and maintain a fire alarm system in compliance with the provisions of the 1967 Life Safety Code, NFPA 101. Facilities with plans approved on or after January 1, 1999, shall comply with the requirements of the 1996 NFPA 72, National Fire Alarm Code, incorporated by reference in this rule. I/II]

[(16) Every existing licensed facility with plans approved before April 8, 1972 shall comply with the 1967 Life Safety Code or shall have an electrically-supervised fire alarm system with a manual pull station provided at, or near, each required exit and at, or near, each nurses' station; either batteries or a generator for emergency power; and alarm bells or other sounding devices that shall be audible in all areas of the building. II/III]

[(17) In addition to the manual pull stations, at least one (1) of the following must also activate every fire alarm system: a flow alarm on a complete sprinkler system; smoke detectors located in every resident room or every fifty feet (50') of the corridor and at every smoke door; or a complete heat detector system. II]

[(18) The facility shall test every fire alarm system at least once a month. II]

[(19) Facilities shall maintain a record of these fire alarm tests. III]

[(20) Upon its discovery, the facilities shall promptly correct any fault with the fire alarm. I/II]

[(21)A fire alarm service representative or electrical contractor shall inspect every alarm system at least once annually. This inspector shall test and certify in writing to the division that the system is operating in accordance with the National Fire Alarm Code, NFPA 72. Facilities with plans approved on or before December 31, 1998, shall comply with the requirements of NFPA 72 referenced in the 1967 Life Safety Code, and facilities with plans approved on or after January 1, 1999, shall comply with the requirements of the 1996 NFPA 72, National Fire Alarm Code, incorporated by reference in this rule. II/III]

[(22) All existing licensed facilities not of fire-resistant construction housing residents above the first floor who require personal assistance or assistive devices other than canes shall install and maintain an approved automatic sprinkler system throughout the facility according to the applicable edition of the NFPA 13, which was required to be met at the time of installation. Facilities with plans approved on or after January 1, 1999, shall comply with the requirements of the 1996 NFPA 13, Installation of Sprinkler Systems, incorporated by reference in this rule.]

[(23) All existing licensed facilities not of fire-resistant construction housing residents above the second floor shall

install and maintain an approved automatic sprinkler system throughout the facility according to the applicable edition of the NFPA 13, which was required to be met at the time of installation. Facilities with plans approved on or after January 1, 1999, shall comply with the requirements of the 1996 NFPA 13, Installation of Sprinkler Systems, incorporated by reference in this rule. I/II]

[(24) Plans approved on or after January 1, 1999, for all new facilities and all additions to existing facilities that contain resident sleeping rooms, regardless of construction type, shall have a complete sprinkler system installed and maintained according to the 1996 NFPA 13, incorporated by reference in this rule. Facilities whose plans were approved on or after June 11, 1981, and before December 31, 1998, shall have complete sprinkler systems installed and maintained in accordance with the applicable edition of NFPA 13 that was in effect at the time of initial plan approval.]

(10) Fire Alarm Systems.

(A) Facilities shall have a complete fire alarm system installed, tested, and maintained in accordance with NFPA 72, 1999 edition. Facilities licensed prior to August 28, 2007 that do not meet this standard shall have until December 31, 2008 to comply with NFPA 72, 1999 edition. The fire alarm shall automatically transmit to the fire department. At a minimum, the fire alarm system shall consist of a manual pull station at or near each attendant's station and each required exit, smoke detectors located no more than thirty feet (30') apart in the corridors or passageways with no point in the corridor or passageway more than fifteen feet (15') from a detector and no point in the building more than thirty feet (30') from a detector. The fire alarm system shall include visual alarms and audible signal(s) that can be heard throughout the building and a main panel that interconnects all alarm-activating devices and audible signals. I/II

(B) All facilities shall have inspections and written certifications of the fire alarm system completed by an approved qualified service representative in accordance with NFPA 72, 1999 edition, at least annually. I/II

(C) The fire alarm shall be activated by all of the following: sprinkler system flow alarm, smoke detectors, heat detectors, manual pull stations, and activation of the rangehood extinguishment system. II/III

(D) Facilities shall test every fire alarm system at least once a month. II/III

(E) Facilities shall maintain a record of the fire alarm tests required by subsections (10)(B) and (D) of this rule. III

(F) Upon discovery of a fault with the fire alarm, the facility shall promptly correct the fault. I/II

(G) When a fire alarm system is to be out of service for more than four (4) hours in a twenty-four (24)-hour period, the facility shall immediately notify the department and the local fire authority and implement an approved fire watch in accordance with NFPA 101, 2000 edition, until the fire alarm system has returned to full service. I/II

(H) Facilities that are not required to have a sprinkler system in accordance with NFPA 13, 1999 edition, or do not have a sprinkler system installed shall have heat-sensing fire detection in spaces not covered by smoke detection or sprinkler coverage. Resident rooms, closets, and bathrooms shall be exempt from this requirement. I/II

(11) Sprinkler System.

(A) All facilities shall have inspections and written certifications of the sprinkler system completed by an approved qualified service representative in accordance with the NFPA 25, 1998 edition. The inspections shall be in accordance with the provisions of NFPA 25, 1998 edition, with certification at least annually by a qualified service representative. I/II

(B) All facilities licensed prior to August 28, 2007 that do not have a complete sprinkler system in accordance with NFPA 13 shall have until December 31, 2012 to comply with NFPA 13, 1999 edition. I/II Exceptions may be granted to this requirement if the following conditions are met:

1. The water supply for an NFPA 13 sprinkler system is unavailable and the department receives a statement in writing from a licensed engineer or a certified sprinkler representative documenting the unavailability of water; or

2. The facility meets Chapter 33 of NFPA 101, Life Safety Code, 2000 edition, and the evacuation capability of residents is as defined in NFPA 101A, Guide to Alternative Approaches to Life Safety, 2001 edition. I/II

(C) Facilities that have sprinkler systems installed prior to August 28, 2007, shall inspect, maintain, and test these systems in accordance with NFPA 13, 1999 edition, and NFPA 25, 1998 edition. I/II

(D) Facilities licensed on or after August 28, 2007 or any facility performing major renovations to the facility shall have a complete sprinkler system installed in accordance with NFPA 13, 1999 edition. I/II

(E) When a sprinkler system is to be out of service for more than four (4) hours in a twenty-four (24)-hour period, the facility shall immediately notify the department and the local fire authority and implement an approved fire watch in accordance with NFPA 101, 2000 edition, until the sprinkler system has returned to full service. I/II

(12) All facilities shall submit by July 1, 2008 a plan for compliance to the state fire marshal showing how the facility meets the requirements of sections (10), (11), (28), and (29) of this rule. For facilities that have not met the requirements of sections (10), (11), (28), and (29) of this rule, the plan shall include at a minimum an explanation of how the requirements of sections (10), (11), (28), and (29) will be met, when they will be met, and contact information in the event the plan does not evidence compliance with these requirements. If the facility qualifies for any exceptions to these sections allowed by department regulations, the plan shall include in detail how the facility meets the exceptions. Unless the facility receives an exception from the department due to the inability to provide an adequate water supply, a facility plan that includes sprinkler exceptions must include a certification from either the state fire marshal's office or from a fire safety consultation firm that confirms a facility's compliance with Chapter 33 of NFPA 101, 2000 edition.

*[(25)]***(13)** Each floor of an existing licensed facility shall have at least two (2) unobstructed exits remote from each other. One (1) of the required exits in an existing multi-story facility must be an outside stairway or an enclosed stair that is separated by one (1)-hour construction from each floor and has an exit leading directly outside at grade level. One (1) exit may lead to a lobby with exit facilities to the ground level outside instead of leading directly to the outside. **The lobby shall have at least a one (1)-hour fire-rated separation from the remainder of the exiting floor.** I/II

*[(26)]***(14)** If facilities have outside stairways, they shall be substantially constructed to support residents during evacuation. These stairways shall be protected or cleared of ice and snow. Fire escapes added to existing buildings, whether interior or exterior, shall have at least a minimum thirty-six inch (36") width, eight-inch (8") maximum risers, a nine-inch (9") minimum tread, no winders, a maximum height between landings of twelve feet (12'), minimum landing dimensions of forty-four inches (44"), landings at each exit door and handrails on both sides. Stairways shall be of sturdy construction using at least two-inch (2") lumber and shall be continuous to ground level. Exit(s) to fire escapes shall be at least thirty-six inches (36") wide and the fire-escape door shall swing outward. **All treads and risers shall be of the same height and width throughout the entire**

stairway, not including landings. II/III

*[(27)]***(15)** Facilities with three (3) or more floors shall comply with the provisions of Chapter 320, RSMo which requires that outside stairways be constructed of iron or steel. II

*[(28)]***(16)** *[If it is necessary to lock exit doors or resident room doors, the]* **Door** locks shall be of a type that can be opened from the inside by turning the knob or operating a simple device that will release the lock**, or shall meet the requirements of Section 19.2 of NFPA 101, 2000 edition**. Only one (1) lock will be permitted on any one (1) door. I/II

*[(29)]***(17)** All exit doors in existing licensed facilities shall be at least thirty inches (30") wide. II

*[(30)]***(18)** All exit doors in new facilities shall be at least forty-four inches (44") wide. II

*[(31)]***(19)** In all facilities, all exit doors and vestibule doors shall swing outward in the direction of exit travel. II

*[(32)]***(20)** In all existing licensed facilities, all horizontal exit doors in fire walls and all doors in smoke barrier partitions may swing in either direction. These doors normally may be open, but shall be automatically self-closing in case of smoke or fire. They shall be capable of being manually released to self-closing action. II/III

*[(33)]***(21)** Facilities shall maintain corridors to be free of *[permanent]* obstruction or equipment or supplies not in use. Doors to resident rooms shall not swing into the corridor. II/III

*[(34)]***(22)** Facilities shall place signs bearing the word EXIT in plain, legible block letters at each required exit, except at doors directly from rooms to exit corridors or passageways. II

*[(35)]***(23)** Wherever necessary, the facility shall place additional signs in corridors and passageways to indicate the exit's direction. Letters on these signs shall be at least six inches (6") high and **principle strokes** three-fourths inches (3/4") wide, except that the letters of internally illuminated exit signs may be not less than four *[and one-half]* inches *[(4 1/2")]* **(4")** high. III

*[(36)]***(24)** Facilities shall maintain all exit and directional signs to be clearly legible *[by electric illumination or]* **and electrically illuminated at all times and by** acceptable means such as emergency lighting when *[natural light]* **lighting** fails. II

(25) Facilities shall have emergency lighting of sufficient intensity to provide for the safety of residents and other people using any exit, stairway, and corridor. The lighting shall be supplied by an emergency service, an automatic emergency generator, or battery lighting system. This emergency lighting system shall be equipped with an automatic transfer switch. In an existing licensed facility, battery lights, if used, shall be wet cell units or other rechargeable-type batteries that shall be Underwriters Laboratory (UL)-approved and capable of operating the light for at least one and one-half (1 1/2) hours. Battery-operated emergency lighting shall be tested for at least thirty (30) seconds every thirty (30) days and an annual function test for the full operational duration of one and one-half (1 1/2) hours. Records of these tests shall documented and maintained for review. II

*[(37)]***(26)** If existing licensed facilities have laundry chutes, dumbwaiter shafts or other similar vertical shafts, they shall have a fire resistance rating of at least one (1) hour **if serving three (3) or fewer stories**. **Enclosures serving four (4) or more stories shall have at least a two (2)-hour fire-rated enclosure.** These chute or shaft doors shall be self-closing or shall have any other approved device that will guarantee separation between floors. II

*[(38)]***(27)** Existing licensed multistoried facilities shall provide a smoke separation barrier between the basement and the first floor and the floors of resident-use areas. At a minimum, this barrier shall consist of one-half inch (1/2") gypsum board, plaster or equivalent. There shall be a one and three-fourths inch (1 3/4") thick solid-core wood door, or equivalent, at the top or bottom of the stairs. If the door is glazed, it shall be glazed with wired glass. II

(28) Each floor accessed by residents shall be divided into at least two (2) smoke sections with each section not exceeding one hundred fifty feet (150') in length or width. If the floor's dimensions do not exceed seventy-five feet (75') in length or width, a division of the the floor into two (2) smoke sections will not be required. II

(29) Each smoke section shall be separated by one (1)-hour fire-rated walls that are continuous from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck. Any door in this wall shall be at least twenty (20) minute fire rated or its equivalent, self closing, and may be held open only if the door closes automatically upon activation of the fire alarm system. II

*[(39)]***(30)** Existing licensed facilities shall have attached self-closing devices on all doors providing separation between floors. If the doors are to be held open, they shall have electromagnetic hold-open devices that are interconnected with either a smoke alarm or with other smoke-sensitive fire extinguishment or alarm systems in the building. II/III

[(40) Facilities shall have emergency lighting of sufficient intensity to provide for the safety of residents and other people using any exit, stairway and corridor. The lighting shall be supplied by an emergency service, an automatic emergency generator or battery lighting system. This emergency lighting system shall be equipped with an automatic transfer switch. In an existing licensed facility, battery lights, if used, shall be wet cell units or other rechargeable-type batteries that shall be Underwriters' Laboratory (UL)-approved and capable of operating the light for at least one and one-half (1 1/2) hours. II]

[(41) All facilities shall notify the division immediately if there is a fire involving death or harm to a resident which requires medical attention by a physician or causes substantial damage to the facility The division facility shall be notified in writing within seven (7) days in the event of any other fire, regardless of the size of the fire or the loss involved. II/III]

*[(42)]***(31)** *[Smoking shall not be permitted in sleeping quarters except when direct supervision is provided. Areas where smoking is permitted shall be designated as such and shall be directly supervised.]* **Smoking shall be permitted only in designated areas. Areas where smoking is permitted shall be directly supervised unless the resident has been assessed by the facility and determined capable of smoking unassisted. At least annually, the facility shall reassess those residents the facility has determined to be capable of smoking unsupervised and shall also reassess such resident when changes in his or her condition indicate the resident may no longer be capable of smoking without supervision. The facility shall document this assessment in the resident's medical record.** II

(32) Designated smoking areas shall have ashtrays of noncombustible material and of safe design. The contents of ashtrays shall be disposed of properly in receptacles made of noncombustible material. II/III

[(43) All facilities shall develop a written plan for fire drills and evacuation and annually shall request consultation and assistance from a local fire unit, if available, to review the plan. If the consultation cannot be obtained, the facility shall inform the division immediately in writing and request assistance in review of the plan. The plan shall include, at a minimum, written instructions for evacuation of each floor and a floor plan indicating the location of exits, fire alarm stations and extinguishers. The written plan shall show the location of any water sources on the property or adjacent property such as cisterns, wells, lagoons, ponds or creeks. The plan shall provide for the safety and comfort of residents evacuated. The facility shall post the written plan and evacuation diagram on each floor in a conspicuous place so that employees and residents can become familiar with the plan and routes to safety. II/III]

[(44) Fire drills shall be conducted at least every three (3) months on each shift with a minimum of twelve (12) drills annually. Staff shall be trained how to proceed in the event of a fire, that is, who to call, how to evacuate injured residents, which residents will need special assistance in evacuation and how to operate fire alarm and extinguishing equipment. II/III]

[(45) All fire drills shall be recorded including the date, time, participating personnel and special problems. II/III]

(33) Fire Drills and Evacuation Plan.

(A) All facilities shall develop a written plan for fire drills or other emergencies and evacuation and shall request consultation and assistance annually from a local fire unit. If the consultation cannot be obtained, the facility shall inform the state fire marshal immediately in writing and request assistance in review of the plan. II/III

(B) The plan shall include, but is not limited to:

1. A phased response ranging from relocation of residents within the facility to relocation to an area of refuge, to total evacuation. This phased response part of the plan shall be consistent with the direction of the local fire unit or state fire marshal and shall be appropriate for the fire or emergency;

2. Written instructions for evacuation of each floor including evacuation to areas of refuge, if applicable, and floor plan showing the location of exits, fire alarm pull stations, fire extinguishers, and any areas of refuge;

3. Evacuating residents, if necessary, from an area of refuge to a point of safety outside the building;

4. The location of any additional water sources on the property such as cisterns, wells, lagoons, ponds, or creeks;

5. Procedures for the safety and comfort of residents evacuated;

6. Staffing assignments;

7. Instructions for staff to call the fire department or other outside emergency services;

8. Instructions for staff to call alternative resource(s) for housing residents, if necessary;

9. Administrative staff responsibilities; and

10. Designation of a staff member to be responsible for accounting for all residents' whereabouts. II/III

(C) The written plan shall be accessible at all times and an evacuation diagram shall be posted on each floor in a conspicuous place so that employees and residents can become familiar with the plan and routes to safety. II/III

(D) A minimum of twelve (12) fire drills shall be conducted annually with at least one (1) every three (3) months on each shift. At least four (4) of the required fire drills must be unannounced to residents and staff, excluding staff that are assigned to evaluate staff and resident response to the fire drill. The fire drills shall include a simulated resident evacuation that involves the local fire department or emergency service, at least once a year. II/III

(E) The fire alarm shall be activated during all fire drills unless the drill is conducted between 9:00 p.m. and 6:00 a.m., where a coded message is acceptable in lieu of the audible and visual components of the fire alarm. II/III

(F) The facility shall keep a record of all fire drills including the simulated resident evacuation. The record shall include the time, date, personnel participating, length of time to complete the fire drill, and a narrative notation of any special problems. III

(34) Fire Safety Training Requirements.

(A) The facility shall ensure that fire safety training is provided to all employees during employee orientation, conducted at least every six (6) months after the initial training received during orientation, and when training needs are identified as a result of fire drill evaluations. II/III

(B) The training shall include but is not limited to the following:

1. Prevention of fire ignition, detection of fire, and control of fire development;

2. Confinement of the effects of fire;

3. Procedures for moving residents to an area of refuge;

4. Use of alarms;

5. Transmission of alarms to the fire department;

6. Response to alarms;

7. Isolation of fire;

8. Evacuation of the immediate area and building;

9. Preparation of floors and facility for evacuation; and

10. Use of the evacuation plan required by section (32) of this rule. II/III

*[(46)]***(35)** The use of wood- or gas-burning fireplaces will be permitted only if the fireplaces are built of firebrick or metal, enclosed by masonry**,** and have metal or tempered glass screens. The chimneys shall be of masonry construction with flue linings that have at least eight inches (8") of masonry separating the flue lining and the fireplace from any combustible material. All fireplaces shall be installed, operated**,** and maintained in a safe manner. Fireplaces not in compliance with these requirements may be provided if they are for decorative purposes only or if they are equipped with decorative-type electric logs or other electric heaters which bear the UL label and are constructed of electrical components complying with and installed in compliance with the *National Electrical Code*, incorporated by reference in this rule. **Fireplaces meeting standards set forth in NFPA 211, 2000 edition, are considered in compliance with this rule.** II/III

*[(47)]***(36) All** *[E]***l**ectric or gas clothes dryers shall be vented to the outside and the lint trap cleaned regularly. II/III

*[(48)]***(37)** In existing licensed facilities, all wall and ceiling surfaces shall be smooth and free of highly combustible materials. II/III

*[(49)]***(38)** All curtains in resident-use areas shall be rendered and maintained flame-resistant **in accordance with NFPA 701, 1999 edition**. II/III

*[(50)]***(39)** All new floor covering **shall be** installed *[in new and existing licensed facilities on or after January 1, 1999,]* **and** shall be Class I in nonsprinklered buildings and Class II in

sprinklered buildings *[Class I shall have a critical radiant flux of zero point forty-five (0.45) or more watts per square centimeter when tested according to the 1995 NFPA 253, which is incorporated by reference in this rule. Class II shall have a critical radiant flux of zero point twenty-two (0.22) or more watts per square centimeter when tested according to the standards stated in the 1995]* **in accordance with** NFPA 253**, 2000 edition**. *[Those facilities who installed new floor covering on or before December 31, 1998, shall comply with the requirements of the 1978 edition of the NFPA 253.]* II/III

(40) Trash and Rubbish Disposal Requirements.

*[(51)]***(A)** Only metal or UL- or Factory Mutual (FM)-approved wastebaskets shall be used for the collection of trash. II

[(52) All electrical appliances shall be UL-approved, shall be maintained in good repair and no appliances or electrical equipment shall be used which emit fumes or which could in any other way present a hazard to the residents. I/II]

*[(53)]***(B)** The facility shall maintain the exterior premises in a manner as to provide for fire safety. II

*[(54)]***(C)** Trash shall be removed from the premises as often as necessary to prevent fire hazards and public health nuisance. II

*[(55)]***(D)** No trash shall be burned within fifty feet (50') of any facility except in an approved incinerator. I/II

*[(56)]***(E)** Trash may be burned only in a masonry or metal container. The container shall be equipped with a metal cover with openings no larger than one-half inch (1/2") in size. II/III

*[(57)]***(41)** Minimum staffing for safety and protective oversight to residents shall be—

(A) In a fire-resistant or sprinklered building—

Time	Personnel	Residents
7 a.m. to 3 p.m. (Day)	1	3–10*
3 p.m. to 11 p.m. (Evening)	1	3–15*
11 p.m. to 7 a.m. (Night)	1	3–20*

*One (1) additional staff person for every fraction after that; or I/II

(B) In a nonfire-resistant, nonsprinklered building—

Time	Personnel	Residents
7 a.m. to 3 p.m. (Day)	1	3–10*
3 p.m. to 11 p.m. (Evening)	1	3–15*
11 p.m. to 7 a.m. (Night)	1	3–15*

*One (1) additional staff person for every fraction after that. I/II

AUTHORITY: [section] ***sections 198.074 and*** *198.079, RSMo [1994]* ***Supp. 2007****. This rule originally filed as 13 CSR 15-14.022. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed March 13, 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 Kimberly O'Brien, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. 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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 85—Intermediate Care and Skilled Nursing Facility

PROPOSED AMENDMENT

19 CSR 30-85.032 Physical Plant Requirements for New and Existing Intermediate Care and Skilled Nursing Facilities. The department is adding sections (1), (31), and (48), deleting sections (2) and (31), amending sections (2), (3), (12), (13), (14), (25), (27), (29), (30), (32), (36), and (37), and renumbering throughout.

PURPOSE: This amendment revises the options and requirements for call systems; revises the resident room square footage requirements and room temperature requirements; updates the requirements for gas-burning equipment and appliance standards; clarifies and updates the requirements for electrical wiring, lighting, elevators, and extension cords; relocates the requirement for department approval of additional businesses in facility buildings; and renumbers throughout.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) General Requirements.

(A) All National Fire Protection Association (NFPA) codes and standards cited in this rule: NFPA 54, *National Fuel Code*, 1999 edition; NFPA 58, *Liquefied Petroleum Gas Code,* 1999 edition; NFPA 70, *National Electric Code*, 1999 edition; NFPA 99, Health Care Facilities, 1999 edition; and NFPA 101, *The Life Safety Code*, 2000 edition, are incorporated by reference in this rule and available for purchase from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101; www.nfpa.org; by telephone at (617) 770-3000 or 1-800-344-3555. This rule does not incorporate any subsequent amendments or additions to the materials listed above.

(B) This rule does not prohibit facilities from complying with standards set forth in newer editions of the incorporated by reference material listed in subsection (1)(A) of this rule where approved by the Department of Health and Senior Services (the department).

*[(1)]***(2)** The building shall be substantially constructed and shall be maintained in good repair. New facilities shall comply with the requirements in accordance with the provisions found in *[13 CSR 15-14.012]* **19 CSR 30-85.012**. *[When a new facility or an addition to an existing facility is licensed, no different construction requirements shall be imposed on the operator, provided the facility is being maintained in good repair as originally approved for licensure, providing the health, safety and welfare of the residents is not in jeopardy.]* Existing licensed

facilities shall meet and maintain the facility's physical plant in accordance with the construction standards in effect at the time of initial licensing, unless there is a specific rule governing the subject cited in this section or in *[13 CSR 15-14.022]* **19 CSR 30-85.022**, except that those facilities licensed between 1957 and 1965 shall not increase the capacity of any room or the total capacity of the facility without meeting new construction requirements. Existing licensed facilities with plans approved after April 8, 1972 and prior to January 1, 1999, shall comply as *[e]***E**xisting **Health Care Occupancies with** *[facilities with the 1985 Life Safety Code (National Fire Protection Association NFPA 101), which is incorporated by reference in this rule, except that no provision of the 1985 code will be enforced that is more restrictive than the code of original plan approval]* **NFPA 101, 2000 edition**. *[New f]***F**acilities whose physical plant requirement plans are approved on or after January 1, 1999, shall comply *[with the provisions of the 1997 Life Safety Code, incorporated by reference in this rule]* **as New Health Care Occupancies with NFPA 101, 2000 edition**. II/III

[(2) Only activities necessary to the administration of the facility shall be contained in any building used as a long-term care facility except that related activities may be conducted in buildings subject to the division's prior written approval. Examples of activities are home health agencies, physician's office, pharmacy, ambulance service, day care and food service for the elderly in the community. II/III]

(3) In an existing facility licensed prior to July 1, 1965, the number of persons in any room or area used as sleeping quarters shall not exceed the proportion of one (1) adult for each sixty (60) square feet. In facilities licensed on or after July 1, 1965, adult resident rooms shall be a minimum of eighty (80) square feet per bed in multi-bed resident rooms and one hundred (100) square feet for private rooms. This square footage can include all useable floor spaces such as closets, entryways**, and areas with moveable items or furniture that do not impact the safety or welfare of the resident**, *[built-in furniture and equipment if]* used for residents' belongings or if related to their care. Only the area of a room with a ceiling height of at least seven feet (7') can be included when calculating the square footage. II/III

(12) Every facility shall provide a living room or community room for the sole use of residents. Sufficient chairs and tables *[will]* **shall** be furnished. Under no circumstances may the living room be used as a bedroom. A living room must be well-lighted, ventilated, and easily accessible to residents. II

(13) Facilities shall ensure that gas-burning equipment and appliances are approved by the American Gas Association and installed in compliance with *[the 1996]* NFPA 54, **1999 edition** *[National Fuel Gas Code, incorporated by reference in this rule]*. Where liquefied petroleum gas (LPG) is used, facilities shall comply with the rules of the Missouri Department of Agriculture and *[the 1995]* NFPA 58, **1999 edition.** *[Storage and Handling of Liquefied Petroleum Gases, incorporated by reference in this rule. Facilities with gas-burning equipment installed on or before December 31, 1998, shall comply with instructions and requirements of the NFPA 54 and NFPA 58 referenced in the 1985 Life Safety Code.]* **Facilities that were complying prior to the effective date of this rule with prior editions of the NFPA 54 and NFPA 58 referenced in this rule shall be permitted to continue to comply with the earlier editions, as long as there is not an imminent danger to the health, safety, or welfare of any resident or a substantial probability that death or serious physical harm would result as determined by department.** Gas-fired water heaters shall be properly vented and all water heaters shall be equipped with a temperature and pressure relief valve. II

(14) Oxygen cylinders for medical use shall be labeled **"**Oxygen**."** *[—United States Pharmacopoeia (USP). Existing]* All facilities *[with plans approved on or before December 31, 1998,]* shall have oxygen systems, oxygen piping, outlets, manifold rooms, and storage rooms installed in accordance with the requirements of the NFPA 99, *[Health Care Facilities, as referenced in the 1985 Life Safety Code. Facilities with plans approved on or after January 1, 1999, shall install oxygen systems in compliance with the 1996 NFPA 99 and the 1997 Life Safety Code.]* **1999 edition.** I/II

(25) **F**acilities shall provide adequate space and locations for the proper cleansing, disinfection, sterilization, and storage of nursing supplies and equipment. This area shall be specifically designated as a clean utility area. There shall be a separate area designated as a dirty utility area, and neither area shall be located in or open into a kitchen, dining room, *[and should not open into]* **or** a bathroom. The facility shall have utility areas that are easily available to personnel and located conveniently for the nursing station staff. Utility area**s** shall be well-ventilated and well-lighted. II/III

(27) The facility shall be equipped with a call system that consists of an electrical intercommunication system, **a wireless pager system,** a buzzer system, or hand bells for each resident bed, toilet room, and bathroom. **The call system shall be audible in the attendant's work area and be in compliance with 19 CSR 30-85.012(124).** II/III

(29) The facility shall *[ensure that each room or ward in which residents are housed or to which residents have reasonable access shall be capable of being heated to not less than eighty degrees Fahrenheit (80°F) at the winter design temperature. Room temperature shall not be lower than sixty-eight degrees Fahrenheit (68°F), but the reasonable comfort needs of individual residents shall be met.]* **heat all resident-accessible areas to ensure that the air temperature is not lower than sixty-eight degrees Fahrenheit (68°F). These areas shall be capable of being heated to not less than eighty degrees Fahrenheit (80°F). At all times the reasonable comfort needs of residents shall be met.** I/II

(30) *[Facilities]* **The facility** shall *[use air-conditioning units, a central air-conditioning system, fans or a ventilating system when the room temperature exceeds eighty-five degrees Fahrenheit (85°F) to meet the reasonable comfort needs of individual residents]* **cool resident-accessible areas when air temperatures exceed eighty-five degrees Fahrenheit (85°F). These areas shall be capable of being cooled to at least seventy-one degrees Fahrenheit (71°F)**. **At all times the reasonable comfort needs of residents shall be met.** I/II

[(31) Lighting shall be restricted to electricity. Electrical wiring and equipment shall be installed and maintained in accordance with nationally recognized safety practices. In facilities with plans approved on or after January 1, 1999, compliance with the 1996 National Electrical Code, shall be considered compliance with the previously mentioned practices. 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 1996 National Electrical Code, incorporated by reference in this rule. In facilities whose plans were approved on or before December 31, 1998, the electrician shall comply with the requirements of the National Electrical Code as referenced in the 1985 Life Safety Code. II/III]

(31) Electrical Wiring Requirements.

(A) Electrical wiring and equipment shall be installed and maintained in accordance with the NFPA 70, 1999 edition. Facilities that were complying prior to the effective date of this rule with prior editions of the NFPA 70 referenced in this rule shall be permitted to continue to comply with the earlier editions, as long as there is not an imminent danger to the health, safety, or welfare of any resident or a substantial probability that death or serious physical harm would result as determined by the department. II/III

(B) Annually, 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

(32) *[The facility shall provide lighting with a minimum intensity of ten (10) footcandles]* **Lighting** in hallways, bathrooms, recreational, dining, and all resident-use areas **shall be provided with a minimum intensity of ten (10) footcandles and shall be sufficient to meet the residents' and staff needs**. III

(36) If elevators are used, their installation and maintenance shall comply with all local and state codes and *[the 1996 National Electrical Code, which is incorporated into this rule by reference, for facilities whose plans were approved on or after January 1, 1999. In facilities whose plans were approved on or before December 31, 1998, the elevators shall comply with applicable local and state codes and the requirements of the National Electrical Code as referenced in the 1985 Life Safety Code.]* **NFPA 70, 1999 edition.** II

(37) If extension cords are used, they must be Underwriters Laboratories (UL)-approved **or shall comply with other recognized electrical appliance approval standards** and sized to carry the current required for the appliance used. Only one (1) appliance shall be connected to one (1) extension cord. Only two (2) appliances may be served by one (1) duplex receptacle. Extension cords shall not be placed under rugs, through doorways**,** or located where they are subject to physical damage. II/III

(48) Only activities necessary to the administration of the facility shall be contained in any building used as a long-term care facility except as follows:

(A) Related activities may be conducted in buildings subject to prior written approval of these activities by the department. Examples of these activities are home health agencies, physician's office, pharmacy, ambulance service, child day care, food service, and outpatient therapy for the elderly or disabled in the community;

(B) Adult day care may be provided for four (4) or fewer participants without prior written approval of the department if the long-term care facility meets the following stipulations:

1. The operation of the adult day care business shall not interfere with the care and delivery of services to the long-term care residents;

2. The facility shall only accept participants in the adult day care program appropriate to the level of care of the facility and whose needs can be met;

3. The facility shall not change the physical layout of the facility without prior written approval of the department;

4. The facility shall provide a private area for adult day care participants to nap or rest;

5. Adult day care participants shall not be included in the census, and the number shall not be more than four (4) above the licensed capacity of the facility; and

6. The adult day care participants, while on-site, are to be included in the determination of staffing patterns for the long-term care facility; and

(C) An associated adult day health care program may be operated without prior written approval if the provider of the adult day health care services is certified in accordance with 13 CSR 70-92.010. II/III

*AUTHORITY: section 198.079, RSMo [1994] **Supp. 2007**. This rule originally filed as 13 CSR 15-14.032. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 13, 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 Kimberly O'Brien, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. 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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

PROPOSED AMENDMENT

19 CSR 30-86.012 Construction Standards for Assisted Living Facilities and Residential Care Facilities. The department is amending sections (14) and (24) and amending the Purpose of the rule.

PURPOSE: This amendment revises the Purpose statement to correctly define the purpose of the rule, classifies the requirement for providing conveniently located bath and toilets as a class III standard, clarifies the requirement for assistive devices that enable deaf residents to evacuate the facility, and re-classifies this requirement as a Class I/II standard.

*PURPOSE: This rule establishes construction standards for [new and existing residential care facilities II and new residential care facilities I and additions to or a major remodeling of existing residential care facilities I and II] **Residential Care Facilities and Assisted Living Facilities**.*

(14) Bath and toilet facilities shall be conveniently located so that residents can reach them without passing through the kitchen, another bedroom**,** or auxiliary service areas. Facilities formerly licensed as residential care facilities II and in operation or whose plans were approved prior to November 13, 1980 are exempt from this requirement. **III**

(24) *[When the]* **Any** facility **that** accepts *[deaf]* residents **who are deaf** *[, residential care facilities with an asleep night attendant]* shall have appropriate assistive devices to enable each deaf person to *[negotiate a path to safety]* **evacuate the facility**, including, but not limited to, visual or tactile alarm systems. *[II/III]* **I/II**

*AUTHORITY: sections 198.076 [, RSMo 2000 and 198.005] and 198.073, RSMo Supp. [2006] **2007**. This rule originally filed as 13 CSR 15-15.012. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 13, 2008.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than 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 Kimberly O'Brien, Director for the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. 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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

PROPOSED AMENDMENT

19 CSR 30-86.022 Fire Safety Standards for Residential Care Facilities and Assisted Living Facilities. The department is amending the Purpose of the rule; adding section (6); deleting section (16); amending sections (1)–(13); and renumbering throughout.

PURPOSE: This amendment revises the rule Purpose statement to correctly define the purpose of this rule; defines the terms, "complete fire alarm system" and "major renovation;" updates the incorporated by reference material; clarifies the requirements for notifying and submitting written reports to the Department of Health and Senior Services (department) when there is a fire in the building and premises; clarifies and revises the requirements for smoke sections, designated smoke areas, fire drills, fire safety training, rangehood extinguishing systems, fire extinguishers, fire and emergency plans, and conducting a fire watch upon discovery of a fire; updates the requirements for installation, operation, maintenance, certification, and testing for sprinkler and fire alarm systems; and adds the requirement for all facilities to submit a plan of compliance to the state fire marshal describing how the facility meets the standards of NFPA 13 or 13 R as required for that facility, for sprinkler systems and NFPA 72, 1999 edition, for fire alarm systems as required by section 198.074, RSMo Supp. 2007 (H.B. 952 and 674 (94th General Assembly, First Regular Session (2007))).

*PURPOSE: This rule establishes fire/safety standards for new and existing residential care facilities [I and II] **and assisted living facilities**.*

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

(A) Area of refuge—A space located in or immediately adjacent to a path of travel leading to an exit that is protected from the effects of fire, either by means of separation from other spaces in the same building or its location, permitting a delay in evacuation. An area of refuge may be temporarily used as a staging area that provides some relative safety to its occupants while potential emergencies are assessed, decisions are made, and **if applicable,** evacuation has begun.

(B) Complete fire alarm system—shall include, but not be limited to, interconnected smoke detectors throughout the facility; automatic transmission to the fire department, dispatching agency, or central monitoring company; manual pull stations at each required exit and attendant's station; heat detectors; and audible and visual alarm indicators.

(C) Major renovation—shall include the following:

1. Addition of any room that is accessed by residents;

2. Repairs, remodeling, or renovations that involve more than fifty percent (50%) of the building; or

3. Repairs, remodeling, or renovations that involve more than forty-five hundred (4,500) square feet of a smoke section.

(2) General Requirements.

(A) All National Fire Protection Association (NFPA) codes and standards cited in this rule: NFPA 10, *Standard for Portable Fire Extinguishers*, *[1994]* **1998** edition; *[NFPA 13R, Installation of Sprinkler Systems, 1996 edition; NFPA 13, Installation of Sprinkler Systems, 1976 edition; NFPA 13 or]* NFPA 13R, *Standard for the Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height*, 1999 edition; NFPA 13 *[or NFPA 13D]*, *Standard for the Installation of Sprinkler Systems*, 1999 edition; *[NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, 1994 edition;]* NFPA 96, ***Standard for** Ventilation Control and Fire Protection of Commercial Cooking Operations*, *[1994]* **1998** edition; NFPA 101, *The Life Safety Code*, 2000 edition; NFPA 72, *National Fire Alarm Code*, *[1996]* **1999** edition; *[NFPA 72A, Local Protective Signaling Systems, 1975 edition;]* NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems*, 1998 edition; *[and NFPA 253, Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source, 2000 edition]* **and NFPA 101A, *Guide to Alternative Approaches to Life Safety*, 2001 edition** with regard to the minimum fire safety standards for residential care facilities and assisted living facilities are incorporated by reference in this rule and available for purchase from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101; www.nfpa.org; by telephone at (617) 770-3000 or 1-800-344-3555. This rule does not incorporate any subsequent amendments or additions to the materials listed above. **This rule does not prohibit facilities from complying with the standards set forth in newer editions of the incorporated by reference material listed in this subsection of this rule, if approved by the department. Facilities that were complying prior to the effective date of this rule with prior editions of the NFPA provisions referenced in this rule shall be permitted to continue to comply with the earlier editions, as long as there is not an imminent danger to the health, safety, or welfare of any resident or a substantial probability that death or serious physical harm would result as determined by the department.**

[(B) For the purpose of this rule, fire-resistant construction is defined as that type of construction in which bearing walls, columns and floors are of noncombustible material and all bearing walls, floors and roofs shall have a minimum of a one (1)-hour fire-resistant rating.]

[(C) All licensed facilities shall meet and maintain the facility in accordance with the fire safety standards in effect at the time of initial licensing, unless there is a specific requirement cited in this rule. I/II]

[(D) All facilities shall notify the Department of Health and Senior Services hereinafter the department immediately if there is a fire involving death or harm to a resident requiring medical attention by a physician or substantial damage to the facility. The department shall be notified in writing within seven (7) days in case of any other fire, regardless of the size of the fire or the loss involved. II/III]

[(E) The department shall have the right of inspection of any portion of a building in which a licensed facility is located unless the unlicensed portion is separated by two (2)-hour fire-resistant construction or the building is equipped with a complete sprinkler in accordance with NFPA 13 or NFPA 13R and the unlicensed portion is separated by one (1)-hour fire-resistant construction. No section of the building shall present a fire hazard. I/II]

(B) All facilities shall notify the department immediately if there is a fire in the facility structure or surrounding grounds and shall submit a completed fire report to the department within seven (7) days of the fire, regardless of the size of the fire or the loss involved. I/II

(C) The facility shall conduct an approved fire watch, in accordance with NFPA 101, 2000 edition, for twenty-four (24) hours following the discovery of any fire in the facility structure or surrounding grounds of the facility. I/II

(D) The department shall have the right of inspection of any portion of a building in which a licensed facility is located unless the unlicensed portion is separated by two (2)-hour fire-resistant construction. I/II

(E) Facilities shall not use space under stairways to store combustible materials, and no section of the building shall present a fire hazard. I/II

(G) *[When the]* **Any** facility **that** accepts residents who are deaf *[, residential care facilities with an asleep night attendant*] shall have appropriate assistive devices to enable each deaf person to *[negotiate a path to safety]* **evacuate the facility**, including, but not limited to, visual or tactile alarm systems. I/II

(3) Fire Extinguishers.

(A) Fire extinguishers shall be provided at a minimum of one (1) per floor, so that there is no more than *[one hundred feet (100')]* **seventy-five feet (75')** travel distance from any point on that floor to an extinguisher. I/II

(B) All new or replacement portable fire extinguishers shall be ABC-*[type]* **rated** extinguishers, in accordance with the provisions of the *[1994 National Fire Protection Association (NFPA)]* **NFPA** 10, **1998 edition** *[Standard for Portable Fire Extinguishers]*. II

(C) Fire extinguishers shall have a rating of at least:

1. Ten (10) pounds, **ABC-rated** or the equivalent, in or within fifteen feet (15') of hazardous areas as defined in *[13 CSR 15-11]* **19 CSR 30-83.010**; and

2. Five (5) pounds **ABC-rated** or the equivalent in other areas. II

(D) *[Every]* **All** fire extinguishers shall bear the label of the Underwriters Laboratories (UL) or the Factory Mutual (FM) Laboratories and *[the extinguisher, its installation, maintenance and use shall comply with the provisions of the 1994 edition of the NFPA 10]* **shall be installed and maintained in accordance with the NFPA 10, 1998 edition**. This includes the documentation and dating of a monthly pressure check. II/III

(4) Range Hood Extinguishing Systems.

(A) In facilities licensed on or before July 11, 1980, or in any facility with fewer than twenty-one (21) beds, the kitchen shall provide either:

1. An approved automatic range hood extinguishing system properly installed and maintained in accordance with the *[1994]* NFPA 96, **1998 edition;** *[Standard on Ventilation Control and Fire Protection of Commercial Cooking Operations*;] or

2. A portable fire extinguisher of at least ten (10) pounds **ABC-rated**, or the equivalent, in the kitchen area in accordance with the *[1994]* NFPA 10, **1998 edition**. II/III

3. All new and replacement portable fire extinguishers in the kitchen shall be K-rated or the equivalent. II/III

(B) In licensed facilities with a total of twenty-one (21) or more licensed beds and whose application was filed after July 11, 1980 and prior to October 1, 2000:

1. The kitchen shall be provided with a range hood and an approved automatic range hood extinguishing system **unless the facility has a complete, approved sprinkler system. Facilities with range hood systems shall continue to maintain and test these systems**; **and**

[2. The range hood extinguishing system shall have the capacity of being manually operated, unless there is an approved sprinkler system; and]

*[3.]***2.** The extinguishing system shall be installed**, tested,** and maintained in accordance with the *[applicable edition of]* NFPA 96**, 1998 edition**. II/III

[(C) Facilities licensed on or after October 1, 2000, shall not be required to install and maintain range hood extinguishing systems since facilities shall be required to have complete sprinkler systems; however, if facilities have range hood extinguishing systems, they shall comply with the provisions of the 1994 NFPA 96. II/III]

*[(D)]***(C)** The range hood and its extinguishing system shall be *[inspected and]* certified at least twice annually in accordance with the *[1994 edition of]* NFPA *[1996]* **1998 edition**. II/III

(5) Fire Drills **and Evacuation Plan**.

(A) All facilities shall develop a written plan for fire drills or other emergencies, and evacuation and shall request consultation and assistance annually from a local fire unit. *[Such plan shall include, if consistent with the direction of the local fire unit and as appropriate for the fire or emergency, a phased response ranging from relocation of residents within the facility, to relocation to an area of refuge, to total evacuation. II/III]* **If the consultation cannot be obtained, the facility shall inform the state fire marshal immediately in writing and request assistance in review of the plan. II/III**

(B) The plan shall include, *[as a minimum, written instructions for evacuation of each floor including evacuation to areas of refuge, if applicable, and floor plan showing the location of exits, fire alarm pull stations, fire extinguishers and any areas of refuge. II/III]* **but is not limited, to the following:**

1. A phased response ranging from relocation of residents within the facility to relocation to an area of refuge, to total evacuation. This phased response part of the plan shall be consistent with the direction of the local fire unit or state fire marshal and appropriate for the fire or emergency;

2. Written instructions for evacuation of each floor including evacuation to areas of refuge, if applicable, and a floor plan showing the location of exits, fire alarm pull stations, fire extinguishers, and any areas of refuge;

3. Evacuating residents, if necessary, from an area of refuge to a point of safety outside the building;

4. The location of any additional water sources on the property such as cisterns, wells, lagoons, ponds, or creeks;

5. Procedures for the safety and comfort of residents evacuated;

6. Staffing assignments;

7. Instructions for staff to call the fire department or other outside emergency services;

8. Instructions for staff to call alternative resource(s) for housing residents, if necessary;

9. Administrative staff responsibilities; and

10. Designation of a staff member to be responsible for accounting for all residents' whereabouts. II/III

[(C) The evacuation plan for facilities with areas of refuge shall also include plans for evacuating residents from the area of refuge to a point of safety outside the building, if necessary. II/III]

[(D) The written plan shall show the location of any additional water sources on the property such as cisterns, wells, lagoons, ponds or creeks. II/III]

[(E) The evacuation plan shall include procedures for the safety and comfort of residents evacuated including:

1. Staffing assignments;

2. Whom staff are to call including but not limited to fire department or other outside emergency services, alternative resource(s) for housing residents if necessary, administrative staff; and

3. Which staff member is charged with accounting for residents' whereabouts. II/III]

*[(F)]***(C)** The written plan **shall be accessible at all times** and **an** evacuation diagram shall be posted on each floor in a conspicuous place so that employees and residents can become familiar with the plan and routes to safety. II/III

*[(G)]***(D)** A minimum of twelve (12) fire drills shall be conducted annually with at least one (1) every three (3) months on each shift. **At least four (4) of the required fire drills must be unannounced to residents and staff, excluding staff that are assigned to evaluate staff and resident response to the fire drill.** The fire drills shall include a resident evacuation at least once a year. II/III

(E) The fire alarm shall be activated during all fire drills unless the drill is conducted between 9:00 p.m. and 6:00 a.m., where a coded message is acceptable in lieu of the audible and visual components of the fire alarm. II/III

[(H) The staff shall be trained on how to proceed in the event of a fire. The training shall include:

1. All components of evacuation plan;

2. How to properly evacuate injured residents;

3. Which residents may need to be awakened or may need special assistance; and

4. How to operate fire-extinguishing equipment. II/III]

*[I]***(F)** The facility shall keep a record of all fire drills. The record shall include the time, date, personnel participating, length of time to complete the fire drill, and a narrative notation of any special problems. III

(6) Fire Safety Training.

(A) The facility shall ensure that fire safety training is provided to all employees during employee orientation, conducted at least every six (6) months after the initial training received during orientation and when training needs are identified as a result of fire drill evaluations. II/III

(B) The training shall include but is not limited to the following:

1. Prevention of fire ignition, detection of fire, and control of fire development;

2. Confinement of the effects of fire;

3. Procedures for moving residents to an area of refuge;

4. Use of alarms;

5. Transmission of alarms to the fire department;

6. Response to alarms;

7. Isolation of fire;

8. Evacuation of immediate area and building;

9. Preparation of floors and facility for evacuation; and

10. Use of the evacuation plan as required by section (5) of this rule. II/III

*[(6)]***(7)** Exits, Stairways**,** and Fire Escapes.

(A) Each floor of a facility shall have at least two (2) unobstructed exits remote from each other.

1. For a facility whose plans were approved on or before December 31, 1987, or a facility licensed for twenty (20) or fewer residents, one (1) of the required exits from a multi-story facility shall be an outside stairway or an enclosed stairway that is separated by one (1)-hour rated construction from each floor with an exit leading directly to the outside at grade level. Existing plaster or gypsum board of at least one-half inch (1/2") thickness may be considered equivalent to one (1)-hour rated construction. The other required exit may be an interior stairway leading through corridors or passageways to outside or to a two (2)-hour rated horizontal exit as defined by paragraph 3.3.61 of the 2000 edition NFPA 101. Neither of the required exits shall lead through a furnace or boiler room. Neither of the required exits shall be through a resident's bedroom, unless the bedroom door cannot be locked.

2. For a facility whose plans were approved after December 31, 1987, for more than twenty (20) residents, the required exits shall be doors leading directly outside, one (1)-hour enclosed stairs or outside stairs or a two (2)-hour rated horizontal exit as defined by paragraph 3.3.61 of 2000 edition NFPA 101. The one (1)-hour enclosed stairs shall exit directly outside at grade. Access to these shall not be through a resident bedroom or a hazardous area. I/II

3. Only one (1) of the required exits may be a two (2)-hour rated horizontal exit.

(B) In facilities with plans approved after December 31, 1987, doors to resident use rooms shall not be more than one hundred feet (100') from an exit. In facilities equipped with a complete sprinkler system in accordance with NFPA 13 or NFPA 13R**, 1999 edition,** the exit distance may be increased to one hundred fifty feet (150'). Dead-end corridors shall not exceed thirty feet (30') in length. II

(C) In residential care facilities and facilities formerly licensed as residential care facilities II, floors housing residents who require the use of a walker, wheelchair, or other assistive devices or aids, or who are blind, must have two (2) accessible exits to grade or such residents must be housed near accessible exits as specified in 19 CSR 30-86.042(33) for residential care facilities and 19 CSR 30-86.043(31) for facilities formerly licensed as residential care facilities II unless otherwise prohibited by 19 CSR 30-86.045 or 19 CSR 30-86.047, facilities equipped with a complete sprinkler system, in accordance with the *[1996 edition]* of NFPA 13 or NFPA 13R**, 1999 edition,** with sprinklered attics, and smoke partitions, as defined by subsection *[(9)(I)]***(10)(I)** of this rule, may house such residents on floors that do not have accessible exits to grade if each required exit is equipped with an area of refuge as defined and described in subsections (1)(A) and *[(6)(D)]***(7)(D)** of this rule. I/II

(D) An "area of refuge" shall have:

1. An area separated by one (1)-hour rated smoke walls, from the remainder of the building. This area must have direct access to the exit stairway or access the stair through a section of the corridor that is separated by smoke walls from the remainder of the building. This area may include no more than two (2) resident rooms;

2. A two (2)-way communication or intercom system with both visible and audible signals between the area of refuge and the bottom landing of the exit stairway, attendants' work area, or other primary location as designated in the written plan for fire drills and evacuation;

3. Instructions on the use of the area during emergency conditions that are located in the area of refuge and conspicuously posted adjoining the communication or intercom system;

4. A sign at the entrance to the room that states "AREA OF REFUGE IN CASE OF FIRE" and displays the international symbol of accessibility;

5. An entry or exit door that is at least a one and three-fourths inch (1 3/4") solid core wood door or has a fire protection rating of not less than twenty (20) minutes with smoke seals and positive latching hardware. These doors shall not be lockable;

6. A sign conspicuously posted at the bottom of the exit stairway with a diagram showing each location of the areas of refuge;

7. Emergency lighting for the area of refuge; and

8. The total area of the areas of refuge on a floor shall equal at least twenty (20) square feet for each resident who is blind or requires the use of wheelchair or walker housed on the floor. II

(E) If it is necessary to lock exit doors, the locks shall not require the use of a key, tool, special knowledge**,** or effort to unlock the door from inside the building. Only one (1) lock shall be permitted on each door. Delayed egress locks complying with section 7.2.1.6.1 of the 2000 edition NFPA 101 shall be permitted, provided that not more than one (1) such device is located in any egress path. Self-locking exit doors shall be equipped with a hold-open device to permit staff to reenter the building during the evacuation. I/II

(F) If it is necessary to lock resident room doors, the locks shall not require the use of a key, tool, special knowledge**,** or effort to unlock the door from inside the room. Only one (1) lock shall be permitted on each door. Every resident room door shall be designed to allow the door to be opened from the outside during an emergency when locked. The facility shall ensure that facility staff have the means or mechanisms necessary to open resident room doors in case of an emergency. I/II

(G) All stairways and corridors shall be easily negotiable and shall be maintained free of obstructions. II

(H) Outside stairways shall be constructed to support residents during evacuation and shall be continuous to the ground level. Outside stairways shall not be equipped with a counter-balanced device. They shall be protected from or cleared of ice or snow. II/III

(I) Facilities with three (3) or more floors shall comply with the provisions of Chapter 320, RSMo which requires outside stairways to be constructed of iron or steel. II

(J) Fire escapes constructed on or after November 13, 1980, whether interior or exterior, shall be thirty-six inches (36") wide, shall have eight-inch (8") maximum risers, nine-inch (9") minimum tread, no winders, maximum height between landings of twelve feet (12'), minimum dimensions of landings of forty-four inches (44"), landings at each exit door, handrails on both sides and be of sturdy construction, using at least two-inch (2") lumber. Exit doors to these fire escapes shall be at least thirty-six inches (36") wide and the door shall swing outward. II/III

(K) If a ramp is required to meet residents' needs under 19 CSR 30-86.042, the ramp shall have a maximum slope of one to twelve (1:12) leading to grade. II/III

*[(7)]***(8)** Exit Signs.

(A) Signs bearing the word EXIT in plain, legible letters shall be placed at each required exit, except at doors directly from rooms to exit passageways or corridors. Letters of all exit signs shall be at least six inches (6") high and three-fourths of an inch (3/4") wide, except that letters of internally illuminated exit signs shall not be less than four *[and one-half]* inches *[(4 1/2")]* **(4")** high. II

(B) Directional indicators showing the direction of travel shall be placed in corridors, passageways**,** or other locations where the direction of travel to reach the nearest exit is not apparent. II/III

(C) All required exit signs and directional indicators shall be positioned so that *[they are illuminated by]* both normal and emergency lighting **illuminates them**. II/III

*[(8)]***(9)** Fire Alarm Systems.

(A) *[All facilities shall have inspections and written certifications of the fire alarm system completed by an approved qualified service representative in accordance with the 1996 NFPA 72, National Fire Alarm Code, at least annually.]* **Facilities shall have a complete fire alarm system installed, tested, and maintained in accordance with NFPA 72, 1999 edition. Facilities licensed prior to August 28, 2007 that do not meet this standard shall have until December 31, 2008 to comply with NFPA 72, 1999 edition. The fire alarm shall automatically transmit to the fire department. At a minimum, the fire alarm system shall consist of a manual pull station at or near each attendant's station and each required exit, smoke detectors located no more than thirty feet (30') apart in the corridors or passageways with no point in the corridor or passageway more than fifteen feet (15') from a detector and no point in the building more than thirty feet (30') from a detector. The fire alarm system shall include visual alarms and audible signal(s) that can be heard throughout the building and a main panel that interconnects all alarm-activating devices and audible signals.** I/II

(B) *[All residential care facilities licensed for more than twenty (20) residents shall be equipped with a complete fire alarm system in accordance with the applicable edition of NFPA 72.]* **All facilities shall have inspections and written certifications of the fire alarm system completed by an approved qualified service representative in accordance with NFPA 72, 1999 edition, at least annually.** I/II

(C) The fire alarm shall be activated by all of the following: sprinkler system flow alarm, smoke detectors, heat detectors, manual pull stations, and activation of the rangehood extinguishment system. II/III

(D) Facilities shall test every fire alarm system at least once a month. II/III

(E) Facilities shall maintain a record of the fire alarm tests required by subsections (9)(B) and (D) of this rule. III

(F) Upon discovery of a fault with the fire alarm, the facility shall promptly correct the fault. I/II

(G) When a fire alarm system is to be out of service for more than four (4) hours in a twenty-four (24)-hour period, the facility shall immediately notify the department and the local fire authority and implement an approved fire watch in accordance with NFPA 101, 2000 edition, until the fire alarm system has returned to full service. I/II

(H) Facilities that are not required to have sprinkler systems or that have sprinkler systems installed in accordance with NFPA 13R shall have heat-sensing fire detection in spaces not covered by smoke detection or sprinkler coverage. Resident rooms, closets, and bathrooms shall be exempt from this requirement. I/II

(I) Facilities that do not have a complete fire alarm system installed as of August 28, 2007 shall continue to meet the following standards as applicable to that facility:

*[(C)]***1.** Facilities that are required to comply with the requirements of 19 CSR 30-86.043 shall be equipped with a complete fire alarm system in accordance with the applicable edition of NFPA 72. I/II

*[(D)]***2.** All residential care facilities and assisted living facilities with more than one (1) structure on the premises housing residents shall be equipped with a complete fire alarm system in accordance with the applicable edition of NFPA 72. I/II

*[(E)]***3.** A complete fire alarm system will not be required for facilities licensed prior to July 11, 1980, if the facility has a sprinkler system installed and maintained in accordance with the 1976 NFPA 13, *Standard for the Installation of Sprinkler Systems*. I/II

*[(F)]***4.** Residential care facilities licensed for twenty (20) or fewer residents shall be equipped with a complete automatic fire alarm system or individual home-type detectors. The individual home-type detectors shall be UL-approved battery-powered detectors which sense smoke and automatically sound an alarm which can be heard throughout the facility. If individual home-type detectors are being used, there shall be one (1) detector per resident-use room, in corridors and stairwells and in any hazardous area other than the kitchen where either a smoke or heat detector may be used. I/II

*[(G)]***5.** The **complete automatic** fire alarm system **referenced in paragraph (9)(I)4. of this rule** shall be an electrically supervised system with standby emergency power installed and maintained in

accordance with the 1996 NFPA 72. Those facilities that are required to comply with the requirements of 19 CSR 30-86.042 and 19 CSR 30-86.043, with plans approved prior to October 1, 2000, shall comply with the provision of the 1975 edition of NFPA 72A, *Local Protective Signaling Systems*. Those facilities with plans approved on or after October 1, 2000, shall comply with the 1996 edition of NFPA 72. I/II

[(H) At a minimum, the fire alarm system shall consist of a manual pull station at or near each attendant's station and each required exit, smoke detectors located no more than thirty feet (30') apart in the corridors or passageways with no point in the corridor or passageway more than fifteen feet (15') from a detector and no point in the building more than thirty feet (30') from a detector. In facilities licensed prior to November 13, 1980, smoke detectors located every fifty feet (50') will be acceptable. The smoke detectors will not be required in facilities licensed prior to November 13, 1980, if a complete heat detector system, interconnected to the fire alarm system, is provided in every space throughout the facility. It must include audible signal(s) which can be heard throughout the building and a main panel that interconnects all alarm-activating devices and audible signals. I/II]

[(I) Every fire alarm system shall be tested at least once a month, and a record of all tests shall be maintained. II/III]

[(J) Any fault with any part of the fire alarm system shall be corrected immediately upon discovery. I/II]

[(K) When a fire alarm system is to be out of service for more than four (4) hours in a twenty-four (24)-hour period, the facility shall immediately notify the department and implement an approved fire watch until the fire alarm system has been returned to full service. I/II]

[(L) Detectors shall be tested monthly and batteries shall be changed as needed. A record shall be kept of the dates of testing and the changing of batteries. II/III]

[(M) Any fault with any detector shall be corrected immediately upon discovery. I/II]

[(N) Refer to section (16) of this rule for additional fire alarm standards for those 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.]

*[(9)]***(10)** Protection from Hazards.

(A) In **assisted living facilities and residential care** facilities licensed on or after November 13, 1980, for more than twelve (12) residents, hazardous areas shall be separated by construction of at least a one (1)-hour fire-resistant rating. In facilities equipped with a complete automatic fire alarm system, *[not individual residential-type detectors,]* the one (1)-hour fire separation is required only for furnace or boiler rooms. Hazardous areas equipped with a complete sprinkler system are not required to have this one (1)-hour fire separation. Doors to hazardous areas shall be self-closing and shall be kept closed unless an electromagnetic hold-open device is used which is interconnected with the fire alarm system. Facilities formerly licensed as residential care facility I or II, and existing prior to November 13, 1980, shall be exempt from this requirement. II

(B) The storage of unnecessary combustible materials in any part of a building in which a licensed facility is located is prohibited. I/II

[(C) Space under stairways shall not be used for storage of combustible materials unless the space is separated by one (1)-hour rated construction and sprinklered. II/III]

*[(D)]***(C)** Electric or gas clothes dryers shall be vented to the outside. Lint traps shall be cleaned regularly to protect against fire hazard. II/III

*[(E)]***(D)** In facilities that are required to comply with the requirements of 19 CSR 30-86.043 and were formerly licensed as residential care facilities II on or after November 13, 1980, each floor shall be separated by construction of at least a one (1)-hour fire-resistant rating. Buildings equipped with a complete sprinkler system may have a nonrated smoke separation barrier between floors. Doors between floors *[must]* **shall** be a minimum of one and three-fourths inches (1 3/4") thick and be solid core wood doors or metal doors with an equivalent fire rating. II

*[(F)]***(E)** In facilities licensed prior to November 13, 1980, and multi-storied residential care facilities formerly licensed as residential care facilities I licensed on or after November 13, 1980, there shall be a smoke separation barrier between the floors of resident-use areas and any floor below the resident-use area. This shall consist of a solid core wood door or metal door with an equivalent fire rating at the top or the bottom of the stairs. There shall not be a transom above the door that would permit the passage of smoke. II

*[(G)]***(F)** Atriums open between floors will be permitted if resident room corridors are separated from the atrium by one (1)-hour rated smoke walls. These corridors must have access to at least one (1) of the required exits without traversing any space opened to the atrium. II

*[(H)]***(G)** All doors providing separation between floors shall have a self-closing device attached. If the doors are to be held open, electromagnetic hold-open devices shall be used that are interconnected with either an individual smoke detector, a sprinkler system or a complete fire alarm system. II

[(I) In facilities whose plans were approved or which were initially licensed after December 31, 1987, for more than twenty (20) residents, each floor used for resident bedrooms shall be divided into at least two (2) smoke sections by one (1)-hour rated smoke stop partitions. No smoke section shall exceed one hundred fifty feet (150') in length. If, however, neither the length nor width of a floor exceeds seventy-five feet (75'), no smoke stop partitions are required unless the facility is required to comply with the requirements of 19 CSR 30-86.045 or 19 CSR 30-86.047. Openings in smoke stop partitions shall be protected by solid core doors equipped with closers and magnetic hold-open devices. Any duct passing through this smoke wall shall be equipped with automatic resetting smoke dampers that are activated by the fire alarm systems. Smoke dampers are not required where both smoke sections are protected by Quick Response Sprinklers. Smoke partitions shall extend from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck. II]

(H) Each floor accessed by residents shall be divided into at least two (2) smoke sections with each section not exceeding one hundred fifty feet (150') in length or width. If the floor's dimensions do not exceed seventy-five feet (75') in length or width, a division of the the floor into two (2) smoke sections will not be required. II

(I) Each smoke section shall be separated by one (1)-hour fire-rated walls that are continuous from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck. Any door in this wall shall be at least twenty (20)-minute fire rated or its equivalent, self-closing, and may be held open only if the door closes automatically upon activation of the fire alarm system. II

(J) Facilities whose plans were approved or which were initially licensed after December 31, 1987, for more than twenty (20) residents and which are unsprinklered shall have one (1)-hour rated corridor walls with one and three-quarters inch (1 3/4") solid core wood doors or metal doors with an equivalent fire rating. II

(K) If two (2) or more levels of long-term care or two (2) different businesses are located in the same building, the entire building shall meet either the most strict construction and fire safety standards for the combined facility or the facilities shall be separated from the other(s) by two (2)-hour fire-resistant construction. In buildings

equipped with a complete sprinkler system in accordance with NFPA 13 or NFPA 13R, **1999 edition,** this separation may be rated at one (1) hour. II

[(L) Refer to section (16) of this rule for additional standards for those 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.]

*[(10)]***(11)** Sprinkler Systems.

(A) *[In facilities that are required to comply with the requirements of 19 CSR 30-86.043, an automatic sprinkler system shall be installed and maintained according to the applicable edition of the NFPA 13, Standard for the Installation of Sprinkler Systems, if residents reside above the second floor and the facility is not of fire resistant construction.]* **Facilities licensed on or after August 28, 2007 or any facility performing major renovations to the facility shall have a complete sprinkler system installed in accordance with NFPA 13, 1999 edition.** I/II

(B) *[Residential care facilities that are not of fire-resistant construction and which house residents above the third floor shall be provided throughout with an automatic sprinkler system installed and maintained according to the applicable edition of the NFPA 13 or NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Story Dwellings and Manufactured Homes.]* **Facilities that have sprinkler systems installed prior to August 28, 2007 shall operate, maintain, and test these systems in accordance with NFPA 13 or NFPA 13R, 1999 edition, and NFPA 25, 1998 edition.** I/II

(C) *[Facilities whose plans are approved or which are initially licensed after December 31, 1987, for more than twenty (20) residents shall be completely sprinklered if they are not of fire-resistant construction and if they are over one (1) story in height. One (1) story facilities shall be completely sprinklered unless all combustible structural members are provided with one (1)-hour fire-rated protection. One-half inch (1/2") gypsum board or plaster is considered equivalent to one (1)-hour protection. The sprinkler system shall comply with the applicable edition of either NFPA 13 or NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height.]* **All residential care facilities and assisted living facilities that do not admit or retain a resident with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance, that were licensed prior to August 28, 2007, are licensed for more than twenty (20) beds, and do not have a complete sprinkler system in accordance with NFPA 13 or 13R, 1999 edition, shall have until December 31, 2012, to install a NFPA 13R system, 1999 edition. The department may grant exceptions to this requirement if the facility meets Chapter 33 of NFPA 101, 2000 edition, and the evacuation capability of the facility shall be determined as defined in NFPA 101A, 2001 edition.** I/II

(D) *[All facilities initially licensed or with plans approved on or after October 1, 2000, shall have complete sprinkler systems installed and maintained in accordance with the 1996 edition of NFPA 13 or NFPA 13R, except that multilevel assisted living facilities that are required to comply with the requirements in 19 CSR 30-86.045 and multilevel assisted living facilities built after August 28, 2006, shall provide a complete sprinkler system in accordance with the 1996 edition of NFPA 13. Multilevel assisted living facilities with the requirements in 19 CSR 30-86.045 and multilevel assisted living facilities built after August 28, 2006, shall provide a complete sprinkler system in accordance with the 1996 edition of NFPA 13. Multilevel assisted living facilities with major renovations after August 27, 2006, shall provide a complete sprinkler system in accordance with the 1996 edition of NFPA 13 in the portion of the facility where the major renovation occurred. In areas where public water supplies are not available, a private water supply meeting the requirements of the 1994 edition of NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, will be acceptable for all facilities except multilevel assisted living facilities that are required to comply with the requirements of 19 CSR 30-86.045 or 19 CSR 30-86.047.]* **Single story assisted living facilities that provide care to one (1) or more residents with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance shall install and maintain a complete sprinkler system in accordance with NFPA 13R, 1999 edition.** I/II

(E) *[All facilities shall have inspections and written certifications of the sprinkler system completed by an approved qualified service representative in accordance with the 1998 NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems. The inspections shall be in accordance with the provisions of NFPA 25, with certification at least annually by a qualified service representatives]* **Multi-level assisted living facilities that provide care to one (1) or more residents with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance shall install and maintain a complete sprinkler system in accordance with NFPA 13, 1999 edition.** I/II

(F) *[When a sprinkler system is to be out of service for more than four (4) hours in a twenty-four (24)-hour period, the facility shall immediately notify the department and implement an approved fire watch until the sprinkler system has been returned to full service.]* **All facilities shall have inspections and written certifications of the sprinkler system completed by an approved qualified service representative in accordance with the NFPA 25, 1998 edition. The inspections shall be in accordance with the provisions of NFPA 25, 1998 edition, with certification at least annually by a qualified service representative.** I/II

(G) *[Refer to section (16) of this rule for additional sprinkler system standards for those 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.]* **When a sprinkler system is to be out of service for more than four (4) hours in a twenty-four (24)-hour period, the facility shall immediately notify the department and implement an approved fire watch in accordance with NFPA 101, 2000 edition, until the sprinkler system has been returned to full service. I/II**

(12) All facilities shall submit by July 1, 2008 a plan for compliance to the state fire marshal showing how the facility meets the requirements of sections (9) and (11) and subsections (10)(H) and (10)(I) of this rule, as required for that facility. For facilities that have not met the requirements of sections (9) and (11) and subsections (10)(H) and (10)(I) of this rule, the plan shall include at a minimum an explanation of how the requirements of sections (9) and (11) and subsections (10)(H) and (10)(I) will be met, when they will be met, and contact information in the event the plan does not evidence compliance with these requirements. If the facility qualifies for any exceptions to these sections allowed by department regulations, the plan shall include in detail how the facility meets the exceptions. Exceptions to sprinklers allowed by meeting Chapter 33 of NFPA 101, 2000 edition, must include a certification from either the state fire marshal's office or from a

fire safety consultation firm that confirms the facility's compliance with that chapter.

*[(11)]***(13)** Emergency Lighting.

(A) Emergency lighting of sufficient intensity shall be provided for exits, stairs, resident corridors**,** and attendants' station. II

(B) The lighting shall be supplied by an emergency service, an automatic emergency generator**,** or battery-operated lighting system. This emergency lighting system shall be equipped with an automatic transfer switch. II

(C) If battery powered lights are used, they shall be capable of operating the light for at least one and one-half (1 1/2) hours. II

*[(12)]***(14)** Interior Finish and Furnishings.

(A) In a facility licensed on or after November 13, 1980, for more than twelve (12) residents, wall and ceiling surfaces of all occupied rooms and all exitways shall be *[of a material or so treated as not to have a flame-spread classification of more than seventy-five (75) according to the method of the Fire Hazard Classification of Building Materials of Underwriters Laboratories, Inc.]* **classified either Class A or B interior finish as defined in NFPA 101, 2000 edition.** II

(B) In facilities licensed prior to November 13, 1980, all wall and ceiling surfaces shall be smooth and free of highly combustible materials. II

(C) In a facility licensed on or after November 13, 1980, for more than twelve (12) residents, the new or replacement floor covering and carpeting shall be Class I **interior floor finish** in non-sprinklered buildings and Class II **interior floor finish** in sprinklered buildings **as defined in NFPA 101, 2000 edition**. *[Class I has a critical radiant flux of zero point forty-five (0.45) or more watts per square centimeter when tested according to NFPA 253, Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source. Class II has a critical radiant flux of zero point twenty-two (0.22) or more watts per square centimeter when tested according to NFPA 253.]* II/III

(D) All new or replacement curtains and drapes in a licensed facility shall be certified or treated to be flame-resistant **as defined in NFPA 101, 2000 edition**. II

*[(13)]***(15)** Smoking.

(A) Smoking *[shall not be permitted in sleeping quarters except at that time as direct supervision is provided]* **shall be permitted in designated areas only**. Areas where smoking is permitted shall be designated as such and shall be supervised either directly or by a resident informing an employee of the facility that the area is being used for smoking. II/III

(B) Ashtrays shall be made of noncombustible material and safe design and shall be provided in all areas where smoking is permitted. II/III

(C) The contents of ashtrays shall be disposed of properly in receptacles made of noncombustible material. II/III

*[(14)]***(16)** Trash and Rubbish Disposal.

(A) Only metal or UL- or FM-fire-resistant rated wastebaskets shall be used for trash. II

(B) Trash shall be removed from the premises as often as necessary to prevent fire hazards and public health nuisance. II

(C) No trash shall be burned within fifty feet (50') of any facility except in an approved incinerator. I/II

(D) Trash may be burned only in a masonry or metal container. II

(E) The container shall be equipped with a metal cover with openings no larger than one-half inch (1/2") in size. III

*[(15)]***(17)** Standards for Designated Separated Areas.

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

(B) The facility shall provide freedom of movement for the residents to common areas and to their personal spaces. The facility shall not lock residents out of or inside their rooms. I/II

(C) The facility may allow resident room doors to be locked providing the residents request to lock their doors. Any lock on a resident room door shall not require the use of a key, tool, special knowledge, or effort to lock or unlock the door from inside the resident's room. Only one (1) lock shall be permitted on each door. The facility shall ensure that facility staff has the means or mechanisms necessary to open resident room doors in case of an emergency. I/II

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

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

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

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

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

B. The lock must unlock when the power fails;

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

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

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

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

[(16) Additional fire safety standards 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. All such facilities must comply with the following requirements:

(A) The facility shall be equipped with a complete electrically supervised fire alarm system in accordance with the provisions of subsection 13-3.4 of the 1997 Life Safety Code for Existing Health Care Occupancy, incorporated herein by reference and available from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101. This rule does not incorporate any subsequent amendments or additions to these materials. At a minimum

the system shall include smoke detectors located no more than thirty feet (30') apart in corridors with no point in the corridor located more than fifteen feet (15') from a smoke detector. The fire alarm system shall be equipped to automatically transmit an alarm to the fire department; I/II

(B) Each floor used for resident bedrooms shall be divided into at least two (2) smoke sections by one (1)-hour rated smoke stop partitions. No smoke section shall exceed one hundred fifty feet (150') in length. At a minimum, openings in smoke stop partitions shall be protected by one and three-fourths inches (1 3/4")-thick solid core wood doors or labeled, fire rated doors with an equivalent or greater fire rating. The doors shall be equipped with closures and if held open, shall be equipped with magnetic hold-open devices that automatically release upon activation of the fire alarm system. Any duct passing through this smoke wall shall be equipped with automatic resetting smoke dampers that are activated by the fire alarm system. Smoke dampers are not required where both smoke sections are protected throughout the entire section by quick response sprinklers on an NFPA 13 system. Smoke partitions shall extend from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck; II and

(C) In addition to the requirements at subsections (4)(A)1. and 2. of this rule, all facilities shall be equipped with a complete automatic sprinkler system installed and maintained in accordance with the following:

1. The 1996 edition of the National Fire Protection Association (NFPA) 13, Standard for the Installation of Sprinkler Systems (1996 edition of NFPA 13); or

2. The 1996 edition of NFPA 13R, Sprinkler Systems in Residential Occupancies Up To and Including Four Stories in Height (1996 edition of NFPA 13R), which are incorporated herein by reference and available from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101. This rule does not incorporate any subsequent amendments or additions to these materials; and

3. Single story facilities must comply with either NFPA 13 or NFPA 13R;

4. Multistory facilities must comply with NFPA 13. I/II]

AUTHORITY: sections [198.076, RSMo 2000 and 198.005 and] 198.073, ***198.074, and 198.076,*** *RSMo Supp. [2006]* ***2007****. This rule originally filed as 13 CSR 15-15.022. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed March 13, 2008.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than 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 Kimberly O'Brien, Director for the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. 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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

PROPOSED AMENDMENT

19 CSR 30-86.032 Physical Plant Requirements for Residential Care Facilities and Assisted Living Facilities. The department is amending the Purpose of the rule; deleting sections (3), (20), and (21); adding new sections (2), (10), (11), and (36); amending sections (1), (9), (13), (15), (17), and (20); and renumbering throughout.

PURPOSE: This amendment corrects the regulatory reference in subsection (1)(A) to read 13 CSR 70-92.010, revises the room temperature requirements, revises the requirements for heating systems, updates requirements for gas-fired water heaters, updates and clarifies electrical wiring requirements, revises lighting standards, relocates and clarifies the requirement for department approval for additional business in long-term care facilities, and clarifies requirements for use of extension cords.

PURPOSE: This rule establishes standards for the physical plant of new or existing residential care facilities [I and II] ***and assisted living facilities****.*

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

(A) Adult day health care program shall mean a program operated by a provider certified to provide Medicaid-reimbursed adult day health care services to Medicaid-eligible participants in accordance with *[19]***13** CSR 70-92.010;

(2) General Requirements.

(A) All National Fire Protection Association (NFPA) codes and standards cited in this rule: NFPA 70, *National Electric Code*, 1999 edition, and NFPA 211, Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances, 2000 edition, are incorporated by reference in this rule and available for purchase from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101; www.nfpa.org; by telephone at (617) 770-3000 or 1-800-344-3555. This rule does not incorporate any subsequent amendments or additions to the materials listed above.

(B) This rule does not prohibit facilities from complying with standards set forth in newer editions of the incorporated by reference material listed in subsection (2)(A) of this rule where approved by the department.

*[(2)]***(3)** The building shall be substantially constructed and shall be maintained in good repair and in accordance with the construction *[and fire safety]* rules in effect at the time of initial licensing. II/III

[(3) Only activities necessary to the administration of the facility shall be contained in any building used as a long-term care facility except as follows:

(A) Related activities may be conducted in buildings subject to prior written approval of these activities by the Department of Health and Senior Services (hereinafter—the department). Examples of these activities are Home Health Agencies, physician's office, pharmacy, ambulance service, child day care and food service for the elderly in the community;

(B) Adult day care may be provided for four (4) or fewer participants without prior written approval of the department if the long-term care facility meets the following stipulations:

1. The operation of the adult day care business shall not interfere with the care and delivery of services to the long-term care residents;

2. The facility shall only accept participants in the adult day care program appropriate to the level of care of the facility and whose needs can be met;

3. The facility shall not change the physical layout of the facility without prior written approval of the department;

4. The facility shall provide a private area for adult day care residents to nap or rest;

5. Adult day care participants shall not be included in the census, and the number of adult day care participants shall not be more than four (4) above the licensed capacity of the facility; and

6. The adult day care participants, while on-site, are to be included in the determination of staffing patterns for the long-term care facility;

(C) An associated adult day health care program may be operated without prior written approval if the provider of the adult day health care services is certified in accordance with 19 CSR 70-92.010. II/III]

(9) *[Each room or ward in which residents are housed or to which residents have reasonable access shall be capable of being heated to not less than eighty degrees Fahrenheit (80°F) under all weather conditions. Temperature shall not be lower than sixty-eight degrees Fahrenheit (68°F) and the reasonable comfort needs of individual residents shall be met.]* **The facility shall heat all resident-accessible areas to ensure that the air temperature is not lower than sixty-eight degrees Fahrenheit (68°F). These areas shall be capable of being heated to not less than eighty degrees Fahrenheit (80°F). At all times the reasonable comfort needs of each resident shall be met.** I/II

(10) The facility shall cool resident-accessible areas when air temperatures exceed eight-five degrees Fahrenheit (85°F). These areas shall be capable of being cooled to at least seventy-one degrees Fahrenheit (71°F). At all times the reasonable comfort needs of each resident shall be met. I/II

(11) Gas-fired water heaters shall be properly installed and vented, and all water heaters shall be equipped with a temperature and pressure relief valve. II

*[(10)]***(12)** In newly licensed facilities or if a new heating system is installed in an existing licensed facility, the heating of the building shall be restricted to steam, hot water, permanently installed electric heating devices or a warm air system employing central heating plants with installation such as to safeguard the inherent fire hazard, or approved installation of outside wall heaters which bear the approved label of the American Gas Association or National Board of Fire Underwriters. The foregoing requirements are applicable to residential care facilities. In assisted living facilities, the heating of the building shall be restricted to steam, hot water, permanently installed electric heating devices**,** or a warm air system employing central heating plants with installation such as to safeguard the inherent fire hazard, or approved installation of outside wall heaters which bear the approved label of the American Gas Association or National Board of Fire Underwriters. For all facilities, oil or gas heating appliances shall be properly vented to the outside and the use of portable heaters of any kind is prohibited. If approved wall heaters are used, adequate guards shall be provided to safeguard residents. I/II

[(11) Wood-burning stoves shall not be installed in newly licensed facilities or in existing licensed facilities that did not previously have a wood-burning stove. If wood-burning stoves are used in an existing licensed facility, or wood-burning furnaces or fireplaces are used, flues or chimneys shall be maintained in good condition and kept free of accumulation of combustible materials. The foregoing requirements are applicable to residential care facilities. Wood-burning stoves shall not be installed in assisted living facilities. II]

(13) The use of wood- or gas-burning fireplaces will be permitted only if the fireplaces are built of firebrick or metal, enclosed by masonry, and have metal or tempered glass screens. The chimneys shall be of masonry construction with flue linings that have at least eight inches (8") of masonry separating the flue lining and the fireplace from any combustible material. All fireplaces shall be installed, operated, and maintained in a safe manner. Fireplaces not in compliance with these requirements may be provided if they are for decorative purposes only or if they are equipped with decorative-type electric logs or other electric heaters which bear the UL label and are constructed of electrical components complying with and installed in compliance with the National Electrical Code, incorporated by reference in this rule. Fireplaces meeting NFPA 211, 2000 edition, are considered in compliance with this rule. II

*[(12)]***(14)** Fireplaces may be used only if there is a protective screen in place; if there is direct staff supervision of residents while in use; and the fire shall not be left burning overnight. II

[(13) In facilities that are constructed or have plans approved after July 1, 2005, electrical wiring shall be installed and maintained in accordance with the requirements of the National Electrical Code, 1999 edition, National Fire Protection Association, Inc., incorporated by reference, in this rule and available by mail at One Batterymarch Park, Quincy, MA 02269, and local codes. This rule does not incorporate any subsequent amendments or additions to the materials incorporated by reference. Facilities built between September 28, 1979 and July 1, 2005 shall be maintained in accordance with the requirements of the National Electrical Code, which was in effect at the time of the original plan approval and local codes. This rule does not incorporate any subsequent amendments or additions. In facilities built prior to September 28, 1979, electrical wiring shall be maintained in good repair and shall not present a safety hazard. All facilities shall have wiring inspected every two (2) years by a qualified electrician. II/III]

(15) Electrical Wiring Requirements.

(A) Electrical wiring and equipment shall be installed and maintained in accordance with NFPA 70, 1999 edition. Facilities that were complying prior to the effective date of this rule with prior editions of the NFPA 70 referenced in this rule shall be permitted to continue to comply with the earlier editions, as long as there is not an imminent danger to the health, safety, or welfare of any resident or a substantial probability that death, or serious physical harm would result as determined by department. II/III

(B) Annually, 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.

*[(14)]***(16)** Lighting is restricted to electricity. II

*[(15)]***(17)**Lighting in hallways, bathrooms, recreational and dining areas**,** and all resident-use areas shall be provided with a minimum intensity of ten (10) footcandles **and shall be sufficient to meet the residents' and staff needs**. All lights in resident-use areas shall be provided with a shade to prevent direct glare to the residents' eyes. II/III

*[(16)]***(18)** Night lights shall be provided for corridors, stairways**,** and toilet areas. II

*[(17)]***(19)** A reading light shall be provided for each resident desiring to read. Additional lighting shall be provided to meet the individual needs of each resident. III

*[(18)]***(20)** If extension cords are used, they must be Underwriters Laboratory (UL)-approved or shall comply with other recognized electrical appliance approval standards and sized to carry the current required for the appliance used. Only one (1) appliance shall be connected to one (1) extension cord**.** *[and o]***O**nly two (2) appliances may be served by one (1) duplex receptacle. If extension cords are used, they shall not be placed under rugs, through doorways**,** *[or]* located where they are subject to physical damage**, or be utilized by high amperage electrical items**. II/III

*[(19)]***(21)** If elevators are used, installation and maintenance shall comply with local and state codes and the *National Electric Code*. II/III

[(20) Air conditioning, fans or a ventilating system shall be available and used when the room temperature exceeds eighty-five degrees Fahrenheit (85°F) and the reasonable comfort needs of individual residents shall be met. I/II]

[(21) Gas-fired water heaters shall be properly installed and vented and all water heaters shall be equipped with a temperature and pressure relief valve. II]

(36) Only activities necessary to the administration of the facility shall be contained in any building used as a long-term care facility except as follows:

(A) Related activities may be conducted in buildings subject to prior written approval of these activities by the Department of Health and Senior Services. Examples of these activities are home health agencies, physician's office, pharmacy, ambulance service, child day care and food service, and outpatient therapy for the elderly or disabled in the community;

(B) Adult day care may be provided for four (4) or fewer participants without prior written approval of the department if the long-term care facility meets the following stipulations:

1. The operation of the adult day care business shall not interfere with the care and delivery of services to the long-term care residents;

2. The facility shall only accept participants in the adult day care program appropriate to the level of care of the facility and whose needs can be met;

3. The facility shall not change the physical layout of the facility without prior written approval of the department;

4. The facility shall provide a private area for adult day care residents to nap or rest;

5. Adult day care participants shall not be included in the census, and the number of adult day care participants shall not be more than four (4) above the licensed capacity of the facility; and

6. The adult day care participants, while on-site, are to be included in the determination of staffing patterns for the long-term care facility;

(C) An associated adult day health care program may be operated without prior written approval if the provider of the adult day health care services is certified in accordance with 13 CSR 70-92.010. II/III

*AUTHORITY: sections 198.076 [, RSMo 2000 and 198.005] and 198.073, RSMo Supp. [2006] **2007**. This rule originally filed as 13 CSR 15-15.032. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 13, 2008.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than 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 Kimberly O'Brien, Director for the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. 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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

PROPOSED AMENDMENT

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 *[Safety] Safely* Evacuating the Facility with Minimal Assistance. The department is amending the title and the Purpose of the rule, deleting the Publisher's Note, deleting section (4), and renumbering throughout.

PURPOSE: This amendment corrects the spelling of the term "Safely" in the rule name, revises the rule purpose statement to correctly explain the purpose of this rule, and removes physical design and fire safety requirements that are outdated due to the enactment of section 198.074, RSMo Supp. 2007 (H.B. 952 and 674 (94th General Assembly, First Regular Session (2007))) (updated physical design and fire safety requirements can be found in the proposed amendment to 19 CSR 30-86.022).

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

[(4) Physical Design and Fire Safety Requirements.

(A) All facilities must comply with the following requirements:

1. The facility shall be equipped with a complete electrically supervised fire alarm system in accordance with the provisions of subsection 13-3.4 of the 1997` Life Safety Code for Existing Health Care Occupancy, incorporated herein by reference and available from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101. This rule does not incorporate any subsequent amendments or additions to these materials. At a minimum the system shall include smoke detectors located no more

than thirty feet (30') apart in corridors with no point in the corridor located more than fifteen feet (15') from a smoke detector. The fire alarm system shall be equipped to automatically transmit an alarm to the fire department; I/II

2. Each floor used for resident bedrooms shall be divided into at least two (2) smoke sections by one (1)-hour rated smoke stop partitions. No smoke section shall exceed one hundred fifty feet (150') in length. At a minimum, openings in smoke stop partitions shall be protected by one and three-fourths inches (1 3/4")-thick solid core wood doors or labeled, fire rated doors with an equivalent or greater fire rating. The doors shall be equipped with closures and if held open, shall be equipped with magnetic hold-open devices that automatically release upon activation of the fire alarm system. Any duct passing through this smoke wall shall be equipped with automatic resetting smoke dampers that are activated by the fire alarm system. Smoke dampers are not required where both smoke sections are protected throughout the entire section by quick response sprinklers on an NFPA 13 system. Smoke partitions shall extend from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck; and II

3. In addition to the requirements at paragraphs (4)(A)1. and 2. of this rule, all facilities shall be equipped with a complete automatic sprinkler system installed and maintained in accordance with the following:

A. The 1996 edition of the National Fire Protection Association (NFPA) 13, Standard for the Installation of Sprinkler Systems (1996 edition of NFPA 13); or

B. The 1996 edition of NFPA 13R, Sprinkler Systems in Residential Occupancies Up To and Including Four Stories in Height (1996 edition of NFPA 13R), which are incorporated herein by reference and available from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101. This rule does not incorporate any subsequent amendments or additions to these materials; and

C. Single story facilities must comply with either NFPA 13 or NFPA 13R;

D. Multistory facilities must comply with NPFA 13. I/II]

*[(5)]***(4)** Staffing Requirements.

(A) The facility shall have an adequate number and type of personnel for the proper care of residents and upkeep of the facility. At a minimum, the staffing pattern for fire safety and care of residents shall be one (1) staff person for every fifteen (15) residents or major fraction of fifteen (15) during the day shift, one (1) person for every fifteen (15) residents or major fraction of fifteen (15) during the evening shift**,** and one (1) person for every twenty (20) residents or major fraction of twenty (20) during the night shift. I/II

Time	Personnel	Residents
7 a.m. to 3 p.m. (Day)*	1	3–15
3 p.m. to 9 p.m. (Evening)*	1	3–15
9 p.m. to 7 a.m. (Night)*	1	3–20

*If the shift hours vary from those indicated, the hours of the shifts shall show on the work schedules of the facility and shall not be less than six (6) hours. III

(B) The required staff shall be in the facility awake, dressed**,** and prepared to assist residents in case of emergency. I/II

(C) The administrator shall count toward staffing when physically present at the facility. II

(D) These staffing requirements are applicable only when the facility actually has in residence one (1) or more residents who require more than minimal assistance in evacuating the facility. II

(E) At a minimum there shall be a licensed nurse employed by the facility to work at least the following hours per week:

3–30 Residents—8 hours

31–60 Residents—16 hours

61–90 Residents—24 hours

91 or more Residents—40 hours. II

(F) The licensed nurse shall be available to assess residents for pain and significant and acute changes in condition. The nurse's duties shall include, but shall not be limited to, review of residents' records, medications**,** and special diets or other orders, review of each resident's adjustment to the facility**,** and observation of each individual resident's general physical, psychosocial**,** and mental status. The nurse shall inform the administrator of any problems noted and these shall be brought to the attention of the resident's physician and legally authorized representative or designee. II/III

AUTHORITY: sections [198.005 and] 198.073 [, RSMo Supp. 2006] and 198.076, RSMo [2000] ***Supp. 2007****. This rule originally filed as 13 CSR 15-15.045. Emergency rule filed Dec. 14, 2000, effective Jan. 2, 2001, expired June 30, 2001. Original rule filed Dec. 14, 2000, effective June 30, 2001. Moved to 19 CSR 30-86.045, effective Aug. 28, 2001. Amended: Filed Aug. 23, 2006, effective April 30, 2007. Amended: Filed March 13, 2008.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than 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 Kimberly O'Brien, Director for the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. 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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

PROPOSED AMENDMENT

19 CSR 30-86.047 Administrative, Personnel and Resident Care Requirements for Assisted Living Facilities. The department is amending sections (2), (13), (14), (28), and (61).

PURPOSE: This amendment clarifies the requirements for including provisions for transfer and discharge in the disclosure information, clarifies the requirements for monitoring individuals contracted for professional services while in the facility, adds the requirements for reviewing and signing individualized service plans, clarifies the staffing restrictions for facilities that maintain emergency medication supplies registered with the Bureau of Narcotics and Dangerous Drugs, and adds the requirement for licensed nurse hours to the staffing requirements.

(2) Consumer Education Requirements. The facility shall disclose to a prospective resident, or legal representative of the resident**,** information regarding the services the facility is able to provide or

coordinate, the cost of such services to the resident, and the *[resident conditions that will require discharge or transfer including the provisions of this rule]* **grounds for discharge or transfer as permitted or required by the Omnibus Nursing Home Act, Chapter 198, RSMo and the department's regulations, including the provisions set forth in section (29) of this rule**. II

(13) Prior to allowing any person who has been hired in a full-time, part-time**,** or temporary employee position to have contact with any residents**,** the facility shall, or in the case of temporary employees hired through or contracted from an employment agency, the employment agency shall**,** prior to sending a temporary employee to a provider:

(D) For persons for whom the facility has contracted for professional services (*[i.e.]***e.g.**, plumbing or air conditioning repair) that will have contact with any resident, the facility must **either** require a criminal background check or ensure that the individual is *[accompanied]* **sufficiently monitored** by *[a]* facility staff *[person]* while in the facility **to reasonably ensure the safety of all residents**. *[II/III]* **I/II**

[(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]

(14) A facility that maintains an emergency medication supply registered with the Bureau of Narcotics and Dangerous Drugs shall not allow any employee access to controlled substances if the facility has knowledge that the employee 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, unless the employee has been granted a waiver by the department's Bureau of Narcotics and Dangerous Drugs. II

(28) The facility may admit or retain an individual for residency in an assisted living facility only if the individual does not require hospitalization or skilled nursing placement as defined in this rule, and only if the facility:

(H) Reviews the ISP with the resident, or legal representative of the resident, at least annually or when there is a significant change in the resident's condition which may require a change in services; II

(I) Includes the signatures of an authorized representative of the facility and the resident or the resident's legal representative in the individualized service plan to acknowledge that the service plan has been reviewed and understood by the resident or legal representative; II

*[H]***(J)** Develops and implements a plan to protect the rights, privacy, and safety of all residents and to protect against the financial exploitation of all residents; and II

*[I]***(K)** Complies with the dementia specific training requirements of subsection 8 of section 660.050, RSMo. II

(61) Staffing Requirements.

(E) There shall be a licensed nurse employed by the facility to work at least eight (8) hours per week at the facility for every thirty (30) residents or additional major fraction of thirty (30). The nurse's duties shall include, but shall not be limited to, review of residents' charts, medications, and special diets or other orders, review of each resident's adjustment to the facility, and observation of each individual resident's general physical and mental condition. The nurse shall inform the administrator of any problems noted, and these shall be brought to the attention of the resident's physician. II/III

*AUTHORITY: sections 198.076[, RSMo 2000 and 198.005, 198.006] and 198.073, RSMo Supp. [2006] **2007**. Original rule filed Aug. 23, 2006, effective April 30, 2007. Amended: Filed March 13, 2008.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions eight thousand seven hundred fifty-eight dollars ($8,758) annually in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities $1,462,562 annually in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Kimberly O'Brien, Director, Division of Regulation and Licensure, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. Department Title: Department of Health and Senior Services
Division Title: Division of Regulation and Licensure
Chapter Title: Chapter 86 Residential Care Facilities and Assisted Living Facilities

Rule Number and Title:	19 CSR 30-86.047 Administrative, Personnel and Resident Care Requirements for Assisted Living Facilities
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
1	Assisted Living Facilities	Total Yearly Cost in the Aggregate $8,758

III. WORKSHEET

This proposed amendment requires assisted living facilities to employ a licensed nurse a minimum of eight hours per week for every 30 residents. According to DHSS monthly reports for July 2007, the total number of assisted living facilities is 124. One of the 124 facilities is a public nursing home district facility with more than 29 licensed beds. This proposed amendment does not apply to the public nursing home district facilities with less than 30 licensed beds. The DHSS July 2007 monthly report showed that the above-referenced one public assisted living facility has a total of 31 licensed beds.

The facility census varies from day to day, and required licensed nurse hours decrease as the facility census decreases. Based on the staffing ratio requirement in the proposed amendment, the facility will be required to employ one licensed nurse to work eight hours a week (31 licensed beds / (30)).

The Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised July 1, 2007) listed the average annual market salary for a licensed practical nurse (LPN) in three categories; LPN I, LPN II and LPN III. Each category includes the following minimum and maximum annual salary:

	Annual Minimum salary	Annual Maximum salary
LPN I	$24,396.00	$33,636.00

LPN II	$25,188.00	$34,908.00
LPN III	$27,768.00	$39,039.00

The calculations for the average salary for each category follow:
LPN I $29,016 ($24,396.00 + $33,636.00)/2
LPN II $30,048 ($25,188.00 + $34,908.00)/2
LPN III $33,403.50 ($27,768.00 + $39,039)/2

The assumption is that the facilities will hire LPNs in all categories. The average annual salary for the three categories is $30,822.33 ($29,016 + $30,048 +33,403.50)/3. DHSS estimates the total yearly cost to assisted living nursing home district facilities in the aggregate to be $8,757.86 ($30,822.33 x .4207* fringe rate) + ($30,822.33) / (2080 hours in a work year) x (8 hours) x (52 weeks per year) x (1LPN).

* The state of Missouri fringe benefit rate for fiscal year 2007 is 42.07 percent, which includes retirement contribution, medical insurance, basic life insurance, long-term disability and Missouri deferred compensation. This rate was used for this fiscal note. Facilities can use this formula revised with their own figures to determine the cost to their facility.

IV. ASSUMPTIONS

The assumption is that the facilities will hire LPNs in all categories. The facility census varies from day to day, and required licensed nurse hours decrease as the facility census decreases. Based on the staffing ratio requirement in the proposed amendment, the facility will be required to employ one licensed nurse to work eight hours a week.

This proposed amendment does not apply to the public nursing home district facilities with less than 30 licensed beds.

The Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised July 1, 2007) listed the average annual market salary for a licensed practical nurse (LPN). The state of Missouri fringe benefit rate for fiscal year 2007 is 42.07 percent, which includes retirement contribution; medical insurance, basic life insurance, long-term disability and Missouri deferred compensation. This rate was used for this fiscal note. Facilities can use this formula revised with their own figures to determine the cost to their facility.

FISCAL NOTE
PRIVATE COST

I. Department Title: Department of Health and Senior Services
Division Title: Division of Regulation and Licensure
Chapter Title: Chapter 86 Residential Care Facilities and Assisted Living Facilities

Rule Number and Title:	19 CSR 30-86.047 Administrative, Personnel and Resident Care Requirements for Assisted Living Facilities
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
84	Assisted Living Facilities	Total Yearly Cost in the Aggregate $1,462,562

III. WORKSHEET

This proposed amendment requires assisted living facilities to employ a licensed nurse a minimum of eight hours per week for every 30 residents. Licensed nurse hours will increase as the facility census increases and the facility census varies from day to day. The calculation for the census will be the maximum census for the total licensed beds. According to DHSS monthly reports for July 2007, the total number of licensed assisted living facilities is 124. Eighty-five of the 124 assisted living facilities have 30 or more licensed beds. One of the 85 facilities is a public nursing home district facility. The fiscal impact to this facility is described in the public entity fiscal note for this proposed amendment. This proposed amendment does not apply to the 39 facilities with less than 30 licensed beds. The DHSS July 2007 monthly report showed the 84 facilities with 30 or more licensed beds have a total of 5,022 licensed beds. Based on the staffing ratio requirement in the proposed amendment, the facilities will be required to employ 167 licensed nurses to work eight hours a week (5,022 licensed beds / 30). The Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised July 1, 2007) listed the average annual market salary for a licensed practical nurse (LPN) in three categories; LPN I, II and III. Each category includes the following minimum and maximum annual salary:

	Annual Minimum salary	Annual Maximum salary
LPN I	$24,396.00	$33,636.00
LPN II	$25,188.00	$34,908.00

LPN III	$27,768.00	$39,039.00

The calculations for the average salary for each category follow:
LPN I $29,016 ($24,396.00 + $33,636.00)/2
LPN II $30,048 ($25,188.00 + $34,908.00)/2
LPN III $33,403.50 ($27,768.00 + $39,039)/2

The assumption is that the facilities will hire LPNs in all categories. The average annual salary for the three categories is $30,822.33 ($29,016 + $30,048 +33,403.50)/3. DHSS estimates the total yearly cost to assisted living facilities in the aggregate to be $1,462,561.90 ($30,822.33 x .4207* fringe rate) + ($30,822.33) / (2080 hours in a work year) x (8 hours) x (52 weeks per year) x (167 LPNs).

* The state of Missouri fringe benefit rate for fiscal year 2007 is 42.07 percent, which includes retirement contribution; medical insurance, basic life insurance, long-term disability and Missouri deferred compensation. This rate was used for this fiscal note. Facilities can use this formula revised with their own figures to determine the cost to their facility.

IV. ASSUMPTIONS

The assumption is that the facilities will hire LPNs in all categories. The facility census varies from day to day, and required licensed nurse hours decrease as the facility census decreases. Based on the staffing ratio requirement in the proposed amendment, the facility will be required to employ one licensed nurse to work eight hours a week.

This proposed amendment does not apply to 39 facilities with less than 30 licensed beds.

The Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised July 1, 2007) listed the average annual market salary for a licensed practical nurse (LPN). The state of Missouri fringe benefit rate for fiscal year 2007 is 42.07 percent, which includes retirement contribution; medical insurance, basic life insurance, long-term disability and Missouri deferred compensation. This rate was used for this fiscal note. Facilities can use this formula revised with their own figures to determine the cost to their facility.

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

PROPOSED AMENDMENT

19 CSR 30-88.010 Resident Rights. The department is amending section (22), adding new sections (23), (24), and (25), and renumbering the rule throughout.

PURPOSE: This amendment clarifies that verbal abuse, corporal punishment, and involuntary seclusion are forms of abuse; adds the requirement for facilities to develop and implement written policies and procedures regarding prohibiting abuse and regarding reporting of abuse to the appropriate authorities, including reporting to the Department of Mental Health any suspected abuse of a vulnerable person; clarifies that the administrator is responsible to assure compliance with all applicable laws and rules regarding reporting of abuse and clarifies that a long-term care facility administrator or other long-term care facility employee must report or cause a report to be made when the individual has reasonable cause to believe that a resident of the facility has been abused or neglected.

(22) Each resident shall be free from *[mental and physical]* abuse. **Abuse is the infliction of physical, sexual, or emotional injury or harm and includes verbal abuse, corporal punishment, and involuntary seclusion.** I

(23) The facility shall develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of any resident and misappropriation of resident property and funds, and develop and implement policies that require a report to be made to the department for any resident or to both the department and the Department of Mental Health for any vulnerable person whom the administrator or employee has reasonable cause to believe has been abused or neglected. II/III

(24) The administrator shall be responsible to assure compliance with all applicable laws and rules regarding reporting of suspected abuse and neglect of any resident. II

(25) If the administrator or other employee of a long-term care facility has reasonable cause to believe that a resident of the facility has been abused or neglected, the administrator or employee shall immediately report or cause a report to be made to the department. Any administrator or other employee of a long-term care facility having reasonable cause to suspect that a vulnerable person has been subjected to abuse or neglect or observes such a person being subjected to conditions or circumstances that would reasonably result in abuse or neglect shall immediately report or cause a report to be made to the department and to the Department of Mental Health. I/II

*[(23)]***(26)** The resident has the right to be free from any physical or chemical restraint except as follows:

(A) When used to treat a specified medical symptom as a part of a total program of care to assist the resident to attain or maintain the highest practicable level of physical, mental**,** or psychosocial well-being. The use of restraints must be authorized in writing by a physician for a specified period of time; or

(B) When necessary in an emergency to protect the resident from injury to himself or herself or to others, in which case restraints may be authorized by professional personnel so designated by the facility. The action taken shall be reported immediately to the resident's physician and an order obtained which shall include the reason for the restraint, when the restraint may be removed, the type of restraint**,** and any other actions required. When restraints are indicated, only devices that are the least restrictive for the resident and consistent with the resident's total treatment program shall be used. I/II

*[(24)]***(27)** In a residential care facility or an assisted living facility, if it is ever necessary to use a restraint in case of emergency, the resident shall be reevaluated immediately for appropriateness of placement and transferred if necessary. II/III

*[(25)]***(28)** All information contained in a resident's medical, personal or financial record and information concerning source of payment shall be held confidential. Facility personnel shall not discuss aspects of the resident's record or care in front of persons not involved in the resident's care or in front of other residents. Written consent of the resident or his or her legally authorized representative shall be required for the release of information to persons not otherwise authorized by law to receive it. II/III

*[(26)]***(29)** Each resident shall be treated with consideration, respect**,** and full recognition of his or her dignity and individuality, including privacy in treatment and care of his or her personal needs. All persons, other than the attending physician, the facility personnel necessary for any treatment or personal care, or the department or Department of Mental Health staff, as appropriate, shall be excluded from observing the resident during any time of examination, treatment**,** or care unless consent has been given by the resident. II/III

*[(27)]***(30)** No resident shall be required to perform services for the facility. If the resident desires and it is not contraindicated by his or her physician, the resident may perform tasks or services for himself or herself or others. II/III

*[(28)]***(31)** Each resident shall be permitted to communicate, associate**,** and meet privately with persons of his or her choice whether on the resident's initiative or the other person's initiative, unless to do so would infringe upon the rights of other residents. The person(s) may visit, talk with**,** and make personal, social**,** or legal services available, inform residents of their rights and entitlements by means of distributing educational materials or discussions, assisting residents in asserting their legal rights regarding claims for public assistance, medical assistance and Social Security benefits**,** and engaging in any other methods of assisting, advising**,** and representing residents so as to extend to them the full enjoyment of their rights. The facility, however, may place reasonable limitations on solicitations. II/III

*[(29)]***(32)** The facility shall permit a resident to meet alone with a person or persons of his or her choice and provide an area which assures privacy. II/III

*[(30)]***(33)** Telephones appropriate to the residents' needs shall be accessible at all times. Telephones available for residents' use shall enable all residents to make and receive calls privately. II/III

*[(31)]***(34)** If the resident cannot open mail, written consent by the resident or his or her legally authorized representative shall be obtained to have all mail opened and read to the resident. II/III

*[(32)]***(35)** Each resident shall be permitted to participate, as well as not participate, in activities of social, religious**,** or community groups at his/her discretion, both within the facility, as well as outside the facility, unless contraindicated for reasons documented by physician in the resident's medical record. II/III

*[(33)]***(36)** Each resident shall be permitted to retain and use personal clothing and possessions as space permits. Personal possessions may include furniture and decorations in accordance with the

facility's policies and shall not create a fire hazard. The facility shall maintain a record of any personal items accompanying the resident upon admission to the facility, or which are brought to the resident during his or her stay in the facility, which are to be returned to the resident or responsible party upon discharge, transfer**,** or death. II/III

*[(34)]***(37)** Each married resident shall be assured privacy for visits by his or her spouse. II/III

*[(35)]***(38)** If both husband and wife are residents, they shall be allowed the choice of sharing or not sharing a room. III

*[(36)]***(39)** If siblings and/or a parent and his or her child are both residents, the facility shall allow the family members the choice of sharing or not sharing a room upon availability of room(s) appropriate to accommodate the residents. III

*[(37)]***(40)** Each resident shall be allowed the option of purchasing or renting goods or services not included in the per diem or monthly rate from a supplier of his or her own choice, provided the quality of goods or services meets the reasonable standards of the facility. Each resident shall be allowed the option of purchasing his or her medications from a pharmacy of his or her choice, provided the quality of the medications and packaging meets reasonable standards of the facility.

*[(38)]***(41)** Residents shall not have their personal lives regulated or controlled beyond reasonable adherence to meal schedules and other written policies which may be necessary for the orderly management of the facility and the personal safety of the residents. II

*[(39)]***(42)** All written accounts of the resident's funds shall be brought current monthly and a written statement showing the current balance and all transactions shall be given to the resident, or his or her next of kin, legally authorized representative**,** or designee on a quarterly basis and upon request. The facility shall keep written receipts of all personal possessions and all funds received by or deposited with the facility and all disbursements made to or on behalf of the resident and shall disclose such receipts to the resident, and/or his or her next of kin, legally authorized representative**,** or designee upon request. II/III

*[(40)]***(43)** The resident, or his or her next of kin, legally authorized representative**,** or designee shall receive an itemized bill for all goods and services actually rendered. No later than thirty (30) days after the discharge or death of a resident, the operator of the facility shall submit a final itemized bill for all goods and services rendered, showing any credit balances accruing on the date of discharge or death of the resident, and a complete account of the resident's remaining funds with the facility, in any account, with whatever title the account(s) may be known, to the resident's guardian, conservator, fiduciary of the resident's estate**,** or the individual who was designated to receive the quarterly accounting of all financial transactions made. II/III

*AUTHORITY: sections 198.009 [, 198.076, 198.079] and 198.088, RSMo 2000, and sections [198.005,] 198.073, **198.076, 198.079,** and 660.050 [and 660.060], RSMo Supp. [2006] **2007**. This rule originally filed as 13 CSR 15-18.010. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 13, 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 Kimberly O'Brien, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. 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.*

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

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

Title 6—DEPARTMENT OF HIGHER EDUCATION
Division 10—Commissioner of Higher Education
Chapter 9—Consumer Information

ORDER OF RULEMAKING

By the authority vested in the commissioner of higher education under section 173.1004, RSMo Supp. 2007, the commissioner adopts a rule as follows:

6 CSR 10-9.010 Rules for the Posting of Consumer Information **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 3, 2007 (32 MoReg 2361–2366). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 7—DEPARTMENT OF TRANSPORTATION
Division 10—Missouri Highways and Transportation Commission
Chapter 6—Outdoor Advertising

ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under section 226.150, RSMo 2000 and sections 226.500–226.600, RSMo 2000 and Supp. 2007, the commission amends a rule as follows:

7 CSR 10-6.060 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 17, 2007 (32 MoReg 2500–2501). 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 Missouri Highways and Transportation Commission (MHTC) received one (1) comment on the proposed amendment.

COMMENT #1: The Missouri Outdoor Advertising Association (MOAA) requested one (1) small modification to the published rule. MOAA was concerned with the use of the word "structure" in subparagraph (3)(C)1.B. as it would prohibit the use of a cutout or extension on the entire sign structure because a display on the opposite side includes a cutout or extension. MOAA proposed to replace the word "structure" with "display area in any one direction."
RESPONSE AND EXPLANATION OF CHANGE: MHTC partially concurs with MOAA's comment that subparagraph (3)(C)1.B. needs to be revised. Therefore, MHTC has revised the language in subparagraph (3)(C)1.B.

7 CSR 10-6.060 Nonconforming Signs

(3) Criteria for Maintenance of Nonconforming Signs. Reasonable maintenance and repair of nonconforming signs is permissible, however, violation of any one (1) or more of the following subsections (3)(A)–(E) of this rule disqualifies any sign from being maintained as a nonconforming sign and subjects it to removal by the commission without the payment of just compensation:

(C) Size. The size or area of a sign shall not be increased after the date the sign becomes a nonconforming sign. A net decrease in the face of the sign will be permitted.

1. Temporary cutouts and extensions will not be considered a substantial increase in size provided the cutout or extension meets the following criteria:

A. The cutout or extension area is thirty-three percent (33%) or less of the total display area for each side of the sign, prior to the cutout or extension addition. For the purpose of determining the percentage of a temporary cutout or extension, the area of the smallest square, rectangle, triangle, circle, or contiguous combination of shapes that will encompass the cutout or extension will be calculated and divided by the area of the smallest square, rectangle, triangle, circle or contiguous combination of shapes that will encompass the permanent display area of the outdoor advertising structure;

B. A cutout or extension may be added to either side of a structure for a period of time of no more than three (3) years for each side or the term of the display contract, whichever is the shortest. After a side of an outdoor advertising structure has had a cutout or extension for that time period, a cutout or extension cannot be placed on that side of the structure for a period of six (6) months;

C. Proof regarding the dates the cutouts or extensions were installed and will be removed shall be provided to Missouri Department of Transportation (MoDOT), upon request;

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.010 Types of Licenses **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 33). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission rescinds a rule as follows:

11 CSR 45-4.020 Class A License Defined **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 2, 2008 (33 MoReg 33). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission adopts a rule as follows:

11 CSR 45-4.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 2, 2008 (33 MoReg 33–38). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Gaming Commission received written comments, comments at the hearing, and comments from the commission staff during review.

COMMENT #1: Gaming Commission staff noted that in section (6) the word "licensees" should be possessive.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has made the change.

COMMENT #2: In the staff review it was noticed that some of the costs to the licensees were repeated in several rules.
RESPONSE AND EXPLANATION OF CHANGE: The costs for licensees have been assigned to rule 11 CSR 45-4.380. Therefore, the revised private entity cost for this rule will be less than five hundred dollars ($500) in the aggregate.

COMMENT #3: Gaming Commission staff noted in subsection (7)(C) that there should be a comma after "peripherals" and the "or" should be deleted.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has changed subsection (7)(C).

COMMENT #4: Gaming commission staff suggested that all references to "Class A license" be changed to "Company license," "Casino Business license," or some other title other than "Class A license" and all references to "Class B license" be changed to "Class A license." By giving the parent company's license a different title the commission could avoid having to rewrite eighteen (18) chapters of the Minimum Internal Control Standards (MICS) and several chapters of the *Code of State Regulations* (CSRs). Currently, the casino properties are referred to as Class A licensees throughout the MICS. If we could maintain that reference to mean the casino at a specific property, we could eliminate a huge revision to the MICS and CSRs.
RESPONSE: The commission recognizes that there will be many changes but believes it will be best in the long-term.

One (1) response is given for the following two (2) comments:
COMMENT #5: During commission staff review it was noted that those who have a monetary interest as a holder of any direct or indirect legal or beneficial publicly traded interest, or privately held interest for only passive investment purposes may wish to invest as much as fifteen percent (15%) in the key person(s)/key person business entity(ies) rather than the ten percent (10%) as stated in the rule. Also, will this apply to institutional investments?
COMMENT #6: Mr. Jerry Riffel expressed concern about "passive" investors referred to in section (3) which allows the commission to exempt passive investors from the licensing requirement if they hold no more than ten percent (10%) interest in the applicant or licensee. Mr. Jerry Riffel believes that the percentages used are too restrictive. Their concern is that overly inclusive licensing requirements may dissuade desirable investors from investing in Missouri's gaming industry. Mr. Jerry Riffel requests that the commission revise its rule in a way that helps the Missouri gaming industry to remain a competitive investment option for institutional investors while also safeguarding against the possibility that unlicensed individuals or entities might begin exercising directorial control of gaming operators. Mr. Jerry Riffel suggests adding a definition of "institutional investor"; establishing a rebuttable presumption that an institutional investor does not constitute a key person/key person business entity as long as the institutional investor has less than a ten percent (10%) interest in a single applicant or licensee; and allowing the commission to exempt institutional investors from the key person licensing requirement so long as they have less than a twenty percent (20%) interest in a single applicant or individual.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees in part and disagrees in part. It disagrees in raising the presumptive requirement for becoming a key person/key person business entity, and agrees that the executive director should be allowed to waive that requirement for institutional passive investors who own ten percent (10%) or less and that the commission may waive the requirements for those owning twenty percent (20%) or less. Additionally, the commission agrees that there should be a procedure for institutional investors who hold their stock for passive purposes to be pre-approved.

COMMENT #7: The commission received a written comment from Michael G. Winter, Executive Director, Missouri Gaming Association. In a general comment about Chapter 4, Mr. Winter requested that if a Class B license is to be created, that the commission also modify

the application accompanying the license or renewal and complete the process before the new regulations take effect.
RESPONSE: While the commission agrees that the application is a renewal process or in need of review they disagree that the rules should be delayed while that process is taking place.

COMMENT #8: Michael G. Winter, Missouri Gaming Association, asked that certain areas being added to the definition of secure locations be removed from the list, such as security, accounting, ticketing and marine operations. The association recommends to the commission that the list of areas not be modified.
RESPONSE: The commission disagrees.

COMMENT #9: Michael G. Winter, Missouri Gaming Association, questioned the expanded definition of "supplier." He explained that the phrase "whose primary function is providing a direct service to the patrons" seemed overly broad and could encompass a great number of suppliers who do not currently fall under the statutory definition of supplier in section 313.800, RSMo. It is the association's opinion that the commission could be violating the statute by expanding the definition to include other entities than those enumerated in section 313.800, RSMo; and suggested that subsection (7)(D) be removed from the rule.
RESPONSE AND EXPLANATION OF CHANGE: The commission believes that the rule does comply with section 313.800, RSMo, but agrees to remove subsection (7)(D) from the rule.

One (1) response is given for the following two (2) comments:
COMMENT #10: Mr. Jerry Riffel of Lathrop & Gage representing President Casino (PRC-MO), Pinnacle Entertainment, Inc. and Casino One Corporation spoke at the public hearing and submitted written comments on behalf of his clients. Mr. Jerry Riffel questioned the commission's ability to amend section (2) to separate the license of a company to conduct gaming in general from its license to conduct gaming at a specific location. Mr. Jerry Riffel states that the governing statute does not contemplate the commission's issuance of a new general license to conduct gambling (Class A) and subordinate licenses to operate particular facilities (Class B). Mr. Jerry Riffel states that the statute distinguishes between the licensed activities of "conducting gambling games on an excursion gambling boat" and "operating an excursion gambling boat" by authorizing application for one or the other activity. Mr. Jerry Riffel also recognized the extensive consideration the commission gives to the home dock city or county with regard to support of opposition when the commission reviews applications. Finally, Mr. Jerry Riffel states that the amendment is in conflict with current laws allowing an excursion gambling boat to dock at multiple locations and that licensees must obtain a special "continuous docking" exception to avoid this mandate.
COMMENT #11: Mr. Jerry Riffel, Lathrop & Gage, asked the commission to revise section (2) to permit excursion gambling boats to relocate without a loss of license. He noted the regulation would prohibit the relocation of a gambling boat, upon penalty of losing one's gaming license; also citing problems that might require voter approval or present other difficult economic and political issues for the commission. He recommended that the language of section (2) be amended to include the approval of the home dock city and the best interests of the state.
RESPONSE: The commission disagrees and cites 313.812(1), RSMo which provides in part that the licensee "shall set forth … the place where the excursion gaming boat will operate and dock, including the docking of an excursion gambling boat which is continuously docked." The commission would also cite 313.807.1. "The application … and shall identify … shall specify the **exact** (emphasis added) location where the excursion gaming boat will be docked …"

COMMENT #12: James R. Maida, President, Gaming Laboratories International (GLI) submitted written comments. GLI commented on subsection (4)(J) requiring test labs to absorb the minimum Level I license fee of one thousand dollars ($1,000) plus the one hundred dollars ($100) per year renewal fee for managers. GLI does not believe the rule clearly dictates who will be required to be licensed and believes that it leaves room open for some testing laboratories to bear much higher costs for having a more developed management structure. GLI requests that the Level I license be limited to the management of the company or that the commission consider designating such employees as Level II to provide oversight while balancing the costs.
RESPONSE: The commission recognizes the costs for the Level I licensees are substantial and believes it is necessary to maintain the integrity of testing standards and certifications.

11 CSR 45-4.020 Licenses, Restrictions on Licenses, Licensing Authority of the Executive Director and Other Definitions

(3) A key person/key person business entity license shall include:

(B) A holder of any direct or indirect legal or beneficial publicly traded interest whose combined direct, indirect or attributed publicly traded interest is five percent (5%) or more in an applicant or licensee or in a business entity key person of an applicant or licensee except a holder of more than five percent (5%) but not more than ten percent (10%) interest who holds such interest only for passive ("Not involving active participation; esp., of or relating to a business enterprise in which an investor does not have immediate control over the activity that produces income." *Black's Law Dictionary* Seventh Edition) investment purposes (including economic purposes) may be exempted from licensure by the executive director; such exemption may be requested at the time of investment or institutional investors may seek general pre-approval after certification that such investment will be passive in nature and for passive investments only. The commission may waive licensure for up to twenty percent (20%). If exempted from licensure by the executive director up to ten percent (10%), and up to twenty percent (20%) if exempted by the commission, provided that:

1. The holder of such interest applies in writing in advance of acquiring said interest or within ten (10) days thereafter and certifies under oath that it is—

A. Acquiring the interest for passive investment purposes;

B. Does not nor will it have any involvement in the management activities of the entity;

C. Nor does it have any intention of controlling the entity regardless of additional stock that may be acquired;

D. That they will within ten (10) days notify the commission of any sale or purchase of stock in the entity equaling more than one percent (1%) of the entity's outstanding stock;

E. In the event the holder of any interest under this exemption subsequently develops an intention of controlling or participating in the management of said entity, they shall notify the commission of said change and refrain from participating in management or exercising such control until approved for licensure by the commission;

F. If the applicant is an individual, then the home and business addresses, occupation, employer and title shall be identified;

G. If applicant is a business entity, then they shall provide the type of entity (corporation, partnership, limited partnership, LLC, LLP, etc.), state of charter, the names and both home and business address of the—

(I) Chief executive officer (CEO);
(II) Chief financial officer (CFO);
(III) Chief operating officer (COO);
(IV) Managing partner(s);
(V) General partner(s);
(VI) Members of the Board of Directors; and
(VII) The registered agent; and

H. Additionally the director may grant exemptions to institutional investors to hold such interests in multiple licensees in advance;

2. The commission by majority vote may grant exemptions of up to twenty percent (20%) with the filing of the information required in (3)(B)1. above. Additionally the commission may grant exemptions to institutional investors to hold such interests in multiple licensees in advance;

3. The executive director shall keep a record of all such exemptions granted and the positions held by each entity and shall present a written report on the same to the commission on a monthly basis;

4. The exemption shall be for two (2) years unless renewed; and

5. Nothing in this section including the granting of an exemption shall prohibit the commission, at a future date, in its sole discretion, with or without cause from requiring any owner of any interest in a licensee from becoming licensed by the commission or to divest itself of stock ownership;

(C) A holder of any direct or indirect legal or beneficial privately held interest whose combined direct, indirect or attributed privately held interest is one percent (1%) or more in an applicant or licensee or in a business entity key person of an applicant or licensee except a holder of more than one percent (1%) but not more than ten percent (10%) interest who is an institutional investor and who holds such interest only for passive ("Not involving active participation; esp., of or relating to a business enterprise in which an investor does not have immediate control over the activity that produces income." *Black's Law Dictionary* Seventh Edition) investment purposes (including economic purposes) may be exempted from licensure by the executive director; such exemption may be requested at the time of investment or institutional investors may seek general pre-approval after certification that such investments will be passive in nature and for passive investments only. The commission may waive licensure for up to twenty percent (20%). If exempted from licensure by the executive director up to ten percent (10%), and up to twenty percent (20%) if exempted by the commission, provided that:

1. The holder of such interest applies in writing in advance of acquiring said interest or within ten (10) days thereafter and certifies under oath that it is—

A. Acquiring the interest for passive investment purposes;

B. Does not nor will it have any involvement in the management activities of the entity;

C. Nor does it have any intention of controlling the entity regardless of additional stock that may be acquired;

D. That they will within ten (10) days notify the commission of any sale or purchase of stock in the entity equaling more than one percent (1%) of the entity's outstanding stock;

E. In the event the holder of any interest under this exemption subsequently develops an intention of controlling or participating in the management of said entity, they shall notify the commission of said change and refrain from participating in management or exercising such control until approved for licensure by the commission;

F. If the applicant is an individual, then the home and business addresses, occupation, employer and title shall be identified;

G. If applicant is a business entity, then they shall provide the type of entity (corporation, partnership, limited partnership, LLC, LLP, etc.), state of charter, the names and both home and business address of the—

(I) Chief executive officer (CEO);
(II) Chief financial officer (CFO);
(III) Chief operating officer (COO);
(IV) Managing partner(s);
(V) General partner(s);
(VI) Members of the Board of Directors; and
(VII) The registered agent; and

H. Additionally the director may grant exemptions to institutional investors to hold such interests in multiple licensees in advance;

2. The commission by majority vote may grant exemptions of up to twenty percent (20%) with the filing of the information required in (3)(C)1. above. Additionally the commission may grant exemptions to institutional investors to hold such interests in multiple licensees in advance;

3. The executive director shall keep a record of all such exemptions granted and the positions held by each entity and shall present a written report on the same to the commission on a monthly basis;

4. The exemption shall be for two (2) years unless renewed; and

5. Nothing in this section including the granting of an exemption shall prohibit the commission, at a future date, in its sole discretion, with or without cause from requiring any owner of any interest in a licensee from becoming licensed by the commission or to divest itself of stock ownership;

(6) Secured areas shall include any area or location where gaming functions may take place, be controlled or affected. Secured areas shall also include any area so designated by the licensee's Internal Control System (ICS) or by the commission, including but not limited to:

(7) Supplier license is a license issued to a person or entity that—

(C) Provides testing services on gaming related equipment, components, peripherals, systems, or other items directed by the commission to a Class A or Class B licensee or the commission.

REVISED PRIVATE COST: This amendment will not cost private entities more than five hundred dollars ($500) in the aggregate, versus the $3,346,000 submitted in the original proposal.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.030 Application for Class A or Class B License **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 39–41). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.040 City or County Input **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 41). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission adopts a rule as follows:

11 CSR 45-4.050 renumbered as 11 CSR 45-4.055 is adopted.

A notice of proposed rulemaking containing the text of proposed rule 11 CSR 45-4.050 was published in the *Missouri Register* on January 2, 2008 (33 MoReg 42). This entire proposed rule, renumbered as 11 CSR 45-4.055, is reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Gaming Commission received written comments and comments from the commission staff during review.

COMMENT #1: The commission staff requested that the phrase "to cover additional cost" be changed to "to cover the additional costs."
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has made the change.

COMMENT #2: The commission staff requested that the sections of the rule be renumbered since it contains two (2) sections numbered as section (3).
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has made the change.

COMMENT #3: Michael G. Winter, Missouri Gaming Association questioned the requirement in section (3) for all Class B licenses owned by the same Class A license to be renewed within the same month. The association was concerned that one (1) Class B license could prevent another Class B license from being renewed.
RESPONSE: The commission recognizes that while all Class A and Class B licensure will come up for renewal at the same time nothing in the renewal process prevents the commission from renewing the Class A and/or one (1) or more Class Bs while withholding or delaying the renewal of other Class Bs.

COMMENT #4: Staff recommends maintaining the current rule 11 CSR 45-4.050 for the purposes of historical relevancy for issuing new licenses.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and 11 CSR 45-4.050 will be retained and the language in this version of the proposed rule of 11 CSR 45-4.050 will be renumbered as 11 CSR 45-4.055.

11 CSR 45-4.055 Application Period and Fees for Class A and Class B Licenses

PURPOSE: This rule establishes an application period and fees.

(1) The one (1)-time nonrefundable application fee for a Class A license shall be the greater of a) fifty thousand dollars ($50,000) or b) fifteen thousand dollars ($15,000) per key person/key person business entity not licensed as a key person/key person business entity or under investigation for a license as a key person/key person business entity at the time of application, or a greater amount as determined by the commission. The applicant or licensee shall be assessed fees, if any, to cover the additional costs of the investigation.

(2) The one (1)-time nonrefundable application fee for a Class B license shall be fifty thousand dollars ($50,000), except that any applicant for a Class A license shall be entitled to one (1) Class B license with no additional fees other than fees required to cover any additional costs of the investigation, if the Class B application is submitted simultaneously with the Class A application. The applicant or licensee shall be assessed fees, if any, to cover the additional costs of the investigation.

(3) For any Class A or Class B applicant that has not been selected for priority investigation or had other affirmative action taken on their application within one (1) year, the application shall lapse and consideration for either a Class A or Class B license in the future shall require submittal of a new application and fee.

(4) The annual fee for a Class A license and a Class B license shall be twenty-five thousand dollars ($25,000) each, except each Class A licensee shall be entitled to one (1) Class B license at no additional fee, and is due upon issuance of the initial license and thereafter is due upon the application for renewal of the license. When licenses are renewed for multiple years, fees for all licensed years shall be paid with the application. The Class A and all Class B licenses owned by the same Class A license shall renew all licenses within the same month, after the second year. The commission may adjust renewal dates of the Class A and Class B licenses so as not to consume commission resources in any particular month. Any such adjustments shall result in a pro rata adjustment of fees. This fee is nonrefundable and is due regardless of whether the renewal applicant obtains a renewed license. The applicant or licensee shall be assessed fees, if any, to cover the additional costs of the investigation.

(5) Any holder of a Class A license, at the time these rules become effective, shall without further investigation or fees be granted a Class A and Class B license consistent with these rules. The renewal dates for Class A and Class B licenses issued under this rule shall remain the original anniversary dates as existed prior to the adoption of this rule.

(6) A Class A license is not transferable except by change of control as provided in Chapter 11 CSR 45-10.

(7) A Class B license is transferable to a Class A licensee with prior approval of the commission as provided in Chapter 11 CSR 45-10.

AUTHORITY: sections 313.004 and 313.812, RSMo 2000. This rule originally filed as 11 CSR 45-4.050, renumbered as 11 CSR 45-4.055, effective May 30, 2008. Original rule filed Dec. 3, 2007, effective May 30, 2008.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.070 Competitiveness Standards **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 42). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.080 License Criteria **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 42–43). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission adopts a rule as follows:

11 CSR 45-4.085 Expiration of Temporary License **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 2, 2008 (33 MoReg 43). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.190 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 43–44). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Gaming Commission received no written comments on this rule; however, changes were made to the text of the rule based on staff review.

COMMENT #1: Staff commented that in section (2) a comma was missing following "Class B."
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has made the requested change.

COMMENT #2: Staff also commented that the last sentence of section (2) should have the phrase "to cover additional cost" changed to read "to cover the additional costs."
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has made the requested change.

11 CSR 45-4.190 License Renewal

(2) Each sixth year from the original license a comprehensive investigation for the period since the last comprehensive investigation shall be conducted on the Class A, Class B, supplier and key licensees in the same manner as the initial investigation. The licensee shall be assessed fees, if any, to cover the additional costs of the investigation.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.200 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 44–46). 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 Missouri Gaming Commission received written comments and comments from the commission staff during review.

COMMENT #1: Gaming Commission staff noted that the language in section (1) should be clarified with regard to "services and other items" provided on behalf of the licensee.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has changed section (1).

COMMENT #2: Gaming Commission staff noted that section (2) should clarify the requirements for a supplier's license to be comparable with 11 CSR 45-4.030.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has modified section (2).

COMMENT #3: In the staff review it was noticed that some of the costs to suppliers were repeated in several rules.
RESPONSE AND EXPLANATION OF CHANGE: The costs for suppliers have been assigned to rule 11 CSR 45-4.380. Therefore, the revised private entity cost for this rule will be less than five hundred dollars ($500) in the aggregate.

COMMENT #4: The staff recommended that different terminology is being used to describe the authority of the executive director and the limitation on that authority with regard to test laboratories.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees.

COMMENT #5: The commission received a written comment from Michael G. Winter, Executive Director, Missouri Gaming Association. In a general comment about Chapter 4, Mr. Winter requested that if a Class B license is to be created, that the commission also modify the application accompanying the license or renewal and complete the process before the new regulations take effect.
RESPONSE: While the commission agrees that the application is a part of the renewal process and that the application is in need of review, they disagree that the rules should be delayed while that process is taking place.

COMMENT #6: Michael G. Winter, Missouri Gaming Association, questioned the expanded definition of "supplier." He explained that the phrase "whose primary function is providing a direct service to the patrons" seemed overly broad and could encompass a great number of suppliers who do not currently fall under the statutory definition of supplier in section 313.800, RSMo. It is the association's opinion that the commission could be violating the statute by expanding the definition to include other entities than those enumerated in section 313.800, RSMo; and suggested that the phrase be deleted from section (1).
RESPONSE AND EXPLANATION OF CHANGE: The commission believes that the rule does comply with section 313.800, RSMo, but agrees to remove the phrase from section (1) of the rule.

11 CSR 45-4.200 Supplier's License

(1) A supplier's license is required of persons who or entities which manufacture, sell or lease gaming equipment, gaming supplies, or both; or provide gaming equipment maintenance or repair; or provide testing services on gaming related equipment, components, peripherals, systems, or provide services on the gaming floor that relate to gaming equipment of a Class A or Class B licensee, or other items as directed by the commission, unless exempted by the executive director. Additionally the executive director may waive or modify licensing fees and requirements. Such waiver, modification or exemption shall not be applicable for testing laboratories.

(2) An application for a supplier's license shall be made on a form obtained from the commission. Each supplier license applicant must submit the Supplier's License Application Form for itself, a key person/key person business entity and Level I application for each individual key person associated with the application and a Supplier's License Application Form for each business entity key person associated with the applicant. The applicant must also submit Personal Disclosure Form II for any other person or entity (other than occupational licensees) associated with the applicant in any way, who is required by the commission or the director to execute such forms, which forms shall become part of the supplier application along with the key person/key person business entity forms. A copy of all necessary forms is available for public inspection at the offices of the commission and online at the commission's web site.

REVISED PRIVATE COST: This amendment will not cost private entities more than five hundred dollars ($500) in the aggregate, versus the two hundred thousand dollars ($200,000) submitted in the original proposal.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.205 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 47–48). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Gaming Commission received no written comments on this rule; however, changes were made to the text of the rule based on staff review.

COMMENT #1: The commission staff requested that the phrase "to cover additional cost" be changed to "to cover the additional costs."
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has made the change.

COMMENT #2: In the staff review it was noticed that some of the costs to the licensees were repeated in several rules.
RESPONSE AND EXPLANATION OF CHANGE: The costs for licensees have been assigned to rule 11 CSR 45-4.380. Therefore, the revised private entity cost for this rule will be less than five hundred dollars ($500) in the aggregate.

COMMENT #3: The staff requested that the ability of the executive director to waive fees be added to this rule to be consistent with that ability as added to other rules in this chapter.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has added the waiver in section (5).

11 CSR 45-4.205 Affiliate Supplier's License

(5) The one (1)-time nonrefundable application fee for an affiliate supplier's license shall be ten thousand dollars ($10,000), or a greater amount as determined by the commission. The applicant or licensee shall be assessed fees, if any, to cover the additional costs of the investigation. Additionally, the executive director may waive or modify licensing fees.

(6) The key person/key person business entity employed by affiliate suppliers will be required to be licensed by the Missouri Gaming Commission. The affiliate supplier key person/key person business entity application shall require a one (1)-time nonrefundable fee of one thousand dollars ($1,000) plus the annual licensing fee of one hundred dollars ($100). The applicant or licensee shall be assessed fees, if any, to cover the additional costs of the investigation. The licensing and renewal fees for Level I and Level II occupational licenses shall be the same as set forth for Class A and Class B occupational licensees.

REVISED PRIVATE COST: This amendment will not cost private entities more than five hundred dollars ($500) in the aggregate, versus the two hundred forty-five thousand dollars ($245,000) submitted in the original proposal.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.210 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 49–50). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Gaming Commission received no written comments on this rule; however, changes were made to the text of the rule based on staff review.

COMMENT #1: Gaming Commission staff noted in section (1) that there should be a comma after "peripherals" and the "or" should be deleted.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has changed section (1).

COMMENT #2: In the staff review it was noticed that some of the costs to suppliers were repeated in several rules.
RESPONSE AND EXPLANATION OF CHANGE: The costs for suppliers have been assigned to rule 11 CSR 45-4.380. Therefore, the revised private entity cost for this rule will be less than five hundred dollars ($500) in the aggregate.

11 CSR 45-4.210 Temporary Supplier's License

(1) The commission, in its sole discretion, may issue a temporary supplier's license to any applicant for a supplier's license other than one which provides testing services for gaming related equipment, components, peripherals, systems, or other items directed by the commission, who has fulfilled the following criteria:

REVISED PRIVATE COST: This amendment will not cost private entities more than five hundred dollars ($500) in the aggregate, versus the forty thousand dollars ($40,000) submitted in the original proposal.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.230 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 51–53). 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 Missouri Gaming Commission received written comments and comments from the commission staff during review.

COMMENT #1: Staff commented that in paragraph (4)(K)4. a comma was missing following "RSMo."
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has made the requested change.

COMMENT #2: Gaming commission staff noted a typographical error in (4)(R)9.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has made the change.

COMMENT #3: The commission received a written comment from Gayle Bauer, Regulatory Compliance Manager, International Game Technology (IGT). In section (3)—IGT believes it is the intent of this section to allow for commission audit of equipment and service performance issues and suggests the section be modified to further clarify the documentation of performance issues and complaints. IGT also requested that the commission more narrowly define the word "complaints."
RESPONSE: The commission disagrees.

COMMENT #4: James R. Maida, President, Gaming Laboratories International (GLI) submitted written comments. GLI commented on subsection (4)(I) requiring the test laboratory to pay for the cost of inspections for each of its offices. The rule would penalize a test laboratory for having multiple offices that provide the regulator with access to engineers in several time zones. GLI requests the rule be amended to provide that each test laboratory shall be responsible for the cost of one (1) inspection per year.
RESPONSE: It is inherent in maintaining the integrity of gaming that the commission be able to conduct quality assurance inspections of test laboratories and those inspections should not be impeded by costs.

COMMENT #5: GLI questioned the requirement in subsection (4)(I) that declares software program(s) developed as a result of work performed for or on behalf of the commission to be proprietary and restricts it from being released without the prior written permission of the commission. GLI software tools are used for many jurisdictions, and they value their relationship with regulators within the worldwide communications network to develop the best available solutions. GLI requests that the language in paragraph (4)(J)1. be written to clarify only items prepared and paid for exclusively for Missouri are proprietary and confidential.
RESPONSE: The commission disagrees.

COMMENT #6: GLI commented on subsection (4)(L) which requires the test laboratory to provide verification manuals and diagrams. GLI considers this information to be proprietary and believes the rule should clearly provide notice of the confidential status of this information. GLI requests language be added to the rule to protect the valuable intellectual property created by the testing laboratory from disclosure to current or potential competitors.
RESPONSE: The commission agrees with the proprietary nature of certain information provided by the commission but feels that the commission and commission's staff deals with a large amount of sensitive and confidential information and that statutory provisions are in place to provide adequate protection and that by inserting such a provision in this rule might be viewed as reducing the need for confidentiality in the areas, and therefore disagrees with the comment.

COMMENT #7: GLI is concerned with the costs to be incurred by the requirements in subsection (4)(V), if the test laboratory provides the commission with unlimited free consulting services. GLI states that the requirement will result in substantial private entity costs. GLI suggests adding a limit to the rule of one hundred (100) hours free consulting services per year, reimbursing the test laboratory for additional hours at the laboratory's standard hourly rate.
RESPONSE: The commission disagrees.

COMMENT #8: GLI commented on subsection (4)(W), with regard to the test scripts and test plans that will govern the conduct of testing

for Missouri. GLI considers such information to be highly proprietary and valuable intellectual property. GLI concerns in this area are based on the fact that it was forced to litigate in another jurisdiction to protect its intellectual property from unlawful use by an employee of a regulatory agency. GLI requests additional language to be added to the rule to include strict ethical standards as a part of the commission's procedures.
RESPONSE: The commission agrees with the proprietary nature of certain information provided by the commission but feels that the commission and commission's staff deals with a large amount of sensitive and confidential information and that statutory provisions are in place to provide adequate protection and that by inserting such a provision in this rule might be viewed as reducing the need for confidentiality in the areas, and therefore disagrees with the comment.

COMMENT #9: GLI is concerned with the costs to be incurred by the requirements in subsection (4)(X); if the test laboratory provides free forensic evaluations, then in an environment where multiple test laboratories might become licensed, the test laboratory providing the highest level of service will be penalized with substantial additional costs, resulting in a substantial private entity fiscal note. GLI requests additional language allocating the responsibility of the cost of conducting such forensics to the responsible party.
RESPONSE: The commission disagrees.

11 CSR 45-4.230 Supplier's License Criteria

(4) An independent testing laboratory applying for a supplier license is subject to compliance with all other requirements of this rule in addition to the following criteria:

(K) Upon the test laboratory's certification of gaming equipment, a unique identification code or signature acceptable to and approved by the commission shall be assigned to each CPSM as defined by 11 CSR 45-1.090. The assigned identification code or signature and the means for generating such code or signature shall be included in all documents, reports, and databases.

1. The test laboratory shall provide the commission with step-by-step verification procedures for each tool, device or mechanism used to assign the unique identification codes or signatures.

2. The test laboratory shall provide to the commission, at no charge, in quantities determined by the commission, any verification tool, device or mechanism that is required for commission agents to verify the code or signature of any approved CPSM. The test laboratory may charge the supplier for expenses associated with such verification tools.

3. The test laboratory must support the verification tools, devices or mechanisms and replace, repair, update or upgrade them as deemed necessary by the commission. The test laboratory may charge the supplier for expenses associated with such verification tools.

4. All equipment, procedures, software or other intellectual property developed, or owned and protected by United States' patents, copyrights, or trademark laws in conjunction with the unique identification signature process shall be closed record under section 313.847, RSMo, provided such information is mutually agreed upon between the commission and the test laboratory and labeled as proprietary;

(R) The test laboratory shall, upon request, provide the commission a summary report of all invoices to licensees, suppliers, entities or individuals during the previous month. The report shall include for each submission the item submitted—

1. The date on which the submission was received in the laboratory;

2. The date rejected, withdrawn or certified;

3. The invoice number;

4. Invoice date;

5. Name of licensee, supplier, entity or individual for whom the services were rendered;

6. Billable hours;

7. Hourly rates;

8. Invoice total;

9. The test laboratory shall be subject to commission audits, the costs for which shall be borne by the test laboratory;

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.240 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 53–57). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Gaming Commission received no written comments on this rule; however, changes were made to the text of the rule based on staff review.

COMMENT #1: The commission staff requested that the phrase "to cover additional cost" be changed to "to cover the additional costs."
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has made the change.

COMMENT #2: The commission staff noted that the new language in section (4) would be more appropriately a part of rule 11 CSR 45-4.260.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has deleted section (4) from this rule and added the same language to 11 CSR 45-4.260(6).

COMMENT #3: The staff requested that the ability of the executive director to waive fees be added to this rule to be consistent with that ability as added to other rules in this chapter.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has added the waiver in section (1).

COMMENT #4: In the staff review it was noticed that the application fees on the fiscal note were repeated in several rules.
RESPONSE AND EXPLANATION OF CHANGE: The costs for the application fees have been assigned to rule 11 CSR 45-4.380. Therefore, the revised private entity cost for this rule will be less than five hundred dollars ($500) in the aggregate.

11 CSR 45-4.240 Supplier's License and Annual Fees

(1) The one (1)-time nonrefundable application fee for a supplier's license shall be ten thousand dollars ($10,000), or a greater amount as determined by the commission. The applicant or licensee shall be assessed fees, if any, to cover the additional costs of the investigation. The executive director may waive or modify licensing fees.

REVISED PRIVATE COST: This amendment will not cost private entities more than five hundred dollars ($500) in the aggregate, versus the six hundred eighty-three thousand dollars ($683,000) submitted in the original proposal.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.250 Supplier's License Renewal **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 58). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.260 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 58–60). 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 Missouri Gaming Commission received no written comments on this rule; however, changes were made to the text of the rule based on staff review.

COMMENT #1: The commission staff requested that section (1) be reworded to clarify the positions which require licensure.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has changed section (1).

COMMENT #2: The commission staff noted that the new language in 11 CSR 45-4.240 section (4) would be more appropriately a part of rule 11 CSR 45-4.260.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has added this same language to section (6).

COMMENT #3: The staff requested that the ability of the executive director to waive fees be added to this rule to be consistent with that ability as added to other rules in this chapter.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has added the waiver in section (6).

11 CSR 45-4.260 Occupational Licenses for Class A, Class B, Suppliers and Affiliate Suppliers

(1) Every person in a position classified as Occupational License Level I or Occupational License Level II or otherwise participating in gaming operations in any capacity shall, prior to performing or practicing his/her business profession or skills, be a current employee of the Class A, Class B, supplier, or affiliate supplier licensee, and have obtained the appropriate occupational license from the commission, except for public officers and public employees engaged in the performance of their official duties and other individuals exempted by the commission. The commission may authorize the director to license or make the initial determination of unsuitability on the application of any Level II occupational license applicant; provided, however, that this section shall not limit any other authorization of the director. The authorization provided hereunder shall not include the authority to review findings of a hearing officer under the provisions of 11 CSR 45-13.

(6) The key person/key person business entity employed by suppliers will be required to be licensed by the Missouri Gaming Commission. The supplier key person/key person business entity application shall require a one (1)-time nonrefundable fee of one thousand dollars ($1,000) plus the annual licensing fee of one hundred dollars ($100). The applicant or licensee shall be assessed fees, if any, to cover the additional costs of the investigation. The licensing and renewal fees for Level I and Level II occupational licenses shall be the same as set forth for Class A and Class B occupational licensees. Additionally, the executive director may waive or modify licensing fees.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.380 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 61–64). 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 Missouri Gaming Commission received written comments and comments from the commission staff during review.

COMMENT #1: Staff requested that the license fees be listed in this rule to be consistent with the Purpose statement.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees, and sections (1) and (2) have been reorganized.

COMMENT #2: Staff requested that the word "level" be capped in section (3).
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and the change has been made.

COMMENT #3: The commission staff requested that the phrase "to cover additional cost" be changed to "to cover the additional costs."
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has made the change.

COMMENT #4: The commission staff requested that the language in 11 CSR 45-4.200 which allows the executive director to exempt or waive fees be added to this rule.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has made the change.

COMMENT #5: In the staff review it was noticed that some of the application fees and cost to suppliers were repeated in several rules.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and the fees and costs have been assigned to this rule. A revised private fiscal note is included.

COMMENT #6: Gayle Bauer, Regulatory Compliance Manager, International Game Technology (IGT), submitted a written comment. "In the 'Purpose' section of the published proposed amendment, it states that the rule establishes license fees for occupational and key person/key person business entity licensees of Class A and Class B Licensees, however in the text of the proposed amendment it does not reference Class A and Class B in sections (1) and (2). IGT suggests clarifying language that section (1) and (2) specifically refer to Class A and Class B licensees."
RESPONSE AND EXPLANATION OF CHANGE: Distinctions have been made between the Class A and B key persons and the supplier key persons.

11 CSR 45-4.380 Occupational and Key Person/Key Person Business Entity License Application and Annual Fees

(1) The one (1)-time nonrefundable application filing fee shall be—

(A) Key person/key person business entity—	
1. Class A and B	$15,000
2. Suppliers	$ 1,000
(B) Level I	$ 1,000
(C) Level II	$ 75.

(2) The annual licensing fee shall be—

(A) Key person/key person business entity—	
1. Class A and B	$ 250
2. Suppliers	$ 100
(B) Level I	$ 100
(C) Level II	$ 50.

(3) A key person/key person business entity or Level I licensee may renew their license only once following each termination of their association with a Class A, Class B or supplier licensee.

(4) The applicant or licensee shall be assessed fees, if any, to cover the additional costs of the investigation.

(9) The executive director may waive or modify licensing fees. Exemption shall not be applicable for testing laboratories.

REVISED PRIVATE COST: This rule will cost private entities approximately forty-eight thousand dollars ($48,000) in the first fiscal year and eleven thousand four hundred dollars ($11,400) annually. A revised private fiscal note is printed with this order of rulemaking.

FISCAL NOTE
PRIVATE COST

I. Department Title: 11--DEPARTMENT OF PUBLIC SAFETY
Division Title: 45--Missouri Gaming Commission
Chapter Title: 4--Licenses

Rule Number and Title:	**11 CSR 45-4.380 Occupational and KeyPerson/Key Person Business Entity License Application and Annual Fees**
Type of Rulemaking:	Regulatory, Order of Rulemaking

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
1(A)(2) There are 4 new suppliers and 2 testing labs	Each may have 4 "keys" for a total of 24 key persons/key business entity	GRAND TOTAL: $24,000.00 New costs.
(1)(B) There will be 6 new suppliers each having 4 Level I's	There will be 6 new suppliers each having 4 Level I's for a total of 24 new Level I's	GRAND TOTAL: $24,000.00 New costs
2(A)(2) Annual Renewal for Manufacturers and Testing Labs now considered Suppliers	Annual renewal of 24 "Keys" at $100 annual renewal fee.	GRAND TOTAL: $2400.00 annually.
2(B) Current Level I Licensees Annual Renewal Fee	24 Level I's attributable to 4 Manufacturers and 2 Testing Labs	GRAND TOTAL: $9,000.00

III. WORKSHEET

IV. ASSUMPTIONS

(1)(A)(2)
KEY PERSON/KEY PERSON BUSINESS ENTITY COSTS
4+2 = 6 x 4 "Key's" each = 24 @ $1,000 = $24,000

(1)(B)
Level I License
4+2 = 6 Level I's X 4 each = 24 @ $1,000 = $24,000

(2)(A)(2)
Key Person/Key Business Entity Renewal Costs
4+2 = 6 X 4 each = 24 @ $100 - $2,400

(2) (B)
Level I License
Annual Renewal: 4+2 = 6 X 4 each = 24 @ $100 - $2,400
132 Level I's X $50 increase = 6,600
TOTAL $9,000

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.390 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 65). The sections with changes and the rule title change are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Gaming Commission received no written comments on this rule; however, changes were made to the text of the rule based on staff review.

COMMENT #1: The commission staff requested that "key person" be included in the rule title and section (1), and that "occupational" be deleted to be consistent with other rules in the chapter.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has made the changes.

11 CSR 45-4.390 Occupational and Key Person License Renewal

(1) At least sixty (60) days for key person and Level I licensees and fifteen (15) days for Level II licensees before the first day of the month of expiration, each licensee shall file for renewal on forms provided by the commission or authorize a Class A or Class B licensee to submit an application for renewal on his/her behalf in accordance with 11 CSR 45-10.110. Alternatively, each licensee may file for renewal as provided in 11 CSR 45-10.110(2).

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.400 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 65). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Gaming Commission received no written comments on this rule; however, changes were made to the text of the rule based on staff review.

COMMENT #1: The commission staff requested that the phrase in section (2) and subsection (2)(K) which reads "Level One (1)" be changed to "Level I."
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has made the changes.

11 CSR 45-4.400 Occupational Licensure Levels

(2) Occupational License Level I includes the following positions or their equivalent:

(K) Any other person or entity who engages in an occupation associated in activities regulated under the riverboat gaming act or a riverboat gaming operation and is directed by the commission or its director to file a Level I application.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.410 Identification Badge Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 65–66). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.420 Occupational License **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 66). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-10.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2,

2008 (33 MoReg 66–67). No changes have been made to the text of the proposed amendment; however, the rule title was changed and is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Gaming Commission received no written comments on this rule; however one (1) change was made to the rule title based on staff review.

COMMENT #1: Staff noted that the word "Licensee" in the rule title should be possessive.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and has made the change.

11 CSR 45-10.020 Licensee's and Applicant's Duty to Disclose Changes in Information

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-10.030 Licensee's Duty to Report and Prevent Misconduct **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 67). No changes have been made to 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: A written comment was received from the Missouri Gaming Association.

COMMENT #1: Michael G. Winter, Executive Director, Missouri Gaming Association, questioned the term "working knowledge." He requested that the commission give some guidance on how a casino operator can evaluate when its employees have obtained that level of knowledge, and requested a definitional change or guidance from the commission. He also noted that the regulation appears to be in conflict with the existing Minimum Internal Control Standards (MICS), specifically Section A paragraph 1.10 as it relates to employees being "adequately trained" in these areas—this is a different standard than "working knowledge."
RESPONSE: The commission disagrees that there is any inconsistency, the proposed regulation term "working knowledge" refers to the standard that must be met. The term "adequately trained" in the MICS refers to procedures by which the licensee may meet the standard.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-10.040 Prohibition and Reporting of Certain Transactions **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 67–68). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission withdraws a rule as follows:

11 CSR 45-10.051 Relocation of Gaming Boats **is withdrawn**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 2, 2008 (33 MoReg 68). This proposed rule is withdrawn.

SUMMARY OF COMMENTS: The Missouri Gaming Commission received written comments, comments at the hearing, comments from the commission staff during review, and additional comments at the JCAR hearing.

COMMENT #1: The commission staff requested that sections 313.807.1 and 313.812.1 RSMo be added to the Authority section.

COMMENT #2: Mr. Jerry Riffel, of Lathrop & Gage filed written comments on behalf of Pinnacle Entertainment, Inc. Mr. Jerry Riffel is concerned that the proposed rule barring relocation of a gaming boat—a) exceeds the statutory authority of the commission; and b) ignores the docking preferences of the home city or county. Mr. Jerry Riffel states that the regulation would prohibit the relocation of a gambling boat, upon penalty of losing one's license. It would do so without regard to the position of the home dock city, which might have strong and legitimate reasons to either support or oppose a Class A licensee's proposed relocation. Moreover the proposal would essentially eliminate the availability of gaming licenses for a casino without a fixed location.

Mr. Jerry Riffel noted the extensive consideration the commission gives to the home dock city or county with regard to support of opposition when the commission reviews applications. Mr. Jerry Riffel stated that the amendment is in conflict with current laws allowing an excursion gambling boat to dock at multiple locations and that licensees must obtain a special "continuous docking" exception to avoid this mandate.

Additionally, Mr. Jerry Riffel stated that it appears to be in conflict with the approach adopted by the Missouri legislature in sections 313.805(16) and 313.807.5, RSMo. Mr. Jerry Riffel requests that the commission withdraw the proposed rule.

COMMENT #3: Mr. Jerry Riffel, of Lathrop & Gage commented at the hearing about the relocation of the President Casino and requested that the commission consider keeping the current situation where the flexibility would be there to consider that relocation within the home dock city to a new location to preserve those two (2) licenses, to make sure that the economic development proceeds in an orderly way consistent with the statute.

COMMENT #4: Rodney Crim, Executive Director for the St. Louis Development Corporation for the City of St. Louis, representing Mayor Francis G. Slay and the City of St. Louis commented at the hearing.

The City of St. Louis would like to urge the commission to refrain from adopting this proposed rule in order to maintain maximum flexibility for the commission in determining whether or not and under what circumstances the commission approves the licensing of a relocated gaming facility. The city's Gaming Development Plan dated February 2004 outlines the city's desire to maintain the existing gaming license related to the President/Admiral facility, in addition to the new license granted for the comprehensive development completed by Pinnacle Entertainment, Inc. The commission has maintained a long-standing policy of considering the preferences of the home dock city or county as to relocations of existing gaming facilities.

COMMENT # 5: A JCAR hearing was held on March 12, 2008. At the hearing there were comments that the two (2)-mile limitation on movement of the boats may be considered arbitrary.
RESPONSE: The commission has agreed to withdraw this rule.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-10.055 Certain Transactions Involving Slot Machines **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 68). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-10.060 Distributions **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 68–69). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-10.080 Fair Market Value of Contracts **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 69). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-10.090 Owner's and Supplier's Duty to Investigate Job Applicants **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 69). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-10.110 Licensee's Duty to Report Occupational Personnel **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 69–70). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-10.115 List of Barred Persons **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 70). No changes have been made to 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 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 10—Licensee's Responsibilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-10.150 Child Care Facilities—License Required **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2008 (33 MoReg 70–71). No changes have been made to 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 20—Division of Community and Public Health
Chapter 20—Communicable Diseases

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Health and Senior Services under sections 192.006, 210.040, and 210.050, RSMo 2000 and section 192.020, RSMo Supp. 2007, the department amends a rule as follows:

19 CSR 20-20.020 Reporting Communicable, Environmental and Occupational Diseases **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 17, 2007 (32 MoReg 2501–2503). 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: Jeannette Jackson-Thompson, MSPH, PhD, Operations Director, Missouri Cancer Registry Research Associate, suggested that cancer be added to the list of reportable diseases and conditions.
RESPONSE: Cancer cases are currently reported to the department pursuant to sections 192.650 through 192.657, RSMo and 19 CSR 70-21.010 and not 19 CSR 20-20.020, therefore it cannot be added to this rule revision. No changes have been made to the rule as a result of this comment.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 20—Division of Community and Public Health
Chapter 20—Communicable Diseases

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Health and Senior Services under section 192.006, RSMo 2000 and sections 192.020 and 192.131, RSMo Supp. 2007, the director amends a rule as follows:

19 CSR 20-20.080 Duties of Laboratories **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 17, 2007 (32 MoReg 2503–2504). 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 40—Division of Maternal, Child and Family Health
Chapter 10—Forensic Exams for Sexual Assault

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under section 191.225, RSMo Supp. 2007, the department adopts a rule as follows:

19 CSR 40-10.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 3, 2007 (32 MoReg 2375–2381). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

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

COMMENT #1: It is recommended that a clarification sentence be added to section (4) to identify that forensic exams performed in Missouri by an appropriate medical provider shall be reimbursed.
RESPONSE: This rule contains direction that appropriate medical providers shall (not may) bill the Department of Health and Senior Services for sexual assault forensic examinations as worded in the statute. No changes have been made to the rule as a result of this comment.

COMMENT #2: It is recommended that the first bullet point on the explanation page be revised to say that the statute permits rather than requires appropriate medical providers to bill the Department of Health and Senior Services (DHSS) for the forensic examination of sexual assault victims to collect evidence.
RESPONSE: Charges for the sexual assault forensic exams shall be billed to and paid by DHSS as stated in the statute, so no changes have been made to the rule as a result of this comment.

COMMENT #3: It is recommended that a clarification sentence be added to the authorization section of the report form to state that a minor may consent to a sexual assault forensic exam.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and the authorization section of the Sexual Assault Forensic Examination Program Report form will be amended.

COMMENT #4: The medical or nursing license number is not needed for processing the claims, and should be removed from the Sexual Assault Forensic Examination Program Report.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees and will amend the Sexual Assault Forensic Examination Report to no longer include the medical or nursing license number.

19 CSR 40-10.010 Forensic Examinations for Sexual Assaults

MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
SEXUAL ASSAULT FORENSIC EXAMINATION (SAFE) PROGRAM

- Missouri State Statute 191.225 RSMo requires appropriate medical providers to bill the Department of Health and Senior Services (DHSS) for the forensic examination of sexual assault victims to collect evidence.

- Sexual Assault Forensic Examination Forms for Adult Male, Adult Female and Children will be posted by October 1 to the DHSS website at http://www.dhss.mo.gov/ApplicationsAndForms/index.html. These forms were designed by forensic exam experts to provide guidance for a standardized, quality forensic exam. Use of these exam forms is not mandatory and completed forms should **not** be submitted to DHSS for billing purposes. These forms were approved by the Attorney General's office.

- The Sexual Assault Forensic Examination Program Report is a one-page document that has been created to combine the consent for the exam, the release of information and the notification to the prosecuting attorney as well as the billing for a forensic exam. The medical provider shall send the Sexual Assault Forensic Examination Program Report within three business days of the completion of the forensic examination to the County Prosecuting Attorney's Office in the county where the alleged incident occurred. The form will be available October 1 on the DHSS website at http://www.dhss.mo.gov/ApplicationsAndForms/index.html. The Missouri Prosecuting Attorney's website www.ago.mo.gov/countyprosecutors.htm lists prosecutors' contact information by county.

- The Sexual Assault Forensic Exam Checklist was developed by forensic examination experts to provide guidelines for a standardized, quality forensic exam. The checklist is also a guide to determine the level of care provided to sexual assault victims. Check all items as they apply to the level of care provided during the sexual assault forensic examination.

- The Sexual Assault Forensic Examination Program Report as well as the Sexual Assault Forensic Exam Checklist (check all of the appropriate boxes for services provided) should be completed and mailed with an itemized bill to:
  Missouri Department of Health and Senior Services
  Bureau of Genetics and Healthy Childhood
  Sexual Assault Forensic Examination Program
  930 Wildwood Drive
  P.O. Box 570
  Jefferson City, MO 65102-0570
  Note: please include the provider's remit to address on the form.
  Effective January 1, 2008, all claims must be submitted for payment within 120 days of the date of the exam.

- The DHSS shall make payments to appropriate medical providers to cover the charges of the forensic examination of persons who may be victims of a sexual offense.
  The victim is not to be billed for any sexual assault forensic examination charges.
  All other medical charges should be billed to the appropriate billing agency.

- There are two other victim assistance organizations that may be useful to your patient/client:

  Missouri Coalition Against Domestic and Sexual Violence (MCADSV) can refer clients to the nearest sexual assault service provider for additional support.
  Phone: (573) 634-4161
  Website: www.mocadsv.org

  Missouri Crime Victims' Compensation may reimburse persons who have suffered injuries and financial loss due to certain crimes of violence.
  Phone: (573) 526-6006
  Website: http://www.dps.mo.gov/CVC

- If you need additional information about the Sexual Assault Forensic Examination (SAFE) Program, please contact the Department of Health and Senior Services at (573) 751-6210.

MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
SEXUAL ASSAULT FORENSIC EXAMINATION PROGRAM REPORT

EXAMINATION AND INCIDENT INFORMATION			
DATE OF EXAMINATION	TIME ☐ a.m. ☐ p.m.	COUNTY WHERE INCIDENT OCCURRED	DATE OF INCIDENT
EVALUATION FOR SUSPECTED ABUSE ☐ Sexual ☐ Physical ☐ Emotional ☐ Neglect ☐ Other:			ALLEGED ABUSER

AGENCY PERSON REFERRING VICTIM FOR EXAM (CHECK ALL THAT APPLY)			
☐ Victim ☐ Parent or Guardian ☐ Children's Division ☐ Law Enforcement ☐ Health Care ☐ Other _____		REFERRING AGENCY OR PERSON NAME	PHONE NUMBER
		ADDRESS	

VICTIM INFORMATION		
VICTIM NAME	DATE OF BIRTH	SEX ☐ Female ☐ Male
RACE ☐ American Indian/Alaska Native ☐ Asian ☐ Black/African American ☐ Native Hawaiian or Pacific Islander ☐ White		HISPANIC ETHNICITY ☐ Yes ☐ No

AUTHORIZATION FOR EXAMINATION REQUESTED BY VICTIM/PARENT/GUARDIAN

A minor may consent to a sexual assault forensic examination. Parental consent for a sexual assault forensic exam is not required in cases of known or suspected child abuse. I hereby request a forensic examination for evaluation of sexual assault. I understand the collection of evidence may include photographing injuries and that photographs may include the genital area. I understand that a copy of this form will be sent to the Prosecuting Attorney in the county where the alleged sexual assault occurred. I further understand that hospitals and physicians are required by law to notify the Children's Division of known or suspected child abuse. If child abuse is found or suspected, this form and any evidence will be released to the Children's Division, the Juvenile Justice Office, Law Enforcement and/or the Prosecuting Attorney. This form will be submitted to the Department of Health and Senior Services for billing purposes.

SIGNATURE OF (CHECK ONE) ☐ Victim ☐ Parent ☐ Guardian	SIGNATURE

AUTHORIZATION FOR FORENSIC EXAMINATION REQUESTING AGENCY

I request a forensic examination and collection of evidence for suspected sexual abuse.

AGENCY	SIGNATURE	DATE

EXAMINING PROVIDER: I verify that a sexual assault forensic examination has been completed for this victim and a copy of this form has been submitted within three business days to the prosecuting attorney in the county where the alleged offense occurred.

FACILITY NAME	FACILITY ADDRESS	
MEDICAL PROVIDER NAME AND TITLE	COUNTY OF FACILITY	PHONE NUMBER
SIGNATURE OF MEDICAL PROVIDER	SIGNATURE OF CO-EXAMINER (IF APPLICABLE)	

FOR CHILDREN'S DIVISION USE ONLY

Incident Number:	Report Date:	Conclusion:

BILLING INSTRUCTIONS

Effective August 28, 2007, the Department of Health and Senior Services (DHSS) is the first payer for all sexual assault forensic examination charges (RSMo 191.225). **Medical providers shall not bill victims for the sexual assault forensic examination.** The DHSS will only pay for the forensic exam, not the medical treatment, for sexual assault victims. All other medical charges should be billed to the appropriate billing agency. Effective January 1, 2008, all claims must be submitted for payment within 120 days of the date of the exam.
For payments, submit an itemized invoice (including CPT codes if available), the completed checklist and this form to:

Missouri Department of Health and Senior Services
Bureau of Genetics and Healthy Childhood
Sexual Assault Forensic Examination Program
PO Box 570
Jefferson City, MO 65102-0570

NAME AND TITLE OF PERSON COMPLETING THE BILLING INFORMATION	PHONE
REMIT TO ADDRESS:	

Missouri Department of Health and Senior Services (DHSS) Sexual Assault Forensic Exam Checklist

Check all items as provided during the sexual assault forensic exam.

- ☐ Utilized appropriate evidence collection kit (Kansas City, St. Louis or Highway Patrol Lab)
- ☐ Completed screening exam for Emergency Medical Condition
- ☐ Activated bedside advocacy
- ☐ Activated interpreter
- ☐ Interventions for disabilities
- ☐ Obtained history of assault (including narrative)
- ☐ Obtained history of drug facilitated sexual assault (if indicated)
- ☐ Obtained consent for evaluation and treatment
- ☐ Obtained consent for evidentiary SAFE exam
- ☐ Obtained consent for photography
- ☐ Obtained consent for drug screening (if drug facilitated assault indicated)
- ☐ Obtained consent for release of information to all appropriate agencies
- ☐ Obtained consent for law enforcement activation (per patient request)
- ☐ Collected urine for drug facilitated sexual assault
- ☐ Collected underwear worn during or immediately after the assault
- ☐ Collected clothing, as forensically indicated, in brown paper bags, sealed and labeled
- ☐ Obtained swabs & smears from all areas that victim states were bitten or licked
- ☐ Obtained swabs & smears from appropriate areas as identified using an alternative light source
- ☐ Collected blood standard (if forensically indicated)
- ☐ Utilized crime scene investigators for bite mark impressions (if forensically indicated)
- ☐ Collected oral swab for DNA Standard. (if forensically indicated)
- ☐ Collected oral swabs & smear (if orally assaulted)
- ☐ Collected anal swabs & smear (if forensically indicated)
- ☐ Collected vaginal swabs & smear (if forensically indicated)
- ☐ Collected cervical swabs & smear (if forensically indicated)
- ☐ Collected penile swabs & smear (if forensically indicated)
- ☐ Collected head hair standard (if forensically indicated)
- ☐ Collected pubic hair standard (if forensically indicated)
- ☐ Completed toluidine dye exam (if forensically indicated)
- ☐ Completed X-rays (if indicated)
- ☐ Completed CTs (if indicated)
- ☐ Collected unknown sample(s) (if forensically indicated)
  Describe:
  _____
- ☐ Collected fingernail scrapings (if forensically indicated)
- ☐ Photography: (with colposcope or digital)
  - ☐ Genital photography by forensic examiner
  - ☐ Non-genital photography by forensic examiner
    - ☐ Less than 10 photos
    - ☐ More than 10 photos
- ☐ Forensic evidence storage/log (as indicated)
- ☐ Completion of DHSS Adult Female Sexual Assault Exam Form, Adult Male Sexual Assault Exam Form, or Child Sexual Assault Exam Form
- ☐ Confidential forensic patient file separate from general hospital medical records
- ☐ Forensic exam conducted by forensically trained physician or healthcare provider such as a Sexual Assault Nurse Examiner (SANE)

- Federal Violence Against Women Act prohibits mandatory reporting to law enforcement to obtain services.

Resources:
U.S. Department of Justice, National Protocol for Sexual Assault Medical Forensic Examinations (9/04)

Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient, American College of Emergency Physicians (6/99)

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 5—General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 334.125, RSMo 2000 and section 338.010, RSMo Supp. 2007, the board adopts a rule as follows:

20 CSR 2150-5.025 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 3, 2007 (32 MoReg 2399–2400). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Eighteen (18) comments were received on the proposed rule. This rule was jointly promulgated with the State Board of Pharmacy. Both boards reviewed the comments submitted.

COMMENT #1: Upon the boards' review it was suggested that "the Centers for Disease Control," be removed from the proposed language since the CDC does not accredit training programs and clarification of the word "board" was needed.
RESPONSE AND EXPLANATION OF CHANGE: Based on the boards' review the suggested changes to subsection (4)(C) were made.

COMMENT #2: Michelle Cope with the National Association of Chain Drug Stores noted that the fifty (50)-mile geographic restriction would unnecessarily limit access to pharmacist-provided vaccines and proposed that it be removed from the proposed rule.
RESPONSE AND EXPLANATION OF CHANGE: The proposed language was based on existing nurse practitioner/physician assistant regulation language. The boards decided to revise subsection (6)(A) to read more exactly.

COMMENT #3: Michelle Cope with the National Association of Chain Drug Stores noted that the proposed rule restricted the act of administering influenza vaccines to pharmacists. Considering that students receive the same training as pharmacists, this restriction would unnecessarily preclude interns from being able to perform this aspect of pharmacy practice. Intern pharmacists who have met the proper training requirements should be allowed to administer the influenza vaccine to patients under the direct supervision of a pharmacist.
RESPONSE AND EXPLANATION OF CHANGE: The boards decided to amend section (2) to include pharmacist interns who have met the proper training requirements and that are directly supervised by a licensed pharmacist.

COMMENT #4: Michelle Cope with the National Association of Chain Drug Stores noted that the proposed rule requires specifically, that the written protocol specify "the identity of the authorized routes and sites of administration." When completing training to administer vaccinations, a pharmacist would be taught appropriate routes and sites of administration on the human body. As such, there is no reason why this information should be included in the written protocol. Additionally, the proposed rule requires that the protocol specify "the identity of the location at which the pharmacist may administer the authorized viral influenza vaccination." This mandate is overly restrictive and precludes a pharmacist from adding additional locations to administer vaccinations. This could be problematic if, for example, a pharmacist is called upon to provide flu shots at a specific employer site that was not explicitly listed on the written protocol.
RESPONSE AND EXPLANATION OF CHANGE: The boards determined to change paragraph (6)(A)10. to require the "street address of the pharmacy" be included in the written protocol in place of the "identity of the location" at which the pharmacist may administer the authorized viral influenza vaccination. The boards also determined to add "anatomic" anywhere in the rule where "sites of administration" is mentioned. This change is being made in paragraphs (6)(A)5., (7)(A)2. and (8)(A)4.

COMMENT #5: Michelle Cope with the National Association of Chain Drug Stores commented that it is not necessary to include patients' primary health care providers' addresses in the vaccination records because this information is otherwise retrievable from a pharmacy's computer system.
RESPONSE: The boards determined that it was not overly burdensome to require the physician's address and determined to make no change based on this comment.

COMMENT #6: Michelle Cope with the National Association of Chain Drug Stores commented that requiring a pharmacist to notify the authorizing physician, and if different, the patient's primary health care provider, within seventy-two (72) hours of administering the viral influenza vaccination to a patient was unnecessary.
RESPONSE: The boards determined that it was not overly burdensome to require notification to the physician and determined to make no change based on this comment.

COMMENT #7: Michelle Cope with the National Association of Chain Drug Stores noted that occasionally, the Centers for Disease Control and Prevention guidelines for vaccine administration conflict with manufacturer's guidelines. For this reason, it is necessary to clarify that a pharmacist should administer a vaccination in accordance with one (1) or the other of the guidelines so that pharmacists are not forced to violate a board rule in choosing one (1) guideline over another.
RESPONSE AND EXPLANATION OF CHANGE: The boards determined to change the regulation as suggested in this comment by changing "and" to "or" in subsection (5)(A).

COMMENT #8: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that in the past it has been difficult to find a physician to sign a protocol in Missouri. Although, several have been willing, but want no part in the administrative duties or record keeping.
RESPONSE: The boards determined to make no change to the regulation based on this comment.

COMMENT #9: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that the requirements for protocol are too intensive. A good guide to other protocols is recommended on www.immunize.org. The proposed requirements inhibit us from easily adding on a location to vaccinate (if an employer calls), puts administrative burden on the physician, and is unduly detailed.
RESPONSE: The boards determined that everything required in a protocol is necessary and to make no change to the regulation based on this comment.

COMMENT #10: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that there are acceptable locations on the body to administer the influenza vaccine that a trained pharmacist is fully aware of, and listing it in an administration agreement is unnecessary.
RESPONSE AND EXPLANATION OF CHANGE: The boards

determined to add "anatomic" anywhere in the rule where "sites of administration" is mentioned. This change is being made in paragraphs (6)(A)5., (7)(A)2. and (8)(A)4.

COMMENT #11: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that the guidelines place an undue administrative burden on the physician to keep copies of two (2) hours of continuing education for each pharmacist and receive copies of the vaccines administered within seventy-two (72) hours of administration.
RESPONSE: The boards determined to make no change to the regulation based on this comment.

COMMENT #12: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that the provisions require documentation of the patient's physician as well as the address. The address of the physician seems unnecessary to document it on every piece of paper, as it is retrievable from the system.
RESPONSE: The boards determined to make no change to the regulation based on this comment.

COMMENT #13: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that by requiring a physician to enter into a protocol only if they are within fifty (50) miles of the pharmacist will make this provision especially difficult for chain pharmacies to successfully manage the program from a central location. This will mean chains will have to get multiple physicians, each with different contracts and documentation requirements, and require a large amount of administrative burden to manage. Also, while the provision allows us to list the locations where we vaccinate, it is unspecific.
RESPONSE AND EXPLANATION OF CHANGE: The proposed language was based on existing nurse practitioner/physician assistant regulation language. The boards decided to revise subsection (6)(A) to read more exactly.

COMMENT #14: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented and noted that the question, "if we agree to administer at the pharmacy, at Employer X and Church Y, do Employer X and Church Y have to be within fifty (50) miles of the physician, or just the pharmacy?" would come up if not made more specific.
RESPONSE AND EXPLANATION OF CHANGE: The proposed language was based on existing nurse practitioner/physician assistant regulation language. The boards decided to revise subsection (6)(A) to read more exactly.

COMMENT #15: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that paragraph (6)(A)4. states that the protocol must state the "identity of the patient or group of patients to receive…" This will be difficult to state and limits us. This may also leave pharmacies, pharmacists and physicians wondering if they are limited to established patients at the pharmacy and if people who are unknown to the pharmacy and the physician, but still need the influenza vaccine, will be able to receive it.
RESPONSE: The boards determined to make no change to the regulation based on this comment.

COMMENT #16: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that the provision does not allow a trained student to vaccinate under direct supervision of a trained pharmacist. Students receive the same training as the pharmacists and are underutilized. They can vaccinate in other states.
RESPONSE AND EXPLANATION OF CHANGE: The boards decided to amend section (2) to include pharmacist interns who have met the proper training requirements and that are directly supervised by a licensed pharmacist.

COMMENT #17: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that manufacturer guidelines do not always match the ACIP guidelines, example, Gardasil is approved to nine (9) years, but the ACIP recommends eleven (11) years.
RESPONSE: The boards determined this comment does not involve this regulation; additional regulations are being written to address other vaccinations, therefore, no change is being made to this regulation based on this comment.

COMMENT #18: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that when other health care professionals, like nurses, administer the influenza vaccine, they do not ask or notify the patient's physician, therefore why should the pharmacists?
RESPONSE: The Board of Pharmacy and Board of Healing Arts do not have jurisdiction over nurses. The boards determined to make no change to the regulation based on this comment.

20 CSR 2150-5.025 Administration of Influenza Vaccines Per Protocol

(2) A pharmacist may not delegate the administration of viral influenza vaccinations to another person, except to a pharmacist intern who has met qualifications under subsections (4)(B), (C), and (D) and is working under the direct supervision of a pharmacist qualified to administer viral influenza vaccinations.

(4) Pharmacist Qualifications—A pharmacist who is administering viral influenza vaccinations must:
(C) Successfully complete a certificate program in the administration of viral influenza vaccinations accredited by the Accreditation Council for Pharmacy Education (ACPE) or a similar health authority or professional body approved by the State Board of Pharmacy;

(5) General Requirements.
(A) A pharmacist shall administer viral influenza vaccinations in accordance with treatment guidelines established by the Centers for Disease Control and Prevention (CDC) or in accordance with manufacturer's guidelines.

(6) Administration by Written Protocol with a Missouri Licensed Physician.
(A) A pharmacist may enter into a written protocol with a physician for the administration of viral influenza vaccinations to patients twelve (12) years of age or older. The physician must be no further than fifty (50) miles by road, using the most direct route available, from the pharmacist who is administering the viral influenza vaccinations. The written protocol may be valid for a time period not to exceed one (1) year. The protocol must include the following:
1. The identity of the participating pharmacist and physician, including signatures;
2. Time period of the protocol;
3. The identification of the viral influenza vaccination which may be administered;
4. The identity of the patient or groups of patients to receive the authorized viral influenza vaccination;
5. The identity of the authorized routes and anatomic sites of administration allowed;
6. A provision to create a prescription for each administration under the authorizing physician's name;
7. A provision establishing a course of action the pharmacist shall follow to address emergency situations including, but not limited to, adverse reactions, anaphylactic reactions, and accidental needle sticks;
8. A provision establishing a length of time the pharmacist shall observe an individual for adverse events following an injection;
9. A provision establishing the disposal of used and contaminated supplies;

10. The street address of the pharmacy at which the pharmacist may administer the authorized viral influenza vaccination;

11. Record keeping requirements and procedures for notification of administration; and

12. A provision that allows for termination of the protocol at the request of any party to it at any time.

(7) Record Keeping.

(A) A pharmacist who administers a viral influenza vaccination shall maintain the following records regarding each administration. These records must be separate from the prescription files of a pharmacy and include:

1. The name, address, and date of birth of the patient;

2. The date, route, and anatomic site of the administration;

3. The name, dose, manufacturer, lot number, and expiration date of the vaccination;

4. The name and address of the patient's primary health care provider, as identified by the patient;

5. The name or identifiable initials of the administering pharmacist; and

6. The nature of an adverse reaction and who was notified, if applicable.

(8) Notification Requirement.

(A) A pharmacist administering viral influenza vaccinations shall notify the authorizing physician within seventy-two (72) hours after administration of the following:

1. The identity of the patient;

2. The identity of the viral influenza vaccination administered;

3. The route of administration;

4. The anatomic site of the administration;

5. The dose administered; and

6. The date of administration.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 7—Licensing of Physician Assistants

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 334.735, RSMo Supp. 2007, the board amends a rule as follows:

20 CSR 2150-7.135 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 3, 2007 (32 MoReg 2400–2401). 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 State Board of Registration for the Healing Arts received fourteen (14) comments on the proposed amendment.

COMMENT #1: Susan Linan, PA-C requested that the phrase "or otherwise in the physician assistant supervision agreement" be added to 20 CSR 2150-7.135(4).
RESPONSE AND EXPLANATION OF CHANGE: 20 CSR 2150-7.135(4) will be changed to add "or otherwise in the physician assistant supervision agreement."

COMMENT #2: Darlene Heikkila, PA-C in reference to 20 CSR 2150-7.135(4), indicates that the proposal would require sixty-six percent (66%) on-site supervision each calendar month. This may pose difficulties with physician-PA teams when a PA covers for a physician for a period of time. It may better read that a PA cannot practice without on-site supervision for a period greater than two (2) weeks.
RESPONSE AND EXPLANATION OF CHANGE: 20 CSR 2150-7.135(4) has been amended.

COMMENT #3: Darlene Heikkila, PA-C in reference to 20 CSR 2150-7.135(11), part-time PAs may be unable to meet initial requirements for one hundred twenty (120) hours in the first thirty (30) days of on-site supervision with their physician. The rule could be amended to read "one hundred twenty (120) hours of initial supervision or one (1) month."
RESPONSE AND EXPLANATION OF CHANGE: 20 CSR 2150-7.135(11) has been changed to state "A one (1) month period shall consist of a minimum of one hundred (100) hours in a consecutive thirty (30)-day period."

COMMENT #4: Darlene Heikkila, PA-C in reference to 20 CSR 2150-7.135(4), many PAs work in group practices where they consider one (1) physician their main supervisor and every other physician as other supervisors. I proposed that the language of the bill reflect that the supervising physician or others in the practice be included. This would reflect the reality of daily clinic life. PAs, as most other clinical providers, consult with those who have expertise in a given area, though they may not be in a supervisory capacity.
RESPONSE AND EXPLANATION OF CHANGE: 20 CSR 2150-7.135(4) has been amended.

COMMENT #5: Board staff received telephone calls from two (2) supervising physicians asking if 20 CSR 2150-7.135(12) requires them to review the records of all the patients seen by the physician assistant or just a percentage of the records.
RESPONSE AND EXPLANATION OF CHANGE: 20 CSR 2150-7.135(12) has been amended to state "The supervising physician must review a minimum of ten percent (10%) of the physician assistant's patients' records every two (2) weeks and have documentation supporting the review."

COMMENT #6: Jorgen Schlemeier and Paul Winters, on behalf of the Missouri Association of Physician Assistants (MAPA), suggested that 20 CSR 2150-7.135(4) should be amended. MAPA indicates that due to variances in supervising physicians' and PAs' schedules, a physician-PA team may meet the sixty-six percent (66%) on-site requirement, but not when measured in one (1) particular calendar month.
RESPONSE AND EXPLANATION OF CHANGE: 20 CSR 2150-7.135(4) has been amended.

COMMENT #7: Jorgen Schleimeir and Paul Winters, on behalf of the Missouri Association of Physician Assistants (MAPA), in reference to 20 CSR 2150-7.135(11), MAPA indicates that one hundred twenty (120) hours of on-site supervision in thirty (30) days may be unattainable for a part-time PA who works fewer than one hundred twenty (120) hours all month.
RESPONSE AND EXPLANATION OF CHANGE: 20 CSR 2150-7.135(11) has been changed to state "A one (1) month period shall consist of a minimum of one hundred (100) hours in a consecutive thirty (30)-day period."

COMMENT #8: Jorgen Schleimeir and Paul Winters, on behalf of the Missouri Association of Physician Assistants (MAPA), in reference to 20 CSR 2150-7.135(4), MAPA suggests adding "or otherwise in the physician assistant supervision agreement."
RESPONSE AND EXPLANATION OF CHANGE: 20 CSR 2150-7.135(4) has been amended.

COMMENT #9: In reference to 20 CSR 2150-7.135(4), Ryan Pock, PA-C indicates that due to variances in his supervising physician's and his schedule, this sixty-six percent (66%) on-site requirement required each particular calendar month is difficult to maintain and to keep track of.
RESPONSE AND EXPLANATION OF CHANGE: 20 CSR 2150-7.135(4) has been amended.

COMMENT #10: In reference to 20 CSR 2150-7.135(11), Mr. Pock feels that as written, this may put unnecessary burdens on part-time PAs who have sometimes irregular schedules or on PAs who work part-time to extend clinic hours or fill-in shift for absent/ill providers.
RESPONSE AND EXPLANATION OF CHANGE: 20 CSR 2150-7.135(11) has been changed to state "A one (1)-month period shall consist of a minimum of one hundred (100) hours in a consecutive thirty (30)-day period."

COMMENT #11: In reference to 20 CSR 2150-7.135(4), Ryan Pock, PA-C feels that the words "or otherwise in the physician assistant supervision agreement" should be added.
RESPONSE AND EXPLANATION OF CHANGE: 20 CSR 2150-7.135(4) has been amended.

COMMENT #12: Greg Stafford, PA-C supports the proposed language.
RESPONSE: The board appreciates the comment, however, voted to make no change to the text of the rule based on the comment received.

COMMENT #13: Ardis McFarlane, PA-C indicates that she doesn't understand the philosophy behind all the restrictions on midlevel providers in this state compared to others. Particularly with a fairly high population density of poverty level inhabitants, it seems ludicrous to put limits on providers who are willing to live in rural areas and work for less money. Statistically, there are more problems with scheduled drug abuse in Missouri than in the states where midlevels prescribe the same. She stated that she believed some logic needs to be applied and less attention to lobbyists. The new rules appear to be a baby step in the right direction but are far from what she has seen in Tennessee and Minnesota where things are working well.
RESPONSE: The board appreciates the comment, however, voted to make no change to the text of the rule based on the comment received.

COMMENT #14: Leonardo Rauch, PA-C indicates that he has heard that there is the possibility that the duration of supervision may be set up for one (1)-year increments and with each expiring year, each PA will be required to reapply for some type of re-registration or application process. He does not feel this law was passed so that they would have to each year reapply for something that he feels was meant to have no expiration. PAs already have various licensure and certification obligations, CME deadlines, and busy practices to keep up with. He strongly believes the PA supervision law should not have any expiration nor should the Missouri PAs have to reapply or fulfill any new responsibilities to keep this privilege ongoing.
RESPONSE: The board appreciates the comment, however, voted to make no change to the text of the rule based on the comment received.

20 CSR 2150-7.135 Physician Assistant Supervision Agreements

(4) Unless the physician-physician assistant team has received a waiver pursuant to 20 CSR 2150-7.136, the supervising physician as designated pursuant to 20 CSR 2150-7.100(4) or otherwise in the physician assistant supervision agreement must be on-site sixty-six percent (66%) of the time that the physician assistant is practicing. This sixty-six percent (66%) on-site supervision must be provided each calendar month.

(11) It is the responsibility of the supervising physician to determine and document the completion of a one (1)-month period of time during which the licensed physician assistant shall practice with a supervising physician continuously present before practicing in a setting where a supervising physician is not continuously present. A one (1)-month period shall consist of a minimum of one hundred (100) hours in a consecutive thirty (30)-day period.

(12) It is the responsibility of the supervising physician and licensed physician assistant to jointly review and document the work, records, and practice activities of the licensed physician assistant at least once every two (2) weeks. The supervising physician must review a minimum of ten percent (10%) of the physician assistant's patients' records every two (2) weeks and have documentation supporting the review. For nursing home practice, such review shall occur at least once a month. The documentation of this review shall be available to the Board of Registration for the Healing Arts for review upon request.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 7—Licensing of Physician Assistants

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 334.125, RSMo 2000 and section 334.735, RSMo Supp. 2007, the board adopts a rule as follows:

20 CSR 2150-7.136 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 3, 2007 (32 MoReg 2401–2404). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The State Board of Registration for the Healing Arts received eight (8) comments on the proposed rule.

COMMENT #1: Darlene Heikkila, PA-C in reference to 20 CSR 2150-7.136(7), suggests limiting the time of initial waiver to one (1) year is unrealistic for many practice settings. Underserved areas and rural areas pose the greatest difficulty in keeping provider-patient relationships. Continuity of care must be considered as well as employment opportunities for the PA. When a physician-PA relationship is solid and productive, she recommends the waiver remain valid until the physician-PA team changes.
RESPONSE: The board appreciates the comments, however, voted to make no change to the text of the rule based on the comment received.

COMMENT #2: Terry Carlisle, PA-C is opposed to 20 CSR 2150-7.136(7) which states the waiver will remain in effect for one (1) year from the date of issuance. Mr. Carlisle feels that the initial waiver and renewal should be in effect for at least five (5) years.
RESPONSE: The board appreciates the comment, however, voted to make no change to the text of the rule based on the comment received.

COMMENT #3: Jorgen Schlemeier and Paul Winters, on behalf of the Missouri Association of Physician Assistants (MAPA), in reference to 20 CSR 2150-7.136(7); MAPA feels the board should extend the length of waivers and renewals.

RESPONSE: The board appreciates the comment, however, voted to make no change to the text of the rule based on the comment received.

COMMENT #4: In reference to 20 CSR 2150-7.136(7), Arturo Tenorio, M.D. indicates that it will be extremely difficult to convince a physician assistant to uproot their families, buy a house and relocate when they know they may be fired in one (1) year for something that is totally beyond their control. Dr. Tenorio also indicates that 20 CSR 2150-7.136(6) should allow for some type of exception for physician illness, CME and vacation time or the waiver of in-site supervision granted should be the minimum requested so the clinics will not be forced to close.
RESPONSE AND EXPLANATION OF CHANGE: In response to 20 CSR 2150-7.136(7), the board appreciates the comment, however, voted to make no change to the text of the rule based on the comment received. However, 20 CSR 2150-7.136(6) has been amended to state "The physician must be on-site a minimum of once every two (2) weeks and no less than ten percent (10%) of the time the physician assistant is practicing each calendar month…"

COMMENT #5: In reference to 20 CSR 2150-7.136(7), Ryan Pock, PA-C feels that limiting the initial waiver to only one (1) year, PAs, patients, and practices will not have certainty that a given practice arrangement will be permissible for more than twelve (12) months.
RESPONSE: The board appreciates the comment, however, voted to make no change to the text of the rule based on the comment received.

COMMENT #6: Greg Stafford, PA-C supports the proposed language.
RESPONSE: The board appreciates the comment, however, voted to make no change to the text of the rule based on the comment received.

COMMENT #7: Ardis McFarlane, PA-C indicates that she doesn't understand the philosophy behind all the restrictions on midlevel providers in this state compared to others. Particularly with a fairly high population density of poverty level inhabitants, it seems ludicrous to put limits on providers who are willing to live in rural areas and work for less money. Statistically, there are more problems with scheduled drug abuse in Missouri than in the states where midlevels prescribe the same. She stated that she believed some logic needs to be applied and less attention to lobbyists. The new rules appear to be a baby step in the right direction but are far from what she has seen in Tennessee and Minnesota where things are working well.
RESPONSE: The board appreciates the comment, however, voted to make no change to the text of the rule based on the comment received.

COMMENT #8: Leonardo Rauch, PA-C indicates that he has heard that there is the possibility that the duration of supervision may be set up for one (1)-year increments and with each expiring year, each PA will be required to reapply for some type of re-registration or application process. He does not feel this law was passed so that they would have to each year reapply for something that he feels was meant to have no expiration. PAs already have various licensure and certification obligations, CME deadlines, and busy practices to keep up with. He strongly believes the PA supervision law should not have any expiration nor should the Missouri PAs have to reapply or fulfill any new responsibilities to keep this privilege ongoing.
RESPONSE: The board appreciates the comment, however, voted to make no change to the text of the rule based on the comment received.

20 CSR 2150-7.136 Request for Waiver

(6) If the advisory commission and the board approve a waiver, the advisory commission and board may establish an alternate minimum amount of time the supervising physician must be on-site while the physician assistant practices. The physician must be on-site a minimum of once every two (2) weeks and no less than ten percent (10%) of the time the physician assistant is practicing each calendar month. The advisory commission and board may also establish an alternate maximum distance between the supervising physician and physician assistant. The alternate maximum distance may not exceed fifty (50) miles.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 7—Licensing of Physician Assistants

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 334.125, RSMo 2000 and section 334.735, RSMo Supp. 2007, the board adopts a rule as follows:

20 CSR 2150-7.137 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 3, 2007 (32 MoReg 2405–2407). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The State Board of Registration for the Healing Arts received five (5) comments on the proposed rule.

COMMENT #1: Terry Carlisle, PA-C is opposed to 20 CSR 2150-7.137(8) which states that the waiver renewal will be in effect for three (3) years. Mr. Carlisle feels that the initial waiver and renewal should be in effect for at least five (5) years.
RESPONSE AND EXPLANATION OF CHANGE: 20 CSR 2150-7.137(8) has been amended to state that the waiver may be renewed for one (1) or three (3) years.

COMMENT #2: Jorgen Schlemeier and Paul Winters, on behalf of the Missouri Association of Physician Assistants (MAPA), in reference to 20 CSR 2150-7.137(8); MAPA feels the board should extend the length of waivers and renewals.
RESPONSE AND EXPLANATION OF CHANGE: 20 CSR 2150-7.137(8) has been amended to state that the waiver may be renewed for one (1) or three (3) years.

COMMENT #3: Greg Stafford, PA-C supports the proposed language.
RESPONSE: The board appreciates the comment, however, voted to make no change to the text of the rule based on the comment received.

COMMENT #4: Ardis McFarlane, PA-C indicates that she doesn't understand the philosophy behind all the restrictions on midlevel providers in this state compared to others. Particularly, with a fairly high population density of poverty level inhabitants, it seems ludicrous to put limits on providers who are willing to live in rural areas and work for less money. Statistically, there are more problems with scheduled drug abuse in Missouri that in the states where midlevels prescribe the same. She stated that she believed some logic needs to be applied and less attention to lobbyists. The new rules appear to be a baby step in the right direction but are far from what she has seen in Tennessee and Minnesota where things are working well.
RESPONSE: The board appreciates the comment, however, voted to

make no change to the text of the rule based on the comment received.

COMMENT #5: Leonardo Rauch, PA-C indicates that he has heard that there is the possibility that the duration of supervision may be set up for one (1)-year increments and with each expiring year, each PA will be required to reapply for some type of re-registration or application process. He does not feel this law was passed so that they would have to each year reapply for something that he feels was meant to have no expiration. PAs already have various licensure and certification obligations, CME deadlines, and busy practices to keep up with. He strongly believes the PA supervision law should not have any expiration nor should the Missouri PAs have to reapply or fulfill any new responsibilities to keep this privilege ongoing.
RESPONSE: The board appreciates the comment, however, voted to make no change to the text of the rule based on the comment received.

20 CSR 2150-7.137 Waiver Renewal

(8) Once the advisory commission and the board approve a request for renewal for a physician-physician assistant team, the waiver may be renewed for one (1) or three (3) years.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 7—Licensing of Physician Assistants

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under section 334.125, RSMo 2000 and section 334.735, RSMo Supp. 2007, the board amends a rule as follows:

20 CSR 2150-7.140 Grounds for Discipline, Procedures **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 3, 2007 (32 MoReg 2408–2410). No changes have been made to 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 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 6—Pharmaceutical Care Standards

ORDER OF RULEMAKING

By the authority vested in the State Board of Pharmacy under section 338.010, RSMo Supp. 2007 and section 338.140, RSMo 2000, the board adopts a rule as follows:

20 CSR 2220-6.050 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 3, 2007 (32 MoReg 2410–2411). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Eighteen (18) comments were received on the proposed rule. This rule was jointly promulgated with the State Board of Registration for the Healing Arts. Both boards reviewed the comments submitted.

COMMENT #1: Upon the boards' review it was suggested that "the Centers for Disease Control," be removed from the proposed language since the CDC does not accredit training programs and clarification of the word "board" was needed.
RESPONSE AND EXPLANATION OF CHANGE: Based on the boards' review the suggested changes to subsection (4)(C) were made.

COMMENT #2: Michelle Cope with the National Association of Chain Drug Stores noted that the fifty (50)-mile geographic restriction would unnecessarily limit access to pharmacist-provided vaccines and proposed that it be removed from the proposed rule.
RESPONSE AND EXPLANATION OF CHANGE: The proposed language was based on existing nurse practitioner/physician assistant regulation language. The boards decided to revise subsection (6)(A) to read more exactly.

COMMENT #3: Michelle Cope with the National Association of Chain Drug Stores noted that the proposed rule restricted the act of administering influenza vaccines to pharmacists. Considering that students receive the same training as pharmacists, this restriction would unnecessarily preclude interns from being able to perform this aspect of pharmacy practice. Intern pharmacists who have met the proper training requirements should be allowed to administer the influenza vaccine to patients under the direct supervision of a pharmacist.
RESPONSE AND EXPLANATION OF CHANGE: The boards decided to amend section (2) to include pharmacist interns who have met the proper training requirements and that are directly supervised by a licensed pharmacist.

COMMENT #4: Michelle Cope with the National Association of Chain Drug Stores noted that the proposed rule requires specifically, that the written protocol specify "the identity of the authorized routes and sites of administration." When completing training to administer vaccinations, a pharmacist would be taught appropriate routes and sites of administration on the human body. As such, there is no reason why this information should be included in the written protocol. Additionally, the proposed rule requires that the protocol specify "the identity of the location at which the pharmacist may administer the authorized viral influenza vaccination." This mandate is overly restrictive and precludes a pharmacist from adding additional locations to administer vaccinations. This could be problematic if, for example, a pharmacist is called upon to provide flu shots at a specific employer site that was not explicitly listed on the written protocol.
RESPONSE AND EXPLANATION OF CHANGE: The boards determined to change paragraph (6)(A)10. to require the "street address of the pharmacy" be included in the written protocol in place of the "identity of the location" at which the pharmacist may administer the authorized viral influenza vaccination. The boards also determined to add "anatomic" anywhere in the rule where "sites of administration" is mentioned. This change is being made in paragraphs (6)(A)5., (7)(A)2. and (8)(A)4.

COMMENT #5: Michelle Cope with the National Association of Chain Drug Stores commented that it is not necessary to include patients' primary health care providers' addresses in the vaccination records because this information is otherwise retrievable from a pharmacy's computer system.
RESPONSE: The boards determined that it was not overly burdensome

to require the physician's address and determined to make no change based on this comment.

COMMENT #6: Michelle Cope with the National Association of Chain Drug Stores commented that requiring a pharmacist to notify the authorizing physician, and if different, the patient's primary health care provider, within seventy-two (72) hours of administering the viral influenza vaccination to a patient was unnecessary.
RESPONSE: The boards determined that it was not overly burdensome to require notification to the physician and determined to make no change based on this comment.

COMMENT #7: Michelle Cope with the National Association of Chain Drug Stores noted that occasionally, the Centers for Disease Control and Prevention guidelines for vaccine administration conflict with manufacturer's guidelines. For this reason, it is necessary to clarify that a pharmacist should administer a vaccination in accordance with one (1) or the other of the guidelines so that pharmacists are not forced to violate a board rule in choosing one (1) guideline over another.
RESPONSE AND EXPLANATION OF CHANGE: The boards determined to change the regulation as suggested in this comment by changing "and" to "or" in subsection (5)(A).

COMMENT #8: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that in the past it has been difficult to find a physician to sign a protocol in Missouri. Although, several have been willing, but want no part in the administrative duties or record keeping.
RESPONSE: The boards determined to make no change to the regulation based on this comment.

COMMENT #9: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that the requirements for protocol are too intensive. A good guide to other protocols is recommended on www.immunize.org. The proposed requirements inhibit us from easily adding on a location to vaccinate (if an employer calls), puts administrative burden on the physician, and is unduly detailed.
RESPONSE: The boards determined that everything required in a protocol is necessary and to make no change to the regulation based on this comment.

COMMENT #10: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that there are acceptable locations on the body to administer the influenza vaccine that a trained pharmacist is fully aware of, and listing it in an administration agreement is unnecessary.
RESPONSE AND EXPLANATION OF CHANGE: The boards determined to add "anatomic" anywhere in the rule where "sites of administration" is mentioned. This change is being made in paragraphs (6)(A)5., (7)(A)2. and (8)(A)4.

COMMENT #11: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that the guidelines place an undue administrative burden on the physician to keep copies of two (2) hours of continuing education for each pharmacist and receive copies of the vaccines administered within seventy-two (72) hours of administration.
RESPONSE: The boards determined to make no change to the regulation based on this comment.

COMMENT #12: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that the provisions require documentation of the patient's physician as well as the address. The address of the physician seems unnecessary to document it on every piece of paper, as it is retrievable from the system.
RESPONSE: The boards determined to make no change to the regulation based on this comment.

COMMENT #13: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that by requiring a physician to enter into a protocol only if they are within fifty (50) miles of the pharmacist will make this provision especially difficult for chain pharmacies to successfully manage the program from a central location. This will mean chains will have to get multiple physicians, each with different contracts and documentation requirements, and require a large amount of administrative burden to manage. Also, while the provision allows us to list the locations where we vaccinate, it is unspecific.
RESPONSE AND EXPLANATION OF CHANGE: The proposed language was based on existing nurse practitioner/physician assistant regulation language. The boards decided to revise subsection (6)(A) to read more exactly.

COMMENT #14: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented and noted that the question, "if we agree to administer at the pharmacy, at Employer X and Church Y, do Employer X and Church Y have to be within fifty (50) miles of the physician, or just the pharmacy?" would come up if not made more specific.
RESPONSE AND EXPLANATION OF CHANGE: The proposed language was based on existing nurse practitioner/physician assistant regulation language. The boards decided to revise subsection (6)(A) to read more exactly.

COMMENT #15: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that paragraph (6)(A)4. states that the protocol must state the "identity of the patient or group of patients to receive…" This will be difficult to state and limits us. This may also leave pharmacies, pharmacists and physicians wondering if they are limited to established patients at the pharmacy and if people who are unknown to the pharmacy and the physician, but still need the influenza vaccine, will be able to receive it.
RESPONSE: The boards determined to make no change to the regulation based on this comment.

COMMENT #16: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that the provision does not allow a trained student to vaccinate under direct supervision of a trained pharmacist. Students receive the same training as the pharmacists and are underutilized. They can vaccinate in other states.
RESPONSE AND EXPLANATION OF CHANGE: The boards decided to amend section (2) to include pharmacist interns who have met the proper training requirements and that are directly supervised by a licensed pharmacist.

COMMENT #17: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that manufacturer guidelines do not always match the ACIP guidelines, example, Gardasil is approved to nine (9) years, but the ACIP recommends eleven (11) years.
RESPONSE: The boards determined this comment does not involve this regulation; additional regulations are being written to address other vaccinations, therefore, no change is being made to this regulation based on this comment.

COMMENT #18: Nicole Gattas with Schnucks Pharmacy and St. Louis College of Pharmacy commented that when other health care professionals, like nurses, administer the influenza vaccine, they do not ask or notify the patient's physician, therefore why should the pharmacists?
RESPONSE: The Board of Pharmacy and Board of Healing Arts do not have jurisdiction over nurses. The boards determined to make no change to the regulation based on this comment.

20 CSR 2220-6.050 Administration of Influenza Vaccines Per Protocol

(2) A pharmacist may not delegate the administration of viral influenza vaccinations to another person, except to a pharmacist intern who has met qualifications under subsections (4)(B), (C), and (D) and is working under the direct supervision of a pharmacist qualified to administer viral influenza vaccinations.

(4) Pharmacist Qualifications—A pharmacist who is administering viral influenza vaccinations must:

(C) Successfully complete a certificate program in the administration of viral influenza vaccinations accredited by the Accreditation Council for Pharmacy Education (ACPE) or a similar health authority or professional body approved by the State Board of Pharmacy;

(5) General Requirements.

(A) A pharmacist shall administer viral influenza vaccinations in accordance with treatment guidelines established by the Centers for Disease Control and Prevention (CDC) or in accordance with manufacturer's guidelines.

(6) Administration by Written Protocol with a Missouri Licensed Physician.

(A) A pharmacist may enter into a written protocol with a physician for the administration of viral influenza vaccinations to patients twelve (12) years of age or older. The physician must be no further than fifty (50) miles by road, using the most direct route available, from the pharmacist who is administering the viral influenza vaccinations. The written protocol may be valid for a time period not to exceed one (1) year. The protocol must include the following:

1. The identity of the participating pharmacist and physician, including signatures;
2. Time period of the protocol;
3. The identification of the viral influenza vaccination which may be administered;
4. The identity of the patient or groups of patients to receive the authorized viral influenza vaccination;
5. The identity of the authorized routes and anatomic sites of administration allowed;
6. A provision to create a prescription for each administration under the authorizing physician's name;
7. A provision establishing a course of action the pharmacist shall follow to address emergency situations including, but not limited to, adverse reactions, anaphylactic reactions, and accidental needle sticks;
8. A provision establishing a length of time the pharmacist shall observe an individual for adverse events following an injection;
9. A provision establishing the disposal of used and contaminated supplies;
10. The street address of the pharmacy at which the pharmacist may administer the authorized viral influenza vaccination;
11. Record keeping requirements and procedures for notification of administration; and
12. A provision that allows for termination of the protocol at the request of any party to it at any time.

(7) Record Keeping.

(A) A pharmacist who administers a viral influenza vaccination shall maintain the following records regarding each administration. These records must be separate from the prescription files of a pharmacy and include:

1. The name, address, and date of birth of the patient;
2. The date, route, and anatomic site of the administration;
3. The name, dose, manufacturer, lot number, and expiration date of the vaccination;
4. The name and address of the patient's primary health care provider, as identified by the patient;
5. The name or identifiable initials of the administering pharmacist; and
6. The nature of an adverse reaction and who was notified, if applicable.

(8) Notification Requirement.

(A) A pharmacist administering viral influenza vaccinations shall notify the authorizing physician within seventy-two (72) hours after administration of the following:

1. The identity of the patient;
2. The identity of the viral influenza vaccination administered;
3. The route of administration;
4. The anatomic site of the administration;
5. The dose administered; and
6. The date of administration.