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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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The secretary of state's office makes every effort to provide program accessibility to all citizens without regard to disability. If you desire this publication in alternate form because of a disability, please contact the Division of Administrative Rules, PO Box 1767, Jefferson City, MO 65102, (573) 751-4015. Hearing impaired citizens should contact the director through Missouri relay, (800) 735-2966.



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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.

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

PROPOSED AMENDMENT

12 CSR 10-23.446 Notice of Lien. The director proposes to delete the Publisher's Note, amend sections (1) and (2), delete section (3), and renumber the remaining sections.

PURPOSE: *This proposed amendment modifies the notice of lien filing on a refinanced motor vehicle, trailer, manufactured home, all terrain vehicle, boat, or outboard motor. It also removes the reference to the Notice of Lien or Lien Release (revised 11-03) form and allows the director to approve the notice of lien filing form or electronic format for filing the information.*

(1) A lien on a motor vehicle, trailer, manufactured home, all terrain

vehicle, boat, or outboard motor is perfected when a notice of lien meeting the requirements in section (2) is delivered to the director of revenue, whether or not the ownership thereof is being transferred. A processing fee is collected when the notice of lien is delivered to the director. Delivery to the director of revenue may be physical delivery of the notice of lien to the director by mail, or to the director or agent of the director in a Department of Revenue office, or by electronic filing of the notice of lien. A received date stamp placed on the notice of lien application receipt or an electronic confirmation receipt issued by the director or his/her agent will be *prima facie* proof of the date of delivery. *[If ownership is not being transferred the lien may not be filed electronically because, the lienholder must also submit the application for title, the ownership document, title fee and processing fees with the notice of lien or with the Notice of Lien box marked on the title application on behalf of the owner to have a new title produced reflecting the lien.]*

(2) A notice of lien for a motor vehicle, trailer, manufactured home, all terrain vehicle, boat, or outboard motor shall be in a form or electronic format provided or approved by the director of revenue *[entitled "Notice of Lien" or on the title application of ownership is not transferred by marking the Notice of Lien box]*. The *[N]notice of [L]lien* shall contain, but not be limited to, the following information:

[(3) The Notice of Lien or Lien Release (revised 11-03), which has been incorporated by reference, is published by the Missouri Department of Revenue, PO Box 100, Jefferson City, MO 65105-0100. The form does not include any amendments or additions to the revision/publication date shown. It is available at all contract offices and the department's central office, or may be ordered at <http://www.dort.mo.gov/mvdl/formorder/> or by mailing a written request to the Missouri Department of Revenue, PO Box 100, Jefferson City, MO 65105-0100.]

[(4)](3) As used in this rule, the term "boat" includes all motor-boats, vessels, or watercraft as the terms are defined in section 306.010, RSMo.

[(5)](4) Any lienholder who elects to file a lien electronically must apply to use this option and be approved by the director.

AUTHORITY: *sections 301.600, 301.610, 301.620, 301.660, 306.400, 306.405, 306.410, 306.430, 700.350, 700.355, 700.360, and 700.380, RSMo Supp. [2006] 2011. Emergency rule filed Aug. 18, 1999, effective Aug. 28, 1999, expired Feb. 23, 2000. Original rule filed Aug. 18, 1999, effective Feb. 29, 2000. Amended: Filed June 13, 2000, effective Dec. 30, 2000. Amended: Filed April 9, 2003, effective Oct. 30, 2003. Amended: Filed Oct. 6, 2006, effective April 30, 2007. Amended: Filed Jan. 17, 2012.*

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

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

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.*

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**
**Division 200—Insurance Solvency and Company
Regulation**
**Chapter 12—Missouri and Extended Missouri Mutual
Companies**

PROPOSED AMENDMENT

20 CSR 200-12.030 Extended Missouri and Missouri Mutual Companies' Financial Reinsurance Requirements. The director is amending the rule title, purpose, sections (1), (2), and (3), and including a form herein.

PURPOSE: The purpose of this amendment is to update the financial reinsurance requirements applicable to extended Missouri and Missouri mutual companies in light of recent financial difficulties suffered by one (1) or more such companies.

PURPOSE: This rule effectuates and aids in the interpretation of sections 380.021.2 and 380.271, RSMo [(1986)] 2000, relating to the financial reinsurance requirements applicable to extended Missouri mutual companies organized under the provisions of sections 380.201–380.591, RSMo, and to Missouri mutual companies organized under the provisions of sections 380.011–380.151, RSMo.

(1) The director deems [any one (1) of the following minimum levels of reinsurance to be necessary] that to protect the policyholders of extended Missouri mutual companies[:] and Missouri mutual companies, such companies shall acquire annual aggregate reinsurance to cover one hundred percent (100%) of losses in excess of the attachment point, with an attachment point calculated annually in accordance with the Extended Missouri and Missouri Mutual Exposure Calculation form, which is included herein, so as to prevent an annual loss from coverages written of not greater than fifteen percent (15%) of the company's surplus as of the immediately preceding December 31. The director may require additional reinsurance if necessary to protect the policyholders of any such company.

[(A) Reinsurance sufficient to maintain the company's net retention on any one (1) risk at a level equal to or less than ten percent (10%) of surplus; or

(B) Reinsurance sufficient to prevent a greater than twenty percent (20%) decrease in a company's surplus, based on a probable maximum loss (PML) calculated by the company on a reasonable basis, assuming a ninety percent (90%) loss ratio. Ninety percent (90%) shall be calculated by multiplying the earned or written premium by ninety percent (90%); or

(C) Reinsurance sufficient to prevent a greater than fifteen percent (15%) decrease in surplus due to any one (1) occurrence.]

(2) [Definitions.

(A) Risk, as used in subsection (1)(A) of this rule, shall mean the definition of risk contained in the terms of the reinsurance treaty entered into in compliance with this rule. In no case shall risk be defined more broadly than all insured values on one (1) insured.

(B) Loss ratio, as used in subsection (1)(B) of this rule, shall mean either—

1. Net losses incurred (paid and unpaid) after deducting reinsurance, divided by net premium earned after reinsurance premium, if the company maintains a pro rata unearned premium reserve; or

2. Net losses incurred (paid and unpaid) after deducting reinsurance, divided by net written premium after deducting reinsurance premium.

(C) Occurrence, as used in subsection (1)(C) of this rule, shall mean the definition of occurrence contained in the terms of the reinsurance treaty entered into in compliance with this rule.

(D)] Surplus, as used in [subsections (1)(A)–(C)] section (1) of this rule, shall mean admitted assets minus liabilities in the amounts reported in the company's annual statement filed with the director each year.

(3) [Reference to an unearned premium reserve in this rule is in no way intended to require that an extended Missouri mutual company maintain an unearned premium reserve.] The director may approve an exception to section (1) for the company to obtain proper reinsurance protection.

Extended Missouri and Missouri Mutual Exposure Calculation

NAIC Number _____ Company Name _____

Address _____

Filing is due 3/1 annually. Attach to annual statement (email address: momutual@insurance.mo.gov)

1a)	Estimated Gross Written Premiums (equal to estimate provided to reinsurer, if applicable)	\$
1b)	Estimated Assumed Written Premiums (not to exceed prior year assumed premium)	\$
1c)	Total Estimated Gross Written Premium (add lines 1a and 1b)	\$
2)	Estimated Reinsurance Cost	
2a)	Prior year total reinsurance cost (annual statement page 2, line 1, column 2, plus line 2, column 2, plus line 3)	2a) \$
2b)	Prior year gross written premium (annual statement page 2, line 1, column 1)	2b) \$
2c)	Prior year reinsurance premiums assumed (annual statement page 2, line 2, column 1)	2c) \$
2d)	Current year percentage of gross written and reinsurance premiums provided by reinsurer, if applicable, but if not applicable: Divide prior year total reinsurance cost by (prior year gross written premium plus assumed premium) (divide line 2a by (2b + 2c))	2d) %
	Estimated Reinsurance Cost (multiply line 1c by line 2d)	\$
3)	Estimated Net Written Premium (subtract line 2 from line 1c)	\$
4)	Estimated Attachment Point for current year as provided by the reinsurer.	\$
5)	Estimated Operating Expense	
5a)	Prior year total operating expenses (annual statement page 5, line 4)	5a) \$
5b)	Divide prior year total operating expenses by prior year gross written premium (divide line 5a by 2b)	5b) %
	Estimated Operating Expense (multiply line 1a by line 5b)	\$
6)	Prior year other insurance income, net income, and other income (annual statement page 5, line 2, plus line 9, plus line 10)	\$
7)	Estimated Net Profit/(Loss) (from line 3 subtract lines 4 and 5, add line 6)	\$
8)	Surplus Prior Year End	\$
9)	Estimated Profit/(Loss) Percentage (line 7 divided by line 8). (Estimated maximum net loss may not exceed 15%)	%

Any material modifications subsequent to filing must be timely reported to the Missouri Insurance Company Regulation Division.

I, _____,

of the named Company hereby attest the above information is a reasonable estimation based on trends experienced by the Company, and that I have underlying data to support the estimations made.

(signature of responsible Company officer)

(Title)

(Date)

AUTHORITY: section[s] 374.045, RSMo Supp. 2011, and sections 380.021, 380.271, and 380.561, RSMo [1986] 2000. Original rule filed Oct. 24, 1991, effective March 9, 1992. Amended: Filed Jan. 17, 2012.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 9:30 a.m. on March 22, 2012. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed amendment, until 5:00 p.m. on April 1, 2012. Written statements shall be sent to Tamara W. Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans with Disabilities Act, please notify us at (573) 751-2619 at least five (5) working days prior to the hearing.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2150—State Board of Registration for the
Healing Arts
Chapter 5—General Rules**

PROPOSED RULE

20 CSR 2150-5.026 General Provisions

PURPOSE: This rule establishes definitions for 20 CSR 2150-5.026 to 20 CSR 2150-5.028 governing medication therapy services by pharmacists.

(1) Definitions. The following definitions shall apply for purposes of 20 CSR 2150-5.026 to 20 CSR 2150-5.028:

(A) Authorizing physician(s)—The physician identified in the written protocol as authorizing the pharmacist to provide medication therapy services;

(B) Health care entity—For purposes of this rule, a health care entity shall be defined as any entity or organization that is licensed or certified by the state or federal government as a hospital, hospice facility, ambulatory surgical center, nursing home, long-term care facility, residential care facility, assisted living facility, intermediate care facility, skilled nursing facility, or a habilitation center as defined by Chapter 630, RSMo, and that is required to maintain patient medical records by state or federal law;

(C) Medication therapy protocol—A written agreement between a physician and a pharmacist for the provision of medication therapy services. A medication therapy protocol shall comply with the provisions of 20 CSR 2150-5.028;

(D) Medication therapy services—The designing, initiating, implementing, or monitoring of a plan to monitor the medication therapy or device usage of a specific patient, or to enhance medication therapeutic outcomes of a specific patient, by a pharmacist who has authority to initiate or implement a modification of the patient's medication therapy or device usage pursuant to a medication therapy protocol. For purposes of 20 CSR 2150-5.026 to 20 CSR 2150-5.028,

modification shall include selecting a new, different, or additional medication or device, discontinuing a current medication or device, or selecting a new, different, or additional strength, dose, dosage form, dosage schedule, or route of administration for a current medication or device, and implementing such selection(s). Medication therapy services shall not include the sole act of dispensing a drug or device pursuant to a valid prescription for the product or generic substitutions made pursuant to section 338.056, RSMo;

(E) Pharmacy resident—A Missouri licensed pharmacist enrolled in a residency training program accredited by the American Society of Health-System Pharmacists or a residency training program with a valid application for accreditation pending with the American Society of Health-System Pharmacists;

(F) Prescription order for medication therapeutic plan—A lawful order that is issued by the authorizing physician within the scope of his/her professional practice for the provision of medication therapy services by a pharmacist for a specific patient, including, patients of a health care entity; and

(G) Protocol—A medication therapy protocol, as defined herein.

(2) The provisions of 20 CSR 2150-5.026 to 20 CSR 2150-5.028 and 20 CSR 2220-6.060 to 20 CSR 2220-6.080 shall only be deemed applicable to persons or entities under the jurisdiction of the Missouri State Board of Registration for the Healing Arts and the Missouri State Board of Pharmacy, as established by Chapter 334, RSMo, and Chapter 338, RSMo.

AUTHORITY: section 334.125, RSMo 2000, and sections 338.010 and 338.220, RSMo Supp. 2011. Original rule filed Jan. 13, 2012.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to tina.steinman@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2150—State Board of Registration for the
Healing Arts
Chapter 5—General Rules**

PROPOSED RULE

20 CSR 2150-5.028 Medication Therapy Services By Protocol

PURPOSE: This rule establishes procedures for the provision of medication therapy services by protocol, as authorized by section 338.010, RSMo.

(1) Except as otherwise provided herein, a pharmacist who holds a certificate of medication therapeutic plan authority from the Missouri State Board of Pharmacy shall be authorized to provide medication therapy services in Missouri if the pharmacist—

(A) Holds a current Missouri pharmacist license that is not under discipline with the Missouri State Board of Pharmacy; and

(B) Has entered into a written protocol with a Missouri licensed physician that complies with the requirements of this rule.

(2) General Requirements. A pharmacist may only provide medication therapy services with current certification and as authorized by the protocol and the authorizing physician. A pharmacist providing medication therapy services pursuant to this rule shall comply with the following:

(A) Prior to providing medication therapy services, the pharmacist shall receive a prescription order for a medication therapeutic plan from the authorizing physician for a specific patient which authorizes the pharmacist to perform medication therapy services. Except as otherwise provided in subsection (2)(B) of this rule, the prescription order for a medication therapeutic plan shall be valid for no more than one (1) year and shall include:

1. The patient's name, address, and date of birth;
2. The date the prescription order for a medication therapeutic plan is issued;
3. The clinical indication for medication therapy services;
4. The length of time for providing medication therapy services, if less than one (1) year; and
5. The authorizing physician's name and address;

(B) A prescription order for a medication therapeutic plan may be transmitted orally, electronically, or in writing. If an oral prescription order for a medication therapeutic plan is issued, all information required under subsection (2)(A) of this rule shall be documented by the pharmacist and maintained in the patient's record in accordance with section (7) of this rule;

(C) The pharmacist shall review relevant prescription records, patient profiles, patient medical records, or other medical information to determine the services to be rendered; and

(D) Medication therapy decisions made by a pharmacist shall be made in the best interests of the patient.

(3) Authorizing Physician Requirements.

(A) The authorizing physician shall be actively engaged in the practice of medicine in the state of Missouri and shall hold a current and unrestricted Missouri physician license pursuant to Chapter 334, RSMo.

(B) The authorizing physician shall be responsible for the oversight of, and accept the responsibility for, the medication therapy services provided by the pharmacist. The authorizing physician shall also consider the level of skill, education, training, and competence of the pharmacist and ensure that the activities authorized by the protocol are consistent with the pharmacist's level of skill, education, training, and competence.

(C) The written protocol shall be reviewed and signed by the pharmacist and the authorizing physician at least annually and revised as needed. The authorizing physician and pharmacist shall document the date of the annual review on the written protocol.

(D) The authorizing physician shall review the pharmacist's medication therapy service activities at least once every three (3) months. If the pharmacist is providing medication therapy services for, or on behalf of, a health care entity, the review requirements shall be satisfied if the pharmacist's work and services are reviewed every three (3) months by a clinical care committee, pharmacy and therapeutics committee, or a reviewing body/committee of the health care entity that includes a Missouri licensed physician. The review required by this subsection may be accomplished in person or by electronic means.

(E) The practice location of the authorizing physician shall be no further than fifty (50) miles by road from the pharmacist identified in the written protocol.

(F) An authorizing physician shall notify the Missouri State Board of Registration for the Healing Arts of a written protocol for medication therapy services entered with a pharmacist at each renewal of the authorizing physician's license.

(4) Protocol Requirements.

(A) The medication therapy services performed by a pharmacist pursuant to the protocol shall be within the authorizing physician's scope of practice and within the skill, education, training, and competence of both the authorizing physician and the pharmacist.

(B) The written protocol between the authorizing physician and pharmacist shall, at a minimum, include the following:

1. The identity and signatures of the authorizing physician and pharmacist;

2. The effective dates of the protocol;

3. A statement of clinical conditions, diseases, and drugs, or drug categories included in the written protocol and the type of medication therapy services allowed in each case;

4. A statement of the methods, procedures, decision criteria, and plan the pharmacist is to follow when conducting medication therapy services;

5. Procedures for documenting medication therapy decisions made by the pharmacist and a plan for communication, feedback, and reporting to the authorizing physician concerning specific decisions made;

6. A mechanism and procedure that allows the authorizing physician to override, rescind, modify, or otherwise amend the protocol. All modifications or amendments to the protocol shall be documented in writing, signed, and dated by all involved parties prior to the implementation of such modification or amendment. The protocol may be immediately rescinded by the authorizing physician or the pharmacist with or without cause, provided the rescission is documented in writing. If any conflict arises regarding the professional judgment of the pharmacist and physician with regard to the subject of the medication therapy services, the physician has ultimate authority;

7. A statement that the pharmacist shall not delegate the responsibility of medication therapy services to another person;

8. A description of any authority granted to the pharmacist to administer any drug or medication including the identification of any such drug, medication, or device;

9. A description of drug therapy related patient assessment procedures or testing that may be ordered or performed by the pharmacist, including any authority to order or perform routine or other laboratory testing;

10. Provisions for allowing the pharmacist to access prescription records, patient profiles, patient medical records, or other relevant medical information for purposes of providing medication therapy services;

11. A provision for providing the authorizing physician access to patient records for medication therapy services;

12. Provisions establishing a course of action the pharmacist is authorized to follow to address emergency situations, including, but not limited to, anaphylactic or other adverse medication reactions, adverse needle sticks, or other adverse events;

13. Criteria for timely communication from the authorizing physician to the pharmacist and from the pharmacist to the authorizing physician, not inconsistent with the provisions of this rule;

14. The notification requirements required by section (5) of this rule; and

15. The method for reviewing the pharmacist's medication therapy work or services by the authorizing physician, as required by subsection (3)(D) of this rule.

(C) The written protocol shall also include a description of all medication therapy services the pharmacist is authorized to render or provide. Such services may include:

1. Assessing patient specific data and issues;

2. Establishing medication therapeutic goals or medication related action plans for identified medical conditions and medication related concerns;

3. Assessing and addressing adverse reactions and adverse drug events;

4. Modifying and monitoring medication regimens;

5. Evaluating treatment progress;
 6. Assessing and monitoring pharmacokinetic and pharmacodynamic changes in medication regimen reviews;
 7. Medication reconciliation;
 8. Drug utilization review;
 9. Formulating and documenting personal medication records;
 10. Documenting clinical outcomes;
 11. Interpreting, monitoring, and assessing patient test results;
- and
12. Patient education and counseling.

(D) The protocol required by this section shall be signed and dated by the authorizing physician and the pharmacist. If the protocol includes multiple authorizing physicians or participating pharmacists, a separate protocol shall not be required for each physician or pharmacist if all authorizing physicians and pharmacists have signed and dated a statement agreeing to be governed by the terms of the written protocol.

(E) Any revisions, modifications, or amendments to the protocol must be in writing. The authorizing physician shall promptly notify the pharmacist of any such revision, modification, or amendment and shall maintain documentation of the notification, including the date such notification was made. The authorizing physician may delegate the notification requirements of this subsection to an authorized designee, provided the physician shall be ultimately responsible for compliance with the notification requirements.

(F) A pharmacist shall not be authorized to adjust, change, or modify any controlled substance prescribed for a patient, except as authorized by state or federal law.

(G) The protocol shall be maintained by the authorizing physician and the pharmacist for a minimum of eight (8) years after termination of the protocol. The protocol may be maintained electronically.

(H) A protocol shall automatically and immediately terminate if the pharmacist ceases to maintain an active Missouri pharmacist license, the authorizing physician is deceased, or if the authorizing physician fails to maintain an active, unrestricted Missouri physician license.

(I) Pharmacy Residents. If specifically authorized by the protocol, a pharmacy resident shall be authorized to perform medication therapy services under the written protocol of a Missouri pharmacist in lieu of an individual protocol, if—

1. The resident holds a certificate of medication therapeutic plan authority from the Missouri State Board of Pharmacy;

2. The resident is enrolled in a residency training program accredited by the American Society of Health-System Pharmacists or a residency training program with a valid application for accreditation pending with the American Society of Health-System Pharmacists; and

3. The resident is providing medication therapy services under the supervision of a Missouri pharmacist certified by the Missouri State Board of Pharmacy to perform medication therapy services.

(J) The provisions of subsection (4)(I) shall only apply to medication therapy services provided by a pharmacist as part of his/her residency training.

(5) Notification Requirements. A pharmacist shall comply with the following notification requirements:

(A) Within twenty-four (24) hours after learning of an anaphylactic or other adverse medication reaction, adverse needle stick, or other adverse event experienced by a patient, the pharmacist shall notify the patient's authorizing physician or an authorized designee of the authorizing physician;

(B) The pharmacist shall notify the authorizing physician or an authorized designee of the authorizing physician in the written protocol of any modification of therapy, within twenty-four (24) hours, provided the protocol may include more stringent notification requirements;

(C) A pharmacist shall be deemed in compliance with the notification requirements of this rule if the pharmacist is providing med-

ication therapy services for, or on behalf of, a health care entity, as defined by this rule, and documentation of the notifications required by this section is recorded in a patient medical record that is required to be maintained by the health care entity pursuant to state or federal law; and

(D) Notifications required by this section shall be in writing unless otherwise authorized by the authorizing physician.

(6) Modifying Drug Therapy.

(A) A pharmacist shall be authorized to modify a patient's non-controlled substance medication therapy, subject to the following:

1. If the pharmacist modifies medication therapy and a medication or device is to be dispensed, the pharmacist shall create a prescription for the medication or device modified under the authorizing physician's name. Such prescription may be dispensed by a licensed pharmacy and shall be maintained in the prescription records of the dispensing pharmacy as provided by the rules of the Missouri State Board of Pharmacy; and

2. If the pharmacist modifies medication therapy or a device, the pharmacist shall document such modification according to section (7) of this rule. Pharmacists providing medication therapy services for patients of a health care entity shall be deemed in compliance with the provisions of this subsection if the modification is documented in a patient medical record that the health care entity is required to maintain under state or federal law.

(B) The pharmacist shall not modify any controlled substance prescription. A prescription from the authorizing physician shall be required to modify a controlled substance.

(C) For purposes of 20 CSR 2150-5.026 and 20 CSR 2150-5.028, modification of medication therapy shall include selecting a new, different, or additional medication or device, discontinuing a current medication or device, or selecting a new, different, or additional strength, dose, dosage form, dosage schedule, or route of administration for a current medication or device, and implementing such selection(s). Medication therapy services shall not include the sole act of dispensing a drug or device pursuant to a valid prescription for the product or generic substitutions made pursuant to section 338.056, RSMo.

(7) Record Keeping.

(A) A pharmacist shall document and maintain an adequate patient record of medication therapy services provided to each patient. The records may be maintained in electronic format provided the records are capable of being printed for review by the Missouri State Board of Registration for the Healing Arts and the Missouri State Board of Pharmacy. An adequate and complete patient record shall include documentation of the following:

1. The identification of the patient, including, name, birthdate, address, and telephone number;

2. The date(s) of any patient visit or consultation, including the reason for any such visit/consultation;

3. Any pertinent assessments, observations, or findings;

4. Any diagnostic testing recommended or performed;

5. The name of any medication or device modified and the strength, dose, dosage schedule, dosage form, and route of administration of any medication modified or administered;

6. Referrals to the authorizing physician or other health care provider;

7. Any contact with the authorizing physician concerning the patient's treatment or medication therapy services plan;

8. Any informed consent for procedures, medications, or devices; and

9. Any consultation with any other treatment provider for the patient and the results of such consultation.

(B) Pharmacist Record Retention. Except as otherwise provided herein, records required to be maintained by a pharmacist pursuant to this rule shall be maintained securely and confidentially for a minimum of seven (7) years after termination of the protocol unless more

stringent requirements are established for record keeping under state or federal law. All records required to be maintained by the pharmacist by this rule shall be maintained by the pharmacist at an address that shall be identified in the written protocol.

(C) Physician Record Retention. Except as otherwise provided herein, records required to be maintained by the authorizing physician pursuant to this rule shall be maintained securely and confidentially for a minimum of seven (7) years after termination of the protocol unless more stringent requirements are established for record keeping pursuant to state or federal law.

(8) Production of Records. Records maintained at a pharmacy must be produced during an inspection or investigation by the Missouri State Board of Pharmacy, Missouri State Board of Registration for the Healing Arts, or their authorized representatives, as requested by the respective board or the board's designee. Records not maintained at a pharmacy shall be produced within three (3) business days after a request from the Missouri State Board of Pharmacy, Missouri State Board of Registration for the Healing Arts, and/or its authorized representative. Failure to maintain or produce records as provided by this rule shall constitute grounds for discipline.

(9) Nothing in this rule shall be construed to permit medical diagnosis of any condition by a pharmacist or the independent issuing of a prescription by a pharmacist.

(10) A pharmacist shall not violate or practice in a manner inconsistent with the provisions of this rule or a written protocol. A pharmacist's failure to abide by the requirements of this rule or the provisions of a written protocol shall be subject to disciplinary action pursuant to the provisions of Chapter 338, RSMo.

(11) The requirements of this rule shall not apply to the administration of vaccines pursuant to protocol as governed by 20 CSR 2150-5.025 or the administration of medication by protocol as governed by 20 CSR 2220-6.040.

(12) The Missouri State Board of Registration for the Healing Arts and the Missouri State Board of Pharmacy separately retain the right and duty to discipline their respective licensees for violations of any state or federal statutes, rules, or regulations regardless of the licensee's participation in a protocol agreement.

(13) The provisions of 20 CSR 2150-5.026 to 20 CSR 2150-5.028 and 20 CSR 2220-6.060 to 20 CSR 2220-6.080 shall only be deemed applicable to persons or entities under the jurisdiction of the Missouri State Board of Registration for the Healing Arts and the Missouri State Board of Pharmacy, as established by Chapter 334, RSMo, and Chapter 338, RSMo.

AUTHORITY: section 334.125 RSMo 2000, and sections 338.010, 338.140.1, and 338.380, RSMo Supp. 2011. Original rule filed Jan. 13, 2012.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Registration for the Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to tina.steinman@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 6—Pharmaceutical Care Standards**

PROPOSED RULE

20 CSR 2220-6.060 General Provisions

PURPOSE: This rule establishes definitions for 20 CSR 2220-6.060 to 20 CSR 2220-6.080 governing medication therapy services by pharmacists.

(1) Definitions. The following definitions shall apply for purposes of 20 CSR 2220-6.060 to 20 CSR 2220-6.080:

(A) Authorizing physician(s)—The physician identified in the written protocol as authorizing the pharmacist to provide medication therapy services;

(B) Health care entity—For purposes of this rule, a health care entity shall be defined as any entity or organization that is licensed or certified by the state or federal government as a hospital, hospice facility, ambulatory surgical center, nursing home, long-term care facility, residential care facility, assisted living facility, intermediate care facility, skilled nursing facility, or a habilitation center as defined by Chapter 630, RSMo, and that is required to maintain patient medical records by state or federal law;

(C) Medication therapy protocol—A written agreement between a physician and a pharmacist for the provision of medication therapy services. A medication therapy protocol shall comply with the provisions of 20 CSR 2220-6.080;

(D) Medication therapy services—The designing, initiating, implementing, or monitoring of a plan to monitor the medication therapy or device usage of a specific patient, or to enhance medication therapeutic outcomes of a specific patient, by a pharmacist who has authority to initiate or implement a modification of the patient's medication therapy or device usage pursuant to a medication therapy protocol. For purposes of 20 CSR 2220-6.060 to 20 CSR 2220-6.080, modification shall include selecting a new, different, or additional medication or device, discontinuing a current medication or device, or selecting a new, different, or additional strength, dose, dosage form, dosage schedule, or route of administration for a current medication or device, and implementing such selection(s). Medication therapy services shall not include the sole act of dispensing a drug or device pursuant to a valid prescription for the product or generic substitutions made pursuant to section 338.056, RSMo;

(E) Pharmacy resident—A Missouri licensed pharmacist enrolled in a residency training program accredited by the American Society of Health-System Pharmacists or a residency training program with a valid application for accreditation pending with the American Society of Health-System Pharmacists;

(F) Prescription order for medication therapeutic plan—A lawful order that is issued by the authorizing physician within the scope of his/her professional practice for the provision of medication therapy services by a pharmacist for a specific patient, including, patients of a health care entity; and

(G) Protocol—A medication therapy protocol, as defined herein.

(2) The provisions of 20 CSR 2220-6.060 to 20 CSR 2220-6.080 and 20 CSR 2150-5.026 to 20 CSR 2150-5.028 shall only be deemed applicable to persons or entities under the jurisdiction of the Missouri State Board of Pharmacy and the Missouri State Board of Registration for the Healing Arts, as established by Chapter 338, RSMo, and Chapter 334, RSMo.

AUTHORITY: sections 338.010, 338.140.1, and 338.380, RSMo Supp. 2011. Original rule filed Jan. 13, 2012.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Pharmacy, PO Box 625, 3605 Missouri Boulevard, Jefferson City, MO 65102, by facsimile at (573) 526-3464, or via email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

**Division 2220—State Board of Pharmacy
Chapter 6—Pharmaceutical Care Standards**

PROPOSED RULE

20 CSR 2220-6.070 Certificate of Medication Therapeutic Plan Authority

PURPOSE: This rule establishes procedures for obtaining a certificate of medication therapeutic plan authority, as authorized by section 338.010, RSMo.

(1) A pharmacist shall obtain a certificate of medication therapeutic authority from the Missouri State Board of Pharmacy to provide medication therapy services that include initiating or implementing a modification of a patient's medication therapy or device usage. Pharmacists with a certificate of medication therapeutic authority shall enter into a written protocol with a Missouri licensed physician that complies with the requirements of 20 CSR 2220-6.080, prior to performing medication therapy services.

(2) Applicants for certification shall hold an active Missouri pharmacist license that is not under discipline with the Missouri State Board of Pharmacy. Applications shall be submitted on forms provided by the Missouri State Board of Pharmacy and shall be accompanied by the certificate of medication therapeutic plan authority fee and proof the applicant—

(A) Holds a doctor of pharmacy (PharmD) degree earned from a school, accredited by the Accreditation Council for Pharmacy Education (ACPE); or

(B) Has successfully completed a post-graduate medication therapy certificate course or program accredited or granted by the APCE, American Society of Health-System Pharmacists, American Society of Consultant Pharmacists or the American Pharmacists Association; or

(C) Holds a current certification from the Board of Pharmaceutical Specialties, the Commission for Certification in Geriatric Pharmacy, or the National Certification Board for Diabetes Educators; or

(D) Has completed a post-graduate medication therapy certificate course that, at a minimum, included training in the following areas:

1. Assessing patient specific data and issues;
2. Establishing medication therapeutic goals or medication related action plans for identified medication conditions and medication related concerns;
3. Assessing and addressing adverse reactions and adverse drug events;
4. Modifying and monitoring medication regimens;
5. Improving patient care and outcomes through medication therapy services;

6. Evaluating treatment progress;
7. Assessing and monitoring pharmacokinetic and pharmacodynamic changes in medication regimen reviews;
8. Medication reconciliation;
9. Drug utilization review;
10. Applicable state or federal law;
11. Formulating and documenting personal medication records;
12. Documenting clinical outcomes;
13. Interpreting, monitoring, ordering, and assessing patient test results; and
14. Patient education and counseling.

(3) Certificate Renewal. A certificate of medication therapeutic plan authority shall be renewed biennially with the certificate holder's Missouri pharmacist license. For purposes of renewal, six (6) of the continuing education hours required for renewing the certificate holder's Missouri pharmacist license shall be earned in courses/programs related to medication therapy management. The continuing education required by this rule shall be governed by the rules of the Missouri State Board of Pharmacy governing pharmacist continuing education.

(4) The Missouri State Board of Pharmacy may discipline or terminate a pharmacist's certificate of medication therapeutic plan authority if the Missouri State Board of Pharmacy determines that the pharmacist has violated the terms of a protocol, the requirements of Chapter 338, RSMo, or rules of the board governing medication therapy services or any other state or federal drug law.

AUTHORITY: sections 338.010, 338.140.1, and 338.380, RSMo Supp. 2011. Original rule filed Jan. 13, 2012.

PUBLIC COST: This proposed rule will cost public entities approximately eleven thousand, six hundred forty-one dollars (\$11,641) to twelve thousand, one hundred thirty-eight dollars (\$12,138) during the first year of implementation of the rule and two thousand, three hundred twenty-one dollars (\$2,321) to two thousand, four hundred twenty dollars (\$2,420) recurring annually after the first year of implementation and annually thereafter for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately one hundred seventy-one thousand, thirty-nine dollars (\$171,039) during the first year of implementation of the rule and fifty-two thousand, four hundred fifty-seven dollars (\$52,457) recurring annually after the first year of implementation and annually thereafter for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Pharmacy, PO Box 625, 3605 Missouri Boulevard, Jefferson City, MO 65102, by facsimile at (573) 526-3464, or via email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

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

Division 2220 - Missouri State Board of Pharmacy

Chapter 6 - Pharmaceutical Care Standards

Proposed Rule - 20 CSR 2220-6.070 Certificate of Medication Therapeutic Plan Authority

Prepared January 10, 2012 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance During the First Year of Implementation
Missouri State Board of Pharmacy	\$11,641.88 to \$12,138.42

Affected Agency or Political Subdivision	Recurring Annually After the First Year of Implementation and Annually Thereafter for the Life of the Rule
Missouri State Board of Pharmacy	\$2,321.29 to \$2,420.29

III. WORKSHEET

Pursuant to section 338.010, Missouri licensed pharmacists may elect to obtain medication therapeutic plan certification after initial pharmacist licensure. Certification is purely elective and is not required as a condition of licensure.

Personal Service Dollars During the First Year of Implementation

Staff	Task	Annual Salary Range	Salary to Include Fringe Benefit	Hourly Salary	Time Per Request	Number of Items	Cost Per Request	Total Cost
Licensing Technician II	Review Certification Applications	\$24,576	\$37,439	\$18.00	30 Minutes	657	\$9.00	\$5,912.84
		to \$26,640	to \$40,583	to \$19.51			to \$9.76	to \$6,409.38

Personal Service Dollars Recurring Annually After the First Year of Implementation and Annually Thereafter for the Life of the Rule

Staff	Task	Annual Salary Range	Salary to Include Fringe Benefit	Hourly Salary	Time Per Request	Number of Items	Cost Per Request	Total Cost
Licensing Technician II	Review Certification Applications	\$24,576	\$37,439	\$18.00	30 Minutes	131	\$9.00	\$1,178.97
		to \$26,640	to \$40,583	to \$19.51			to \$9.76	to \$1,277.97

Expense and Equipment Dollars During the First Year of Implementation

Item	Cost	Quantity	Per Item
Correspondence Mailing	\$0.65	657	\$427.05
Application Mailing	\$7.35	657	\$4,828.95
License Printing and Postage	\$0.72	657	\$473.04
		Total	\$5,729.04

Expense and Equipment Dollars Recurring Annually After the First Year of Implementation and Annually Thereafter for the Life of the Rule

Item	Cost	Quantity	Per Item
Correspondence Mailing	\$0.65	131	\$85.15
Application Mailing	\$7.35	131	\$962.85
License Printing and Postage	\$0.72	131	\$94.32
		Total	\$1,142.32

IV. ASSUMPTIONS

1. The board anticipates the total estimated cost will recur annually for the life of the rule as described above, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.
2. Pursuant to section 338.010, RSMo, Missouri licensed pharmacists may elect to obtain medication therapeutic plan certification after initial pharmacist licensure. Certification is purely elective and is not required as a condition of licensure.
3. The Missouri State Board of Pharmacy does not have sufficient data to accurately determine the potential number of medication therapy certification applicants. However, the board currently issues two other elective certification/authorization programs for pharmacist immunizations and pharmacist administration of medication by prescription order. An average of approximately 1,095 licensees participate in the immunization/administration programs annually. Due to the specialized nature of medication therapy services, the board anticipates significantly fewer licensees will apply for medication therapeutic plan certification. For purposes of this rule, the board estimates approximately 60% of the annual average for the board's immunization and medication administration programs will apply for certification and pay the applicable certification fee during first year of implementation [60% of 1,095 estimated applicants = 657 licensee applicants].
4. After the first year of implementation, the board estimates that approximately 131 new applicants will apply for new certification annually.
5. The current rule requires biennial certification renewal and completion of continuing education (CE). To limit costs, however, the proposed rule authorizes licensees to renew their certifications concurrent with their currently required pharmacist licensure renewal without additional fee. Verification of continuing education (CE) will be conducted concurrently with, and as part of, the board's current CE audit process. Accordingly, the board has not estimated public costs/revenue for certification renewal.
6. Certification approval will be posted via the board's website. Accordingly, the board does not anticipate additional postage or mailing costs to issue certification approvals.
7. Employee's salaries were calculated using the current annual salary range multiplied by 52.34% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the average amount of time staff spends processing new and renewal applications. The total cost was based on the cost per application multiplied by the estimated number of applications.
8. The application fee for certification of Medication Therapeutic Plan is established in 20 CSR 2200-4.010.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Chapter 338 RSMo. Pursuant to Section 338.013, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 338, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 338, RSMo.

PRIVATE ENTITY FISCAL NOTE**I. RULE NUMBER****Title 20 - Department of Insurance, Financial Institutions, and Professional Registration****Division 2220 - Missouri State Board of Pharmacy****Chapter 6 - Pharmaceutical Care Standards****Proposed Rule - 20 CSR 2220-6.070 Certificate of Medication Therapeutic Plan Authority**

Prepared January 10, 2012 by the Division of Professional Registration

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:
657	Pharmacists (Medication Therapeutic Plan Certification)	\$171,039.08 During First Year of Implementation of the Rule
131	Pharmacists (Medication Therapeutic Plan Certification)	\$52,457.64 Recurring Annually After the First Year of Implementation and Annually Thereafter for the Life of the Rule

III. WORKSHEET

Pursuant to section 338.010, Missouri licensed pharmacists may elect to obtain medication therapeutic plan certification after initial pharmacist licensure. Certification is purely elective and is not required as a condition of licensure.

ESTIMATE OF LICENSEE COSTS**During First Year of Implementation of the Rule**

Estimated # of Participating Pharmacists	Calculation of Estimates	TOTAL COSTS
394	Pharmacists (Medication Therapy Certification Course - \$350/average cost)	\$137,900.00
657	Pharmacists (Certification Application Fee - \$50)	\$32,850.00
657	Pharmacists - (Postage @ \$.44)	\$289.08
		\$171,039.08

Recurring Annually After the First Year of Implementation and Annually Thereafter for the Life of the Rule

Estimated # of Participating Pharmacists	Calculation of Estimates	TOTAL COSTS
131	Pharmacists (Medication Therapy Certification Course - \$350/average cost)	\$45,850.00
131	Pharmacists (Certification Application Fee - \$50)	\$6,550.00
131	Pharmacists - (Postage @ \$.44)	\$57.64
		\$52,457.64

IV. ASSUMPTIONS

1. The board anticipates the total estimated cost will recur annually for the life of the rule as described above, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.
2. Pursuant to section 338.010, RSMo, Missouri licensed pharmacists may elect to obtain medication therapeutic plan certification after initial pharmacist licensure. Certification is purely elective and is not required as a condition of licensure.
3. The Missouri State Board of Pharmacy does not have sufficient data to accurately determine the potential number of medication therapy certification applicants. However, the board currently issues two other elective certification/authorization programs for pharmacist immunizations and for administration of medication by prescription order. An average of approximately 1,095 licensees participate in the immunization/administration programs annually. Due to the specialized nature of medication therapy services, the board anticipates significantly fewer licensees will apply for medication therapeutic plan certification. For purposes of this rule, the board estimates approximately 60% of the annual average for the board's immunization and medication administration programs will apply for certification and pay the applicable certification fee during first year of implementation [60% of 1,095 estimated applicants = 657 licensee applicants].
4. Based on the current average increase for pharmacists authorized to immunize and administer medication, the board estimates approximately 131 new licensees will apply for certification after first year of implementation.
5. Under the proposed rule, licensees who currently hold a Doctorate of Pharmacy degree (PharmD) are eligible for licensure without further requirement. Currently, the PharmD degree is the sole professional pharmacy degree for graduates of U.S. pharmacy schools/colleges accredited by the Accreditation Council for Pharmacy Education (ACPE), the only board recognized national accrediting body for pharmacy schools/colleges. According to ACPE, all students who graduated after the 2004-2005 academic year from an ACPE accredited school received a PharmD degree and thus would be qualified for medication therapy plan certification without additional training. *Note: Medication therapy education/training is now a required curriculum element for ACPE approved schools.* Prior to 2005, several pharmacy schools/colleges voluntarily offered and/or required a PharmD degree. As a result, a significant number of the board's licensees received PharmD degrees prior to 2004-2005.
6. The proposed rule also provides that pharmacists who hold other national certifications related to medication therapy management are eligible for medication therapeutic plan certification without additional training/courses.

7. Given the allowance for PharmD graduates and national certifications, the board estimates approximately 60% of the estimated potential applicants for certification will be required to complete a medication therapy management course during first year of implementation [60% of 657 estimated applicants = 394 licensee applicants]. Based on current certification program averages, the board estimates 20% of the predicted 131 new applicants after first year of implementation will be required to complete a medication therapy course annually [@ 26 licensees].
8. Based on the board's research, the board estimates a compliant medication therapy management courses will cost approximately \$350.
9. The current rule requires biennial certification renewal and completion of continuing education (CE). To limit costs, however, the proposed rule authorizes licensees to renew their certifications concurrent with their currently required pharmacist licensure renewal without additional fee. Additionally, the required medication therapy CE is included in, and not in addition to, the CE already required by the board's rules. Accordingly, the board has not estimated costs for certification renewal or CE.
10. The application fee for certification of Medication Therapeutic Plan is established in 20 CSR 2200-4.010.
11. The public fiscal note for this rule only reflects the cost for this particular process. However, the private entity fees are set at an amount to cover the total actual cost incurred by the office, which includes personal service, expense and equipment, and transfers.

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

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

**Division 2220—State Board of Pharmacy
Chapter 6—Pharmaceutical Care Standards**

PROPOSED RULE

20 CSR 2220-6.080 Medication Therapy Services By Protocol

PURPOSE: This rule establishes procedures for the provision of medication therapy services by protocol, as authorized by section 338.010, RSMo.

(1) Except as otherwise provided herein, a pharmacist who holds a certificate of medication therapeutic plan authority from the Missouri State Board of Pharmacy shall be authorized to provide medication therapy services in Missouri if the pharmacist—

(A) Holds a current Missouri pharmacist license that is not under discipline with the Missouri State Board of Pharmacy; and

(B) Has entered into a written protocol with a Missouri licensed physician that complies with the requirements of this rule.

(2) General Requirements. A pharmacist may only provide medication therapy services with current certification and as authorized by the protocol and the authorizing physician. A pharmacist providing medication therapy services pursuant to this rule shall comply with the following:

(A) Prior to providing medication therapy services, the pharmacist shall receive a prescription order for a medication therapeutic plan from the authorizing physician for a specific patient which authorizes the pharmacist to perform medication therapy services. Except as otherwise provided in subsection (2)(B) of this rule, the prescription order for a medication therapeutic plan shall be valid for no more than one (1) year and shall include:

1. The patient's name, address, and date of birth;
2. The date the prescription order for a medication therapeutic plan is issued;
3. The clinical indication for medication therapy services;
4. The length of time for providing medication therapy services, if less than one (1) year; and
5. The authorizing physician's name and address;

(B) A prescription order for a medication therapeutic plan may be transmitted orally, electronically, or in writing. If an oral prescription order for a medication therapeutic plan is issued, all information required under subsection (2)(A) of this rule shall be documented by the pharmacist and maintained in the patient's record in accordance with section (7) of this rule;

(C) The pharmacist shall review relevant prescription records, patient profiles, patient medical records, or other medical information to determine the services to be rendered; and

(D) Medication therapy decisions made by a pharmacist shall be made in the best interests of the patient.

(3) Authorizing Physician Requirements.

(A) The authorizing physician shall be actively engaged in the practice of medicine in the state of Missouri and shall hold a current and unrestricted Missouri physician license pursuant to Chapter 334, RSMo.

(B) The authorizing physician shall be responsible for the oversight of, and accept the responsibility for, the medication therapy services provided by the pharmacist. The authorizing physician shall also consider the level of skill, education, training, and competence of the pharmacist and ensure that the activities authorized by the protocol are consistent with the pharmacist's level of skill, education, training, and competence.

(C) The written protocol shall be reviewed and signed by the pharmacist and the authorizing physician at least annually and revised as

needed. The authorizing physician and pharmacist shall document the date of the annual review on the written protocol.

(D) The authorizing physician shall review the pharmacist's medication therapy service activities at least once every three (3) months. If the pharmacist is providing medication therapy services for, or on behalf of, a health care entity, the review requirements shall be satisfied if the pharmacist's work and services are reviewed every three (3) months by a clinical care committee, pharmacy and therapeutics committee, or a reviewing body/committee of the health care entity that includes a Missouri licensed physician. The review required by this subsection may be accomplished in person or by electronic means.

(E) The practice location of the authorizing physician shall be no further than fifty (50) miles by road from the pharmacist identified in the written protocol.

(F) An authorizing physician shall notify the Missouri State Board of Registration for the Healing Arts of a written protocol for medication therapy services entered with a pharmacist at each renewal of the authorizing physician's license.

(4) Protocol Requirements.

(A) The medication therapy services performed by a pharmacist pursuant to the protocol shall be within the authorizing physician's scope of practice and within the skill, education, training, and competence of both the authorizing physician and the pharmacist.

(B) The written protocol between the authorizing physician and pharmacist shall, at a minimum, include the following:

1. The identity and signatures of the authorizing physician and pharmacist;
2. The effective dates of the protocol;
3. A statement of clinical conditions, diseases, and drugs, or drug categories included in the written protocol and the type of medication therapy services allowed in each case;
4. A statement of the methods, procedures, decision criteria, and plan the pharmacist is to follow when conducting medication therapy services;
5. Procedures for documenting medication therapy decisions made by the pharmacist and a plan for communication, feedback, and reporting to the authorizing physician concerning specific decisions made;
6. A mechanism and procedure that allows the authorizing physician to override, rescind, modify, or otherwise amend the protocol. All modifications or amendments to the protocol shall be documented in writing, signed, and dated by all involved parties prior to the implementation of such modification or amendment. The protocol may be immediately rescinded by the authorizing physician or the pharmacist with or without cause, provided the rescission is documented in writing. If any conflict arises regarding the professional judgment of the pharmacist and physician with regard to the subject of the medication therapy services, the physician has ultimate authority;
7. A statement that the pharmacist shall not delegate the responsibility of medication therapy services to another person;
8. A description of any authority granted to the pharmacist to administer any drug or medication including the identification of any such drug, medication, or device;
9. A description of drug therapy related patient assessment procedures or testing that may be ordered or performed by the pharmacist, including any authority to order or perform routine or other laboratory testing;
10. Provisions for allowing the pharmacist to access prescription records, patient profiles, patient medical records, or other relevant medical information for purposes of providing medication therapy services;
11. A provision for providing the authorizing physician access to patient records for medication therapy services;
12. Provisions establishing a course of action the pharmacist is authorized to follow to address emergency situations, including, but

not limited to, anaphylactic or other adverse medication reactions, adverse needle sticks, or other adverse events;

13. Criteria for timely communication from the authorizing physician to the pharmacist and from the pharmacist to the authorizing physician, not inconsistent with the provisions of this rule;

14. The notification requirements required by section (5) of this rule; and

15. The method for reviewing the pharmacist's medication therapy work or services by the authorizing physician, as required by subsection (3)(D) of this rule.

(C) The written protocol shall also include a description of all medication therapy services the pharmacist is authorized to render or provide. Such services may include:

1. Assessing patient specific data and issues;
2. Establishing medication therapeutic goals or medication related action plans for identified medical conditions and medication related concerns;
3. Assessing and addressing adverse reactions and adverse drug events;
4. Modifying and monitoring medication regimens;
5. Evaluating treatment progress;
6. Assessing and monitoring pharmacokinetic and pharmacodynamic changes in medication regimen reviews;
7. Medication reconciliation;
8. Drug utilization review;
9. Formulating and documenting personal medication records;
10. Documenting clinical outcomes;
11. Interpreting, monitoring, and assessing patient test results; and
12. Patient education and counseling.

(D) The protocol required by this section shall be signed and dated by the authorizing physician and the pharmacist. If the protocol includes multiple authorizing physicians or participating pharmacists, a separate protocol shall not be required for each physician or pharmacist if all authorizing physicians and pharmacists have signed and dated a statement agreeing to be governed by the terms of the written protocol.

(E) Any revisions, modifications, or amendments to the protocol must be in writing. The authorizing physician shall promptly notify the pharmacist of any such revision, modification, or amendment and shall maintain documentation of the notification, including the date such notification was made. The authorizing physician may delegate the notification requirements of this subsection to an authorized designee, provided the physician shall be ultimately responsible for compliance with the notification requirements.

(F) A pharmacist shall not be authorized to adjust, change, or modify any controlled substance prescribed for a patient, except as authorized by state or federal law.

(G) The protocol shall be maintained by the authorizing physician and the pharmacist for a minimum of eight (8) years after termination of the protocol. The protocol may be maintained electronically.

(H) A protocol shall automatically and immediately terminate if the pharmacist ceases to maintain an active Missouri pharmacist license, the authorizing physician is deceased, or if the authorizing physician fails to maintain an active, unrestricted Missouri physician license.

(I) Pharmacy Residents. If specifically authorized by the protocol, a pharmacy resident shall be authorized to perform medication therapy services under the written protocol of a Missouri pharmacist in lieu of an individual protocol, if—

1. The resident holds a certificate of medication therapeutic plan authority from the Missouri State Board of Pharmacy;
2. The resident is enrolled in a residency training program accredited by the American Society of Health-System Pharmacists or a residency training program with a valid application for accreditation pending with the American Society of Health-System Pharmacists; and
3. The resident is providing medication therapy services under

the supervision of a Missouri pharmacist certified by the Missouri State Board of Pharmacy to perform medication therapy services.

(J) The provisions of subsection (4)(I) shall only apply to medication therapy services provided by a pharmacist as part of his/her residency training.

(5) Notification Requirements. A pharmacist shall comply with the following notification requirements:

(A) Within twenty-four (24) hours after learning of an anaphylactic or other adverse medication reaction, adverse needle stick, or other adverse event experienced by a patient, the pharmacist shall notify the patient's authorizing physician or an authorized designee of the authorizing physician;

(B) The pharmacist shall notify the authorizing physician or an authorized designee of the authorizing physician in the written protocol of any modification of therapy, within twenty-four (24) hours, provided the protocol may include more stringent notification requirements;

(C) A pharmacist shall be deemed in compliance with the notification requirements of this rule if the pharmacist is providing medication therapy services for, or on behalf of, a health care entity, as defined by this rule, and documentation of the notifications required by this section is recorded in a patient medical record that is required to be maintained by the health care entity pursuant to state or federal law; and

(D) Notifications required by this section shall be in writing unless otherwise authorized by the authorizing physician.

(6) Modifying Drug Therapy.

(A) A pharmacist shall be authorized to modify a patient's non-controlled substance medication therapy, subject to the following:

1. If the pharmacist modifies medication therapy and a medication or device is to be dispensed, the pharmacist shall create a prescription for the medication or device modified under the authorizing physician's name. Such prescription may be dispensed by a licensed pharmacy and shall be maintained in the prescription records of the dispensing pharmacy as provided by the rules of the Missouri State Board of Pharmacy; and

2. If the pharmacist modifies medication therapy or a device, the pharmacist shall document such modification according to section (7) of this rule. Pharmacists providing medication therapy services for patients of a health care entity shall be deemed in compliance with the provisions of this subsection if the modification is documented in a patient medical record that the health care entity is required to maintain under state or federal law.

(B) The pharmacist shall not modify any controlled substance prescription. A prescription from the authorizing physician shall be required to modify a controlled substance.

(C) For purposes of 20 CSR 2220-6.060, 20 CSR 2220-6.070, and 20 CSR 2220-6.080, modification of medication therapy shall include selecting a new, different, or additional medication or device, discontinuing a current medication or device, or selecting a new, different, or additional strength, dose, dosage form, dosage schedule, or route of administration for a current medication or device, and implementing such selection(s). Medication therapy services shall not include the sole act of dispensing a drug or device pursuant to a valid prescription for the product or generic substitutions made pursuant to section 338.056, RSMo.

(7) Record Keeping.

(A) A pharmacist shall document and maintain an adequate patient record of medication therapy services provided to each patient. The records may be maintained in electronic format provided the records are capable of being printed for review by the Missouri State Board of Registration for the Healing Arts and the Missouri State Board of Pharmacy. An adequate and complete patient record shall include documentation of the following:

1. The identification of the patient, including, name, birthdate,

address, and telephone number;

2. The date(s) of any patient visit or consultation, including the reason for any such visit/consultation;

3. Any pertinent assessments, observations, or findings;

4. Any diagnostic testing recommended or performed;

5. The name of any medication or device modified and the strength, dose, dosage schedule, dosage form, and route of administration of any medication modified or administered;

6. Referrals to the authorizing physician or other health care provider;

7. Any contact with the authorizing physician concerning the patient's treatment or medication therapy services plan;

8. Any informed consent for procedures, medications, or devices; and

9. Any consultation with any other treatment provider for the patient and the results of such consultation.

(B) Pharmacist Record Retention. Except as otherwise provided herein, records required to be maintained by a pharmacist pursuant to this rule shall be maintained securely and confidentially for a minimum of seven (7) years after termination of the protocol unless more stringent requirements are established for record keeping under state or federal law. All records required to be maintained by the pharmacist by this rule shall be maintained by the pharmacist at an address that shall be identified in the written protocol.

(C) Physician Record Retention. Except as otherwise provided herein, records required to be maintained by the authorizing physician pursuant to this rule shall be maintained securely and confidentially for a minimum of seven (7) years after termination of the protocol unless more stringent requirements are established for record keeping pursuant to state or federal law.

(8) Production of Records. Records maintained at a pharmacy must be produced during an inspection or investigation by the Missouri State Board of Pharmacy, Missouri State Board of Registration for the Healing Arts, or their authorized representatives, as requested by the respective board or the board's designee. Records not maintained at a pharmacy shall be produced within three (3) business days after a request from the Missouri State Board of Pharmacy, Missouri State Board of Registration for the Healing Arts, and/or its authorized representative. Failure to maintain or produce records as provided by this rule shall constitute grounds for discipline.

(9) Nothing in this rule shall be construed to permit medical diagnosis of any condition by a pharmacist or the independent issuing of a prescription by a pharmacist.

(10) A pharmacist shall not violate or practice in a manner inconsistent with the provisions of this rule or a written protocol. A pharmacist's failure to abide by the requirements of this rule or the provisions of a written protocol shall be subject to disciplinary action pursuant to the provisions of Chapter 338, RSMo.

(11) The requirements of this rule shall not apply to the administration of vaccines pursuant to protocol as governed by 20 CSR 2220-6.050 or the administration of medication by protocol as governed by 20 CSR 2220-6.040.

(12) The Missouri State Board of Registration for the Healing Arts and the Missouri State Board of Pharmacy separately retain the right and duty to discipline their respective licensees for violations of any state or federal statutes, rules, or regulations regardless of the licensee's participation in a protocol agreement.

(13) The provisions of 20 CSR 2220-6.060 to 20 CSR 2220-6.080 and 20 CSR 2150-5.026 to 20 CSR 2150-5.028 shall only be deemed applicable to persons or entities under the jurisdiction of the Missouri State Board of Pharmacy and the Missouri State Board of

Registration for the Healing Arts, as established by Chapter 338, RSMo, and Chapter 334, RSMo.

AUTHORITY: sections 338.010, 338.140.1, and 338.380, RSMo Supp. 2011. Original rule filed Jan. 13, 2012.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Pharmacy, PO Box 625, 3605 Missouri Boulevard, Jefferson City, MO 65102, by facsimile at (573) 526-3464, or via email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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 or 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 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 100—Office of Quality Schools**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under sections 160.514, 160.526, and 167.131, RSMo 2000, and sections 160.518, 161.092, 162.081, and 168.081, RSMo Supp. 2011, the board adopts a rule as follows:

5 CSR 20-100.105 Missouri School Improvement Program-5 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2087-2092). 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: The board received numerous comments regarding the proposed rule and the incorporated by reference material.

Editor's Note: Due to the volume of comments received relating to 5 CSR 20-100.105 Missouri School Improvement Program-5, the department was unable to publish a list of individuals commenting on this rule. The department maintains a copy of all individual comments which is available upon request. Requests should be made to Custodian of Records, Office of General Counsel and Governmental

Affairs, Department of Elementary and Secondary Education, PO Box 480, Jefferson City, MO 65102-0480.

COMMENT #1: Three hundred fifty-nine (359) comments were received regarding assessment. Comments included concerns about the number of assessments in the assessment plan, the end-of-high school (EOHS) assessment, course offerings and course-taking patterns, and potential impact on dropout rates.

RESPONSE: In response to feedback generated during the summer regional advisory committee meetings, adjustments were made to the assessment plan during the August board meeting. The total number of required end-of-course (EOC) assessments was reduced by three (3), and the fine arts and physical education assessment requirements were removed at all grade levels. No additional changes have been made in the assessment plan. Graduation requirements will not be affected by this rule.

COMMENT #2: Fourteen (14) comments recommended elimination of the EOHS assessments.

RESPONSE: In response to feedback generated during the summer regional advisory committee meetings, adjustments were made to the assessment plan during the August board meeting. The total number of required EOC assessments was reduced by three (3), and the fine arts and physical education assessment requirements were removed at all grade levels but will be addressed in the revision of the resource and process standards. The EOHS assessments are intended to provide comparative achievement information for all students among all states, thereby leveling the playing field for state comparisons. The board declines to make additional changes at this time.

COMMENT #3: Twenty (20) comments were received suggesting the assessment plan require a minimum of two (2) EOC assessments per content area for each student and to require additional assessments to be administered to students who are enrolled in the associated courses.

RESPONSE: In response to feedback generated during the summer regional advisory committee meetings, adjustments were made to the assessment plan during the August board meeting. The total number of required EOC assessments will be a minimum of two (2) mathematics, two (2) communication arts, two (2) social studies, and three (3) science for each student. The board declines to make additional changes.

COMMENT #4: Fourteen (14) comments noted concern regarding EOHS use as a high school exit exam or placement tools for colleges and employers.

RESPONSE: The Missouri School Improvement Program (MSIP) addresses district accountability, not student accountability. Colleges and employers are encouraged to review student achievement levels on state assessments in their consideration of students for placement.

COMMENT #5: Thirteen (13) comments were received expressing concerns whether limitations could occur to a district's course offerings due to the assessment plan.

RESPONSE: The required assessments included in the assessment plan are within the scope of elementary and middle school programs of study and do not exceed state graduation requirements. Current state graduation requirements include three (3) high school math, three (3) high school science, three (3) high school social studies, and four (4) high school English credits. The content of high school courses should be defined so that all students have a challenging course of study and opportunity to attain competency in the core content areas. Missouri school districts have flexibility in how they provide and teach these competencies.

COMMENT #6: In response to feedback generated at regional advisory committee meetings held this summer, the total number of

required EOC assessments was reduced by three (3). Fourteen (14) comments noted the district is still accountable for the competencies of the eliminated EOCs due to the addition of the EOHS.

RESPONSE: During its regularly scheduled meeting in August, the board agreed to reduce the number of assessments based on concerns about the over-assessment of students. The board did not agree to eliminate the expectation for all students to demonstrate competencies established by state standards.

COMMENT #7: Fifty-six (56) comments were received regarding the development and appropriateness of a pre-K through Grade 3 assessment.

RESPONSE: The pre-K through Grade 3 assessment was originally included in MSIP-5 as a report-only item. In response to feedback generated during the summer regional advisory committee meetings, report-only items were removed from the proposed rule. A pre-K through K assessment will be piloted during the 2012-2013 school year, but it will not be utilized for determining a district's classification status.

COMMENT #8: Twenty-three (23) comments were received regarding the requirement for students to take chemistry EOC assessment as well as the introduction of two (2) unidentified science assessments.

RESPONSE: The board reviewed the assessment schedule during the August 2011 board meeting and removed the language relating to EOCs specifically for chemistry and physics courses. The assessment schedule now includes reference to two (2) additional high school-level sciences, but does not specify which courses must be taken. Demonstrated mastery of the competencies outlined in the new science standards will be expected. The new standards for science will be available in fall 2012. Because of the variety of important areas of science content as well as the course options in most high schools, the Department of Elementary and Secondary Education (department) will encourage a variety of pathways along which students may demonstrate those competencies.

COMMENT #9: Thirty (30) comments were received regarding the utilization of technology to administer the required assessments. Four (4) comments were concerned about the utilization of technology to assess students at the elementary level.

RESPONSE: All EOC assessments have been administered online beginning in summer 2011. Beginning in 2015, districts will have a three (3)-year grace period to fully transition to online test administration for grades 3-8. Technology use for these assessments will be age- and grade-appropriate and will provide immediate feedback to teachers.

COMMENT #10: Thirteen (13) comments were received regarding the use of the ACT. Twelve (12) of these comments suggested the utilization of the ACT rather than the EHOS assessment. One (1) comment was received regarding an alleged racial bias of the ACT.

RESPONSE: This issue was explored at length in 2008 when the state, for multiple reasons, opted to utilize the EOC assessment rather than the ACT as an indicator of academic achievement at the high school level. The board declines to make this change.

COMMENT #11: Forty (40) comments were received regarding the addition of Accredited with Distinction classification. Thirty-nine (39) comments suggested maintaining the current three (3) levels of classification and continuing to utilize the Distinction in Performance award. One (1) comment suggested that districts would be unable to meet the Distinction in Performance due to the implementation of the Smarter Balance curriculum and assessments.

RESPONSE: The board believes it is important to formally recognize exceptional performance and declines to make this change.

COMMENT #12: Ten (10) comments were received regarding the development and implementation of an MSIP-5 waiver rule utilizing

the same timeline as the MSIP rule.

RESPONSE: The MSIP-5 waiver rule will be developed once the MSIP-5 rule has been finally adopted. At that time, it will be determined which requirements can be waived.

COMMENT #13: One hundred forty-two (142) comments were received regarding physical education and fine arts inclusion in MSIP-5. Ninety-seven (97) of these comments suggest MSIP-5 process standards include the requirement for K-12 fine arts in the schools (fifty (50) minutes per week for music and fifty (50) minutes per week for visual art in elementary schools, and a one (1)-credit fine arts graduation requirement in high schools), taught by fully certified fine arts teachers. Ninety-seven (97) of these comments support the inclusion of the language in the rule indicating the MSIP-5 process standards and indicators will include evidence of adequate instruction in physical education and fine arts to be included in the standards used to determine classification. Thirteen (13) of these comments suggested removing the language in the rule indicating the MSIP-5 process standards and indicators will include evidence of adequate instruction in physical education and fine arts to be included in standards used to determine classification, and recommend these content areas be addressed in the resource and process standards. Thirty-two (32) of these comments support the inclusion of fine arts and physical education in general.

RESPONSE: The board has agreed to revise the resource and process standards in a separate rule outlining standards that are supported by best practice and research. The standards will be presented to the board in spring 2012. A committee of stakeholders will participate in the review of the current standards and act in an advisory capacity in developing the revised resource and process standards. These comments will be shared with the committee. The board agrees with the recommendation to maintain language in the rule indicating that MSIP-5 process standards and indicators will include evidence that adequate instruction in physical education and fine arts are included in standards used to determine classification.

COMMENT #14: One thousand five hundred twelve (1,512) comments were received regarding restoring the Fourth Cycle MSIP Standard 7.2 related to gifted education in MSIP-5.

RESPONSE: Fourth Cycle MSIP Standard 7.2 related to gifted education is a process standard. The board has agreed to revise the resource and process standards in a separate rule outlining standards that are supported by best practice and research. The standards will be presented to the board in spring 2012. A committee of stakeholders will participate in the review of the current standards and act in an advisory capacity in developing the revised resource and process standards. These comments will be shared with the committee.

COMMENT #15: Sixteen (16) comments were received regarding graduation rate and dropout rate. Fifteen (15) comments suggested returning to the use of a dropout rate and utilization of persistence to graduation rate rather than an adjusted cohort rate. One (1) comment was received concerning limiting the calculation to five (5) years from the cohort's entry into ninth grade due to the utilization of Individualized Education Plans (IEPs) to determine appropriate graduation time.

RESPONSE: The board has established a committee of stakeholders that are acting in an advisory capacity in the development of the framework and scoring guide for MSIP-5. The department anticipates that a scoring guide will be taken to the board in January.

COMMENT #16: One (1) comment was received regarding the development of a measure for post-elementary preparation for elementary students.

RESPONSE: The board has established a committee of stakeholders that are acting in an advisory capacity in the development of the framework and scoring guide for MSIP-5. The department anticipates that a scoring guide will be taken to the board in January.

COMMENT #17: Eighty-seven (87) comments were received regarding maintaining the resource and process standards, including standards for class size, library media, counseling, administrators, and course offerings.

RESPONSE: The board has agreed to revise the resource and process standards in a separate rule outlining standards that are supported by best practice and research. The standards will be presented to the board in spring 2012. A committee of stakeholders will participate in the review of the current standards and act in an advisory capacity in developing the revised resource and process standards. These comments will be shared with the committee.

COMMENT #18: Thirty-five (35) comments were received regarding maintaining the current Fourth Cycle MSIP resource and process standards until the MSIP-5 resource and process standards are in place.

RESPONSE: The board agrees to maintain Fourth Cycle MSIP resource and process standards until the MSIP-5 resource and process standards are in place.

COMMENT #19: Ninety-six (96) comments were received regarding maintaining a guidance counselor resource standard.

RESPONSE: The board has agreed to revise the resource and process standards in a separate rule outlining standards that are supported by best practice and research. The standards will be presented to the board in spring 2012. A committee of stakeholders will participate in the review of the current standards and act in an advisory capacity in developing the revised resource and process standards. These comments will be shared with the committee.

COMMENT #20: Seven (7) comments were received regarding the utilization of pipeline data in determining the classification of districts and the follow-up of secondary students.

RESPONSE: These items were originally included in MSIP-5 as a report-only item. In response to feedback generated during the summer regional advisory committee meetings, report-only items were removed from the proposed rule. While not used for accreditation purposes, these data can provide useful information to school districts and contribute to better informing all stakeholders. These data will continue to be published but will not be reported on the Annual Performance Report.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 30—Division of Financial and Administrative
Services
Chapter 345—Missouri School Improvement Program**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 161.092 and 167.640, RSMo Supp. 2011, the board rescinds a rule as follows:

5 CSR 30-345.011 Measurement of Effectiveness of Remediation of Students Scoring at the Lowest Level on the Missouri Assessment Program is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2093). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 161.092, RSMo Supp. 2011, the board rescinds a rule as follows:

5 CSR 50-340.018 Military Service Credit is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2093). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 161.092, RSMo Supp. 2011, the board rescinds a rule as follows:

5 CSR 50-340.019 Military Science Credit is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2093). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 161.092, RSMo Supp. 2011, the board rescinds a rule as follows:

5 CSR 50-340.021 Applied Music Credit is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2093-2094). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 161.092, RSMo Supp. 2011, the board rescinds a rule as follows:

5 CSR 50-340.022 State Reading Circle Program **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2094). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 161.092, RSMo Supp. 2011, the board rescinds a rule as follows:

5 CSR 50-340.030 Standards for Missouri School Library Media Centers **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2094). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 161.092(2), 163.011, 163.021(2), and 163.031, RSMo Supp. 2011, the board rescinds a rule as follows:

5 CSR 50-340.060 Policies and Standards for Part-Time Public School Students **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2094). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The State Board of Education received one (1) comment letter on the proposed rescission.

COMMENT #1: The State Board of Education received a comment letter from the Missouri School Boards' Association regarding the standards for student attendance, including part-time attendance. RESPONSE: The State Board of Education has carefully reviewed the comment and no change has been made. Under current state law, responsibility for establishing standards for student attendance, including part-time attendance, rests with the local board of education. Department assistance in this area of policy will be limited to non-regulatory guidance.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 178.310, RSMo 2000, the board rescinds a rule as follows:

5 CSR 50-340.070 Standards for Part-Time Schools **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2094-2095). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 161.092, RSMo Supp. 2011, the board rescinds a rule as follows:

5 CSR 50-340.100 Approval of Utilizing Courses Delivered Primarily Through Electronic Media **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2095). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accountability**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 160.720 and 161.092, RSMo Supp. 2011, the board rescinds a rule as follows:

5 CSR 50-340.150 Priority Schools **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2095). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 350—State Programs**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 161.092, RSMo Supp. 2011, the board rescinds a rule as follows:

5 CSR 50-350.010 General Provisions is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2095). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 350—State Programs**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 167.335, RSMo Supp. 2000, the board rescinds a rule as follows:

**5 CSR 50-350.020 Safe Schools Educational Program Grants
is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2095–2096). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 350—State Programs**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 161.650, RSMo Supp. 2011, the board rescinds a rule as follows:

5 CSR 50-350.030 Safe Schools Curriculum is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2096). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 350—State Programs**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 160.950 and 161.092, RSMo Supp. 2011, the board rescinds a rule as follows:

**5 CSR 50-350.050 Persistence to Graduation Program Grants
is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2096). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 870—School Recognition Programs**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under section 160.530, RSMo Supp. 2011, the board rescinds a rule as follows:

**5 CSR 80-870.010 Success Leads to Success Program
is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2096–2097). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 5—Conduct of Gaming**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo Supp. 2011, the commission amends a rule as follows:

11 CSR 45-5.200 Progressive Slot Machines is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 1, 2011 (36 MoReg 1995). 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 public hearing was held on this proposed amendment on October 19, 2011. No one commented at the public hearing, and no written comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 7—Security and Surveillance**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission (MGC) under section 313.805, RSMo Supp. 2011, the commission amends a rule as follows:

11 CSR 45-7.160 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2097-2098). 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: A public hearing was held on this proposed amendment on November 2, 2011. No one commented at the public hearing. Two (2) comments were received from the Missouri Gaming Association (MGA).

COMMENT #1: The MGA commented that the industry can support MGC's updated proposed change to the CSR title and wording in section (1) to "Emergency Medical Services (EMS) First Responder Required" as long as this provides the flexibility to use either a first responder or emergency medical technician (EMT).

RESPONSE: The ability to impose a higher or more restrictive standard than required by regulation is fundamental to the regulatory structure. State and federal policies on Emergency Medical Services define an EMT as able to perform the functions of a first responder and specific additional medical duties; a higher level of medical qualification. No changes have been made as a result of this comment.

COMMENT #2: The MGA commented on subsection (3)(B). The proposed wording will require currently licensed EMTs performing this service to become registered before they can continue their duties.

RESPONSE AND EXPLANATION OF CHANGE: MGC agrees and has revised the wording to allow EMTs licensed under Missouri law to serve in lieu of registered first responders.

11 CSR 45-7.160 Emergency Medical Services (EMS) First Responder Required

(3) Each Class B licensee shall ensure all designated EMS first responders shall—

(B) Maintain a current nationally-recognized registration as an emergency medical responder or current emergency medical technician license pursuant to Chapter 190, RSMo; and

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 9—Internal Control System**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo Supp. 2011, the commission amends a rule as follows:

**11 CSR 45-9.114 Minimum Internal Control Standards (MICS)—
Chapter N is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2098). 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 public hearing was held on this proposed amendment on November 2, 2011. No one commented at the public hearing, and one (1) written comment was received from the Missouri Gaming Association (MGA).

COMMENT: The MGA commented that in MICS Chapter N section 1.01, the industry feels they are better served to keep this at the current level (an organizational level above that of a gaming operations manager).

RESPONSE: The intent of this change is to clarify an existing requirement. To maintain the required segregation of duties across a variety of organizational structures, the security director must report to the general manager. No changes have been made as a result of this comment.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 9—Internal Control System**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo Supp. 2011, the commission adopts a rule as follows:

**11 CSR 45-9.117 Minimum Internal Control Standards (MICS)—
Chapter Q is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2098-2099). 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: A public hearing was held on this proposed rule on November 2, 2011. No one commented at the public hearing, and one (1) written comment was received from the Missouri Gaming Association (MGA).

COMMENT: The MGA asked for clarification of "gaming privileges" noted in MICS, Chapter Q section 7.

RESPONSE: Gaming privileges is a commonly used term throughout the industry and no further definition is needed. Though not an all-inclusive list, examples are given in MICS, Chapter Q section 7.01. No changes have been made as a result of this comment.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo Supp. 2011, the commission amends a rule as follows:

11 CSR 45-17.010 Disassociated Persons List Created—Right to Remove From Premises **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2099–2100). 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 public hearing was held on this proposed amendment on November 2, 2011. No one commented at the public hearing, and two (2) comments were received from the Missouri Gaming Association (MGA).

COMMENT #1: The MGA requested that language be changed in subsection (2)(B) to “taxable jackpots” and delete “winnings” as this would expand what is in Chapter Q.

RESPONSE: Class B licensees are not allowed to pay jackpots or winnings to persons on the List of Disassociated Persons; therefore, the proposed rule will not be changed.

COMMENT #2: The MGA asked for clarification of “gaming privileges” noted in paragraph (5)(B)4.

RESPONSE: Gaming privileges is a commonly used term throughout the industry and no further definition is needed. Though not an all-inclusive list, examples are given in Chapter Q section 7.01. No changes have been made as a result of this comment.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo Supp. 2011, the commission amends a rule as follows:

11 CSR 45-17.020 Procedure for Applying for Placement on List of Disassociated Persons **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2100–2101). 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 public hearing was held on this proposed amendment on November 2, 2011. No one commented at the public hearing, and no written comments were received.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo Supp. 2011, the commission amends a rule as follows:

11 CSR 45-17.030 Procedure for Entry of Names onto List of Disassociated Persons **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2101). 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 public hearing was held on this proposed amendment on November 2, 2011. No one commented at the public hearing, and no written comments were received.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission (MGC) under section 313.805, RSMo Supp. 2011, the commission amends a rule as follows:

11 CSR 45-17.040 Confidentiality of List of Disassociated Persons **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2101–2102). 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 public hearing was held on this proposed amendment on November 2, 2011. No one commented at the public hearing, and two (2) written comments were received.

COMMENT #1: From Tim Lambert, Vice President Legal Affairs, Central Division, Caesars Entertainment Operating Company, Inc.: “I am concerned with the potential interpretation of the phrase, ‘services located at non-gaming properties.’ I believe this phrase means that a Class B licensee may deny services at its casino premises, including hotel, restaurants, entertainment facilities, etc., but it may not deny services at a separate geographic location where gaming is not offered. For example, if Harrah’s owned a hotel with no gaming in Columbia, MO, the individual would be allowed to stay there, but neither Harrah’s North Kansas City nor Harrah’s Maryland Heights would be required to allow the individual access to its hotel located on current premises where gaming is offered. Is that a correct interpretation?”

RESPONSE: The interpretation is correct. No change to the proposed amendment is necessary.

COMMENT #2: The Missouri Gaming Association asked for clarification of the response to the MGC’s feedback on the industry’s June 9th review of the draft concerning corporate disclosures, we would like the MGC to reiterate that one letter would address all corporate disclosures and that a one-time letter would suffice until something changed.

RESPONSE: The proposed amendment requires that all such disclosures must be made according to procedures approved by the MGC. Any changes in procedures must first be approved by the MGC. The comment addresses specific procedures, not the language of the proposed amendment; therefore, no change to the proposed amendment is required in response to this comment.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo Supp. 2011, the commission rescinds a rule as follows:

11 CSR 45-17.050 Removal From List of Disassociated Persons Prohibited **is rescinded.**

A notice of proposed rulemaking containing the text of the proposed rescission was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2102). 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: A public hearing was held on this proposed rescission on November 2, 2011. No one commented at the public hearing, and no written comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission (MGC) under section 313.805, RSMo Supp. 2011, the commission adopts a rule as follows:

11 CSR 45-17.060 Procedure to Discontinue Self-Exclusion on the List of Disassociated Persons **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2102–2103). 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: A public hearing was held on this proposed rule on November 2, 2011. Only one (1) person spoke at the hearing. He was in favor of the proposed rule. The commission received three hundred twelve (312) phone calls in support of the rule. Twelve (12) of those individuals expressed an interest in submitting an application to be on the list, since they would have the option to work through their current situations and be allowed the choice to come off the list after an initial five- (5-) year period. Sixteen (16) written comments were received. The written comments are summarized as follows:

COMMENT #1: The MGC received thirteen (13) letters from the general public expressing support of the proposed rule.

RESPONSE: No change to the proposed rule has been made in response to these comments.

COMMENT #2: One (1) written comment was received from the general public in opposition to the proposed rule. The commenter does not believe the proposed rule is in the best interest of the persons on the List.

RESPONSE: The MGC stands behind research which indicates temporary self-exclusion has been beneficial for problem gamblers. Therefore, no change to the proposed rule has been made in response to this comment.

COMMENT #3: Senator Jim Lembke sent a letter stating that he strongly disagreed with the proposed rule and expressing concern that it would have adverse effects on persons on the list and their families.

COMMENT #4: Representative Michele Kratky sent a letter stating that several of her constituents were concerned the proposed rule would remove any protection the persons or their families have to assist in controlling the impulse to gamble.

RESPONSE: Written responses were sent by the MGC chairman to Senator Lembke and Representative Kratky stating that research indicates temporary self-exclusion has been beneficial for problem gamblers. Therefore, no change to the proposed rule has been made in response to these comments.

COMMENT #5: One (1) comment was received from industry. Tim Lambert, Vice President Legal Affairs, Central Division, Caesars Entertainment Operating Company, Inc. stated, "I think this provision needs to require that the individual qualify for removal before the director files a Notice of Removal."

RESPONSE: The proposed rule addresses this comment by requiring the director deem the application for removal to be valid prior to issuing a Notice of Removal. Therefore, no change to the proposed rule has been made in response to this comment.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 17—Voluntary Exclusions**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under section 313.805, RSMo Supp. 2011, the commission adopts a rule as follows:

11 CSR 45-17.070 Procedure to Re-Establish Self-Exclusion on the List of Disassociated Persons **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 3, 2011 (36 MoReg 2103). 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: A public hearing was held on this proposed rule on November 2, 2011. No one commented at the public hearing, and no written comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 43—Investment of Nonstate Funds**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 136.120, RSMo 2000, the director amends a rule as follows:

12 CSR 10-43.030 Collateral Requirements for Nonstate Funds **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2011 (36 MoReg 2395–2396). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program**

ORDER OF RULEMAKING

By the authority vested in the MO HealthNet Division under section 208.159, RSMo 2000, and sections 208.153 and 208.201, RSMo Supp. 2011, the division amends a rule as follows:

13 CSR 70-10.030 Prospective Reimbursement Plan for Nonstate-Operated Facilities for ICF/MR Services **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2011 (36 MoReg 2272-2273), and the fiscal note was published on November 15, 2011 (36 MoReg 2401-2402). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 16—RETIREMENT SYSTEMS
Division 20—Missouri Local Government Employees'
Retirement System (LAGERS)
Chapter 2—Administrative Rules**

ORDER OF RULEMAKING

By the authority vested in the Board of Trustees of the Missouri Local Government Employees' Retirement System under section 70.605.21, RSMo Supp. 2011, the board amends a rule as follows:

16 CSR 20-2.085 Disability Retirement Applications and Other Relief **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2011 (36 MoReg 2275-2276). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 16—RETIREMENT SYSTEMS
Division 20—Missouri Local Government Employees'
Retirement System (LAGERS)
Chapter 4—Actuarial Assumptions**

ORDER OF RULEMAKING

By the authority vested in the Board of Trustees of the Missouri Local Government Employees' Retirement System under section 70.605.21, RSMo Supp. 2011, the board amends a rule as follows:

16 CSR 20-4.010 Actuarial Assumptions **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2011 (36 MoReg 2276-2281). 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 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts
Chapter 2—Licensing of Physicians and Surgeons**

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under sections 334.031, 334.035, and 334.125, RSMo 2000, and section 334.040, RSMo Supp. 2011, the board amends a rule as follows:

20 CSR 2150-2.004 Postgraduate Training Requirements for Permanent Licensure **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2011 (36 MoReg 2281). 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 State Board of Registration for the Healing Arts received one (1) comment on the proposed amendment, as summarized below.

COMMENT #1: Brian Bowles, executive director of the Missouri Association of Osteopathic Physicians and Surgeons, commented that section (3) of this rule uses the terms "American Specialty Board-eligible" and "American Specialty Board-certifying examination" without giving any precise meaning to the scope of what specialty boards are recognized under this term. The American Osteopathic Association would like to see this term more clearly defined in the language to explicitly note that it is being used as an umbrella to cover both the American Board of Medical Specialties recognized boards and the American Osteopathic Association's Specialty Certifying boards.

RESPONSE: The term "American Specialty Board" is defined in 20 CSR 2150-2.001(5); therefore, the board voted to take no action on this comment.

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

**Division 2150—State Board of Registration for the
Healing Arts
Chapter 2—Licensing of Physicians and Surgeons**

ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under sections 334.031, 334.125, and 334.043, RSMo 2000, and section 334.040, RSMo Supp. 2011, the board amends a rule as follows:

20 CSR 2150-2.005 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2011 (36 MoReg 2281-2282). 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 four (4) comments on the proposed amendment from the same individual, as summarized below.

COMMENT #1: Brian Bowles, executive director of the Missouri Association of Osteopathic Physicians and Surgeons, commented that paragraph (1)(A)4., states examination requirements, but the language used is outdated and does not reflect the current proper terminology. "NBOE (National Board of Osteopathic Examiners)" should be changed to "NBOME (National Board of Osteopathic Medical Examiners)."

RESPONSE AND EXPLANATION OF CHANGE: Paragraph (1)(A)4. refers to examinations taken before 2000. The correct title at that time was National Board of Osteopathic Examiners. The board agreed to amend the proposal to state "National Board of Osteopathic Examiners (currently known as the National Board of Osteopathic Medical Examiners)."

COMMENT #2: Brian Bowles, executive director of the Missouri Association of Osteopathic Physicians and Surgeons, commented that section (1) makes several references to NBOE Part I, NBOE Part II, and NBOE Part III. The actual exam name is COMLEX, so all usages of the term "NBOE" should be stricken and replaced with COMLEX. Further, COMLEX uses Levels, not Parts. "Parts" in the rule should be replaced by the Level, to read Level I, Level II, and Level III. Further, the COMLEX exam Level II is actually broken up into two steps, Level II-CE (clinical evaluation), and LEVEL II-PE (practical evaluation). Both steps must be passed, and thus both steps should be included in the statutory language.

RESPONSE: This section refers to examinations taken before 2000. The name of the examination at that time was National Board of Osteopathic Examiners. It was the board's decision to amend the reference to the NBOE in paragraph (1)(A)4. as stated above, but not to change the listing of examinations (i.e. NBOE Part I, NBOE Part II, etc.).

COMMENT #3: Brian Bowles, executive director of the Missouri Association of Osteopathic Physicians and Surgeons, commented that subsection (1)(B) includes a reference to the "National Board of Examiners for Osteopathic Physicians and Surgeons." The correct name is the National Board of Osteopathic Medical Examiners.

RESPONSE: This section was not amended or posted in the *Missouri Register*, therefore no action was taken by the board.

COMMENT #4: Brian Bowles, executive director of the Missouri Association of Osteopathic Physicians and Surgeons, commented that section (3) makes a new addition of including "percent" after the score of seventy-five (75) "on any other licensing examination." This is a problem, because the two- (2-) digit score for the COMLEX examination is not a percentage score. While seventy-five (75) is the minimum two- (2-) digit score for passage, that score is not a percentile score or the percentage of questions answered correctly. In order to properly reflect how the COMLEX examination is scored, the word "percent" should be stricken, with just a passing score of not less than seventy-five (75) remaining.

RESPONSE: It is the board's opinion that this section does not apply to the COMLEX since section 334.031, RSMo, states that the board may accept the certificate of the National Board of Examiners for Osteopathic Physician and Surgeons in lieu of and as equivalent to its own professional examination. After an applicant has passed the COMLEX they are granted a "certificate" from the national board. Therefore, no changes have been made to the text of the rule as a result of this comment.

20 CSR 2150-2.005 Examination Requirements for Permanent Licensure

(1) The board shall not issue a permanent license as a physician and surgeon to any applicant who has not met the qualifications set forth under either subsection (1)(A), (B), or (C) of this rule—

(A) Applicant has received a passing score on any of the following:

1. A licensing examination administered in one (1) or more states or territories of the United States or the District of Columbia;

2. Components 1 and 2 of the Federation Licensing Examination (FLEX) before January 1, 1994; or

3. Each of the three (3) Steps of the United States Medical Licensing Examination (USMLE) within a seven- (7-) year period. Applicant shall not be deemed to have received a passing score on any Step of the USMLE unless applicant has received a passing score on that Step within three (3) attempts. Failure to pass any USMLE Step shall be considered a failure to pass that Step for purposes of Missouri licensure, regardless of the jurisdiction in which the Step was administered; or

4. One (1) of the hybrid combinations of FLEX, USMLE, NBME (National Board of Medical Examiners), and NBOE (National Board of Osteopathic Examiners (currently known as the National Board of Osteopathic Medical Examiners)) examinations as set forth here, if completed before January 1, 2000—

- NBOE Part I, NBME Part I, or USMLE Step 1 plus NBOE Part II, NBME Part II, or USMLE Step 2 plus NBOE Part III, NBME Part III, or USMLE Step 3 or FLEX Component 1 plus USMLE Step 3 or NBOE Part I, NBME Part I, or USMLE Step 1 plus NBOE Part II, NBME Part II, or USMLE Step 2 plus FLEX Component 2; or

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REGISTRATION**

**Division 2150—State Board of Registration for the
Healing Arts**

Chapter 2—Licensing of Physicians and Surgeons

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Registration for the Healing Arts under section 334.100, RSMo Supp. 2011, the board rescinds a rule as follows:

20 CSR 2150-2.015 Determination of Competency is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 1, 2011 (36 MoReg 2282). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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**Division 2150—State Board of Registration for the
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Chapter 2—Licensing of Physicians and Surgeons

ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Registration for the Healing Arts under sections 334.099 and 334.100, RSMo Supp. 2011, the board adopts a rule as follows:

20 CSR 2150-2.015 Determination of Competency is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 1, 2011 (36 MoReg 2282–2286). 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.

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ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Registration for the Healing Arts under sections 334.043 and 334.125, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2150-2.020 Examination is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 1, 2011 (36 MoReg 2287). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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ORDER OF RULEMAKING

By the authority vested in the Missouri State Board of Registration for the Healing Arts under sections 334.031, 334.035, 334.043, and 334.125, RSMo 2000, and section 334.040, RSMo Supp. 2011, the board amends a rule as follows:

20 CSR 2150-2.030 Licensing by Reciprocity is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2011 (36 MoReg 2287–2289). 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.

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ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the Healing Arts under sections 334.031, 334.035, 334.043, and 334.125, RSMo 2000, and section 334.040, RSMo Supp. 2011, the board adopts a rule as follows:

20 CSR 2150-2.035 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 1, 2011 (36 MoReg 2290–2291). 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 two (2) comments on the proposed rule from the same individual, as summarized below.

COMMENT #1: Brian Bowles, executive director of the Missouri Association of Osteopathic Physicians and Surgeons, commented that in the purpose section, the language currently includes “National Board of Examiners for Osteopathic Physicians and Surgeons.” Mr. Bowles requested that the board replace the current text with the correct organization name, the “National Board of Osteopathic Medical Examiners.”

RESPONSE AND EXPLANATION OF CHANGE: The board agreed to amend the purpose statement.

COMMENT #2: Brian Bowles, executive director of the Missouri Association of Osteopathic Physicians and Surgeons, commented that in section (4) the language currently includes “National Board of Examiners for Osteopathic Physicians and Surgeons.” Mr. Bowles requested that the board replace the current text with the correct organization name, the “National Board of Osteopathic Medical Examiners.”

RESPONSE AND EXPLANATION OF CHANGE: The board agreed to amend this section.

20 CSR 2150-2.035 Licensing by Endorsement

PURPOSE: This rule provides information to those applicants desiring licensure by endorsement of the certificate of the National Board of Medical Examiners, the National Board of Osteopathic Medical Examiners, or of the Licentiate of the Medical Counsel of Canada.

(4) The applicant shall furnish to the board proof of obtaining a certificate of the National Board of Medical Examiners, the National Board of Osteopathic Medical Examiners, or the Licentiate of the Medical Counsel of Canada.

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ORDER OF RULEMAKING

By the authority vested in the State Board of Registration for the

Healing Arts under sections 334.031, 334.035, and 334.125, RSMo 2000, and section 334.040, RSMo Supp. 2011, the board amends a rule as follows:

20 CSR 2150-2.100 Licensing of International Medical Graduates—Reciprocity **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2011 (36 MoReg 2291). 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 State Board of Registration for the Healing Arts received one (1) comment on the proposed amendment, as summarized below.

COMMENT #1: Brian Bowles, executive director of the Missouri Association of Osteopathic Physicians and Surgeons, commented that in subsection (1)(C), the current language reads “completed three (3) years of American Medical Association (AMA)-approved postgraduate training in one (1) recognized specialty area of medicine.” This language does not recognize the equivalency of osteopathic physicians, and should be amended to read “completed three (3) years of American Medical Association (AMA) or American Osteopathic Association (AOA)-approved postgraduate training in one (1) recognized specialty area of medicine.”

RESPONSE: It was the board’s decision not to amend this section since it applies to International Medical Graduates (IMG). The AOA does not allow IMGs to complete AOA postgraduate training programs.