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**Rules of  
Department of Mental Health  
Division 40–Licensing Rules  
Chapter 1–Definitions and Procedures**

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**Title 9—DEPARTMENT OF  
MENTAL HEALTH  
Division 40—Licensing Rules  
Chapter 1—Definitions and  
Procedures**

**9 CSR 40-1.010 Definitions**

(Rescinded January 15, 1984)

*AUTHORITY: sections 630.050 and 630.705, RSMo Supp. 1982. Original rule filed Feb. 9, 1983, effective July 11, 1983. Emergency rescission filed Sept. 20, 1983, effective Oct. 1, 1983, expired Jan. 15, 1984. Rescinded: Filed Sept. 20, 1983, effective Jan. 15, 1984.*

**9 CSR 40-1.015 Definitions**

*PURPOSE: This rule defines terms and explains usage rules for terms used in licensure procedures and rules developed under sections 630.705–630.760, RSMo for all licensed community residential facilities and day programs.*

(1) Unless the context clearly indicates otherwise, the terms defined in sections 630.005, 632.005 and 633.005, RSMo and as used in 9 CSR 40 are incorporated by reference as if set out in this rule.

(2) The following additional words and terms, as used in 9 CSR 40, mean:

(A) Administrative agent, as set forth in 9 CSR 30-4.031, an agency and its approved designee(s) authorized by the Division of Comprehensive Psychiatric Services as an entry and exit point into the state mental health service delivery system of a geographic service area defined by the division;

(B) Applicant, an individual, partnership, association, corporation or governmental entity which has applied to the department for a license or program license;

(C) Aversive stimulus, an object or event, excluding restraint, protective devices and time-out, that is identified as punitive, painful or degrading;

(D) Board of inquiry, one (1) or more employees of a state hospital or regional center assigned to investigate allegations of abuse or neglect in a licensed community residential facility or day program;

(E) Central investigative unit, department staff in the Office of Departmental Affairs assigned to investigate allegations of abuse and neglect under special circumstances;

(F) Chemical restraints, as defined in section 630.005, RSMo, are drugs which are prescribed or administered to temporarily restrain a client or resident who presents a

likelihood of serious physical harm to him/herself or others;

(G) Class I neglect, failure of an employee to provide reasonable and necessary services to maintain the physical and mental health of any client or resident when that failure presents either imminent danger to the health, safety or welfare of a client or resident, or a substantial probability that death or physical injury would result;

(H) Class II neglect, failure of an employee to provide reasonable or necessary services to a client or resident according to the individualized treatment or habilitation plan, if feasible, or according to acceptable standards of care;

(I) Community residential facility, any premises where residential prevention, evaluation, care, treatment or habilitation are provided for persons affected by mental retardation, developmental disabilities, mental illness or mental disorders, except for a person's dwelling;

(J) Day program, a place providing a series of interventions, activities and instruction delivered by qualified staff for the purpose of evaluation, treatment, habilitation or rehabilitation for persons with mental disorders, mental illness, mental retardation or developmental disabilities. These interventions, activities and instruction occur on a regularly scheduled basis at least two (2) days a week for three (3) hours or more but less than twenty-four (24) hours in each daily period. The provision of evaluation, treatment, habilitation and rehabilitation does not include the following types of services and facilities: summer camps; on-site job training programs; professional service facilities, such as offices of physicians, physical therapists; and occupational therapists and programs operating solely for social welfare functions including, but not limited to, nutrition and meal sites, food or clothing distribution or provision of temporary safe shelter. Also excluded is any adult day care program, day care home or day nursery licensed by the Department of Social Services or the Department of Health or exempt from licensing under section 660.405 or 210.211, RSMo which provides only day care and does not offer nor holds itself out as offering services normally subject to licensing by the Department of Mental Health;

(K) Department facility, a facility operated by the department or designated by the department as a department facility;

(L) Dual diagnosis, a person who has both a diagnosis of mental retardation and mental illness. A facility serving a person with a dual diagnosis is subject to the rules regulating

mental retardation, regardless of which diagnosis is primary;

(M) Family living arrangement, a residential facility operating in the owned or leased permanent residence of the licensee, serving no more than three (3) residents who are integrated into the licensee's family unit. The facility does not normally use direct-care staff other than members of the household. However, volunteer or paid staff may be used to provide direct-supervisory care in the facility for occasional weekends, evenings, vacations, and the like, as relief for the licensee;

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

(O) Head of supervising facility, the superintendent of a state hospital or regional center director in whose region an allegation of abuse or neglect is under investigation;

(P) Individualized habilitation plan (IHP), a document which sets forth habilitation goals and objectives for clients or residents, and which details the habilitation program as required by 9 CSR 40-3.135, 9 CSR 40-4.135 and 9 CSR 40-9.135;

(Q) Individualized program plan, a document which sets forth program goals and objectives for clients or residents and which details the program objectives as required by 9 CSR 40-3.135, 9 CSR 40-4.135 and 9 CSR 40-9.135;

(R) Individualized treatment plan (ITP), a document which sets forth treatment goals and objectives for clients or residents, and which details the treatment program as required by 9 CSR 40-3.135, 9 CSR 40-4.135 and 9 CSR 40-9.135;

(S) Isolation, removing an individual from a social setting to prevent spread of contagious disease;

(T) Latch-key program, day care supervisory services to persons who are mentally retarded before and after school or day program activities but is not designed to pursue objectives within an IHP;

(U) License, written notification that a residential facility or day program complies with licensing requirements to serve clients;

(V) Licensee, an individual, partnership, association, corporation or governmental entity which has received from the department a license or program license for the operation of a community residential facility or day program;

(W) Mechanical restraints, any device, instrument or physical object used to confine or otherwise limit a client's or resident's freedom of movement except when necessary for orthopedic, surgical and other medical purposes;

(X) Mechanical supports, supportive devices used in normative situations to achieve proper body position and balance; these are not restraints;

(Y) Medical treatment, any activity for curing or healing, or for relieving pain, including physical therapy;

(Z) Mental health professional (MHP)—

1. A physician licensed under Missouri law to practice medicine or osteopathy and with training in mental health services or one (1) year of experience, under supervision, in treating problems related to mental illness or specialized training;

2. A psychiatrist, a physician licensed under Missouri law who has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program identified as equivalent by the department;

3. A psychologist licensed under Missouri law to practice psychology with specialized training in mental health services;

4. A professional counselor licensed under Missouri law to practice counseling and with specialized training in mental health services;

5. A licensed clinical social worker with a master's degree in social work from an accredited program and with specialized training in mental health services;

6. A psychiatric nurse, a registered professional nurse licensed under Chapter 335, RSMo with at least two (2) years of experience as a registered nurse in a psychiatric setting or a master's degree in psychiatric nursing;

7. An individual possessing a master's or doctorate degree in counseling and guidance, rehabilitation counseling, vocational counseling, psychology, pastoral counseling or family therapy or related field who has successfully completed a practicum or has one (1) year of experience under the supervision of a mental health professional; and

8. An occupational therapist certified by the American Occupational Therapy Certification Board, registered in Missouri, has a bachelor's degree and has completed a practicum in a psychiatric setting and has one (1) year of experience in a psychiatric setting, or has a master's degree and has completed either a practicum in a psychiatric setting or has one (1) year of experience in a psychiatric setting;

(AA) Nonambulatory, unable to walk independently without assistance of a mechanical device or another person;

(BB) Occupant, any person excluding staff, who lives at a community residential facility. This includes, but is not limited to, residents, the children of staff, friends and relatives;

(CC) Person's dwelling, the private home of a person providing care, treatment and habilitation or rehabilitation to a relative or a home occupied by a client or resident who functions independently of protective oversight services;

(DD) Physical abuse—

1. Purposefully beating, striking, wounding or injuring any client or resident; or

2. In any manner whatsoever mistreating or maltreating a client or resident in a brutal or inhumane manner. Physical abuse includes handling a client or resident with any more force than is reasonable or apparently necessary for a client's or resident's proper control, treatment or management;

(EE) Physical restraint, physical holding involving a restriction on an individual's voluntary movement to temporarily restrain an agitated, violent or aggressive client or resident who presents a likelihood of serious physical harm to him/herself or others;

(FF) Probationary license, written authorization to continue service delivery for a specified period of time to enable a licensee to achieve compliance with the department's licensing requirements as set forth in a consent agreement between the department and the licensee;

(GG) Program license, written notification that a community residential facility or day program which already has a license, temporary operating permit or probationary license from the Department of Social Services under sections 198.006—198.096, RSMo also meets the department's licensing requirements relative to admission criteria, care, treatment and habilitation or rehabilitation needs of residents or clients;

(HH) Protective device, mitts, helmets, bed rails, splints, wheelchairs and crib nets;

(II) Protective oversight, continuous awareness of a resident's functioning, the resident's whereabouts, the ability to intervene if a crisis arises for the resident, supervision in nutrition or medication or actual provision of care and a twenty-four (24)-hour responsibility for the welfare of the resident;

(JJ) Psychiatric group home, a community residential facility with less than sixteen (16) residents providing twenty-four (24)-hour accommodations, psychiatric supervision, board, storage and distribution of medications, protective oversight and psychosocial

rehabilitation for residents who can benefit from an intense, highly structured treatment setting;

(KK) Psychiatric Group Home II, a residential treatment program for young adults who are mentally ill, between the ages of eighteen to twenty-one (18–21), inclusive, licensed by the Department of Mental Health for eight to ten (8–10) residents;

(LL) Qualified mental retardation professional (QMRP). The following represents the minimum requirements for individuals to be considered QMRPs:

1. Psychologist, a person with at least a master's degree in psychology from an accredited school with at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities;

2. Physician, a doctor of medicine or osteopathy, who has at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities;

3. Social worker, a person who holds a graduate degree from a school of social work accredited or approved by the Council on Social Work Education (CSWE) or another comparable body, or a person who holds a bachelor of social work degree from a college or university accredited or approved by the CSWE or another comparable body. The social worker must also have at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities;

4. Occupational therapist, a person eligible for certification by the American Occupational Therapy Association or another comparable body who has at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities;

5. Physical therapist, a person who is eligible for certification by the American Physical Therapy Association or another comparable body and who has at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities;

6. Speech pathologist or audiologist, a person who is eligible for a certificate of clinical competence in speech-language pathology or audiology granted by the Speech-Language-Hearing Association or another comparable body; or a person who meets the educational requirements for certification and who is in the process of accumulating the supervised experience required for certification. A speech pathologist or audiologist must also have at least one (1) year of experience in working directly with persons with

mental retardation or other developmental disabilities;

7. Registered nurse, a person who is a registered nurse and who has at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities;

8. Professional recreation staff member, a person who has a bachelor's degree in recreation or in a specialty area such as art, dance, music or physical education and who has at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities; and

9. Human services professional, a person who has at least a bachelor's degree in a human services field (including, but not limited to, psychology, sociology, rehabilitation counseling and special education) and who has at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities;

(MM) Research, intervention or interaction on clients or residents to test hypotheses, derive generalizations to test new interventions classified as experimental whether behavioral, psychological, biomedical or pharmacological and shall include the review of current or past client or resident personally identifiable records, surveying clients or residents, and use of client or resident personally identifiable statistics;

(NN) Residential center, a residential facility serving ten (10) or more residents and providing social support, health supervision and habilitation training in skills of daily living;

(OO) Seclusion, placement alone in a locked room;

(PP) Semi-independent living arrangement, a community residential facility composed of individual living units or apartments each of which provides bedroom space, living space and a kitchen for up to three (3) residents and where protective oversight is provided by staff living on-site or in close proximity, normally in the same building, but not in the same living unit as residents;

(QQ) Sexual abuse, any touching, directly or through clothing, of the genitals, anus or breasts of a client or resident for sexual purpose. Sexual purpose means for the arousing or gratifying of anyone's sexual desires. This definition includes the employee touching a resident and the employee causing the client or resident to touch the employee. It includes fondling through clothing. It also includes aiding and abetting sexual abuse between clients or residents or failing to exercise duty

to stop or prevent sexual abuse between clients or residents;

(RR) Substantial compliance, a facility may be found in substantial compliance when deficiencies do not involve:

1. Abuse or neglect—Any instance of abuse/neglect in which corrective action has not been taken;

2. Life endangering conditions—Any single life-endangering item or combination of minor deficiencies which collectively are life endangering or which become perilous contingent upon an event such as the outbreak of fire;

3. Legally required items—Deficiencies related to statutory requirements for DMH-licensed facilities, such as consumers' rights and licensure procedures;

4. Repeated deficiencies—Items which may or may not be serious in and of themselves, but which become significant when left uncorrected according to agreed upon schedules over a period of time;

5. Numerous deficiencies—Deficiencies which may or may not be serious themselves, but become significant collectively because they indicate an ineffective maintenance plan, deficient housekeeping standards, inadequate orientation or training of staff, poor nursing care practice, inadequate diet, lack of habilitation or rehabilitation, ineffective policy and procedures, inadequate staffing, poor record-keeping, or other problems which may affect the consumers' well being; or

6. Minimum physical plant requirements—Quantitative requirements under physical plant and fire safety relating to minimum dimensions for hallways, doors, ceiling heights, window space, floor space, number of bathrooms, and occupants per bedroom;

(SS) Temporary operating permit, written authorization permitting licensee seeking licensing for a new licensing period or a new owner applying for the license to continue service delivery pending completion of the licensing survey process;

(TT) Time-out, temporary exclusion or removal of a client or resident from positive reinforcement as part of a formal behavior modification procedure in which, contingent upon the client's or resident's emission of undesired behavior, the client or resident is removed from the situation that affords positive reinforcement; and

(UU) Verbal abuse, referring to a client or resident in the client's or resident's presence with profanity or in a demeaning, undignified or derogatory manner.

(3) Unless the context clearly indicates otherwise, certain terms shall be used in 9 CSR 40 as follows:

(A) Parent, the parent of a minor client or resident unless his/her parental rights have been terminated, or the parent of an adult client or resident who consents to having the parent have access to or participate in the record or activity subject of a particular rule. The term should be disregarded if the client's or resident's parents are deceased or have had their parental rights terminated; and

(B) Guardian, the person appointed by a Missouri court of competent jurisdiction to have the care, custody and control of the client or resident. The term should be disregarded if the client or resident has not had a guardian appointed.

(4) Unless the context clearly indicates otherwise in 9 CSR 40—

(A) The use of any words in the plural includes the use in the singular and vice versa;

(B) The use of terms in the masculine gender includes the use in feminine gender and vice versa; and

(C) Time to perform an act required under this rule shall be computed by excluding the first day and including the last day, unless the last day is a holiday recognized by the state, a Saturday or Sunday, in which case the last day shall include the first day following the state holiday, Saturday or Sunday.

*AUTHORITY: sections 630.050, and 630.705, RSMo 1994.\* Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed March 14, 1984, effective Aug. 15, 1984. Amended: Filed July 15, 1985, effective Feb. 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed Jan. 31, 1991, effective July 8, 1991. Amended: Filed July 17, 1995, effective March 30, 1996.*

*\*\*Original authority: 630.050, RSMo (1980), amended 1993, 1995 and 630.705, RSMo (1980), amended 1982, 1984, 1985, 1990.*

#### **9 CSR 40-1.050 Licensure Procedures** (Rescinded January 15, 1984)

*AUTHORITY: sections 630.050 and 630.705, RSMo Supp. 1982. Original rule filed Feb. 9, 1983, effective July 11, 1983. Emergency rescission filed Sept. 20, 1983, effective Oct. 1, 1983, expired Jan. 15, 1984. Rescinded: Filed Sept. 20, 1983, effective Jan. 15, 1984.*

#### **9 CSR 40-1.055 Licensing Procedures**

*PURPOSE: This rule establishes procedures for applying for and obtaining a license.*

(1) As set out in section 630.705, RSMo, each community residential facility or day program serving the mentally retarded, developmentally disabled, mentally ill or mentally disordered shall have a license or program license from the department unless specifically exempted under section 630.705.3., RSMo.

(2) As set out in section 630.715.1., RSMo, the department shall accept a license, a temporary operating permit or a probationary license issued by the Department of Social Services under sections 198.006—198.096, RSMo except that a facility shall meet the department's requirements which are appropriate to admission criteria and care, treatment habilitation and rehabilitation needs, including adequate staffing.

(3) Applicants may only apply for licenses or program licenses on application forms provided by the department. Persons applying for the first time for a given premises shall submit with the application a drawing of the interior of the facility, in approximate scale, and a narrative indicating how each area in the facility will be used.

(4) The department does not require fees from community residential facilities or day programs which have three (3) or fewer residents or clients or from community residential facilities or day programs which are owned and operated by governmental entities. Applicants shall submit fees of ten dollars (\$10) for establishments having at least four (4), but less than ten (10), residents or clients and fifty dollars (\$50) for establishments having ten (10) or more residents or clients. The license fee is not refundable. The applicant shall pay the fee based on the total bed or day program capacity of its facility or premises and not the number of residents or clients in the facility or program.

(5) An application shall be active for no more than one (1) year. If the department does not issue a license or program license within one (1) year from the date of application, the applicant must submit a new application with fee, if necessary, to be considered for licensure.

(6) A license or program license is effective for one (1) year unless sooner revoked. At least one hundred twenty (120) days before the expiration of a license or program license, the department shall notify the licensee that an application is necessary for licensing for the next year after expiration of its license.

(7) The licensee shall submit the application for a license for a succeeding year to the department at least ninety (90) days before the expiration date of its current license.

(8) If the licensee does not apply for a new license or program license within at least ninety (90) days before its expiration date, the department shall notify the facility or program that the community residential facility or day program would not be authorized under Missouri law to serve residents or clients without a license.

(9) If the department has not completed its survey before the expiration date of a current license or program license and if the applicant is not at fault for the failure to complete the survey process, the department shall grant a temporary operating permit for a specified period of time not to exceed ninety (90) days to complete the survey.

(A) The department shall consider a licensee seeking a license for a succeeding period to be at fault for reasons including, but not limited to, the following examples:

1. The licensee did not apply for a new license or program license at least ninety (90) days before the expiration date of either license;

2. The department found the licensee to be substantially out of compliance with its licensing requirements for community residential facilities or day programs and the head of the facility failed to achieve substantial compliance in accordance with section (12) of this rule; and

3. The licensee refused to allow survey or otherwise to cooperate with the licensing survey team.

(B) The department shall grant a temporary operating permit to authorize continuity of service to allow the department to evaluate any application for a license or program license submitted as a result of any change of community residential facility or day program ownership.

(C) A change in ownership shall be considered to have occurred under the following circumstances:

1. An individual licensee incorporates or forms a partnership and the individual does not retain a majority interest in the corporation or partnership formed;

2. With respect to a licensee which is a general partnership, a change occurs in the majority interest of the partners;

3. With respect to a licensee which is a limited partnership, a change occurs in the majority interest of the general partners or in the majority interest of limited partners; and

4. With respect to a licensee which is a corporation, a change occurs in the persons who own, hold or have the power to vote the majority of any class of stock issued by the corporation.

(10) The head of the facility shall cooperate with and assist authorized departmental representatives in making announced and unannounced surveys by allowing access to the facility or program premises and records.

(11) After receiving an application for either an initial or succeeding license or program license, a departmental licensing team shall inspect the community residential facility or day program by making one (1) or more site visits to the facility to assess compliance with the licensing requirements through interviews with facility employees and residents or clients, reviewing facility records and observing activities and physical conditions.

(A) At the end of each site visit, one (1) or more members of the licensing team shall conduct an exit interview with the head of the facility or program regarding deficiencies noted during the survey.

(B) If the licensing team finds the facility or program to be in substantial compliance with the departmental requirements, the team shall recommend, within twenty (20) working days of completion of the survey, that the department issue a license or program license.

(C) After reviewing the recommendation of the licensing team, the director shall either issue a license or program license to the applicant or licensee or return the recommendation of the licensure team for further survey or other appropriate action.

(12) If the department finds an applicant or licensee at the survey to be out of substantial compliance with its requirements, the department shall take the following steps:

(A) The licensing team shall inform the head of the facility or program of the deficiencies in an exit interview;

(B) Within twenty (20) working days after the survey, the licensing team shall prepare a written report of any deficiency for which there has not been prompt remedial action and shall send a copy of the report to the head of the facility or program by certified mail, return receipt requested, stating separately each deficiency and the specific statute or rule violated;

(C) The licensing report shall be accompanied by a request for a plan of correction;

(D) Following receipt of the request for a plan of correction, the head of the facility or program shall submit, within twenty (20)

working days, a plan of correction to the department survey team;

(E) In the plan of correction, the head of the facility or program shall address each of the deficiencies noted on the report of deficiencies by indicating action steps and time frames for achieving compliance;

(F) Following receipt of a plan of correction, the department has ten (10) working days to give its written approval or disapproval of the plan;

(G) Within fifty-five (55) working days of the survey(s) which gave rise to a request for a plan of correction, the department shall reinspect the facility or program to determine whether or not the facility or program has achieved substantial compliance with departmental standards within the time frames specified in the plan of correction.

1. If the licensing team finds the facility or program in substantial compliance, the department shall issue a license under section (11) of this rule.

2. If the licensing team does not find that the facility or program has achieved substantial compliance or that the head of the facility or program is correcting the noted deficiencies, in accordance with the approved plan of correction, the licensing team shall submit its finding and recommendations to the director, Bureau of Quality Improvement for a decision regarding license issuance, revocation or denial.

(H) The department shall deny the application for license as set out in section (17), invite the head of the facility or program to enter into a consent agreement for a probationary license as set forth in section (20), issue the license or request additional information or review;

(I) The department shall issue a notice of noncompliance as set out in section 630.745, RSMo if the licensee or applicant is out of compliance with departmental requirements and the licensee or applicant is not found to be implementing its approved plan of correction; and

(J) If new applicants who are not licensed by the department and do not currently serve persons for whom licensure is required fail to correct deficiencies, submit a plan of correction, or cooperate with the licensure process, a license will not be formally denied. The application will be allowed to expire and considered withdrawn.

(13) The department shall issue a license or program license to an applicant or licensee the department finds to be in compliance with the provisions of sections 630.705—630.760, RSMo and the department's rules.

(14) The department shall issue a license or program license only for the premises and the individual, partnership, association, corporation or governmental entity named on the application. The license shall be valid for a single community residential facility or day program and shall not be valid for two (2) or more facilities or programs, located on different premises even though they are operated by a single agency.

(15) The head of the facility shall post the facility or program license in a conspicuous place on the premises.

(16) The department may conduct reinspections during a licensure year to determine compliance with its requirements. If the reinspections find a residential facility or program to be out of substantial compliance with departmental requirements, the department may revoke the license or program license if the facility or program does not achieve compliance under the process set out in section (12).

(17) The department shall deny an application for license or program license to a facility or program already licensed, revoke an existing license or program license or deny a license or program license to a new applicant if the department finds substantial failure to comply with sections 630.705—630.760, RSMo and corresponding rule, and if applicant or licensee has failed to submit, implement, or both, an approved plan of correction as described in section (12).

(A) Prior to the formal notice of license denial or revocation, the director, Bureau of Quality Improvement, will give notice of the intent to deny and the reasons for denial to the head of the facility or program and that the head of the facility or program, within ten (10) days of the receipt of the notice, may request a review by the department's hearing officer. The review shall occur within fifteen (15) days of the request for the review by the head of the facility or program.

(B) The review by the department under subsection (17)(A) of this rule shall not be available in cases in which a license was denied or revoked due to substantiated abuse or neglect pursuant to 9 CSR 40-2.035.

(C) A notice of license revocation or denial shall become effective not less than thirty (30) days from the date of mailing by certified or registered mail (return receipt requested) or of personal service of the notice upon the licensee. The department shall state the effective date in the notice.

(D) The notice of revocation or denial shall inform the applicant or licensee of the right to

seek a determination of the revocation or denial by the Administrative Hearing Commission as set out in section 161.272, RSMo and also of the right to stay the department's action pending the determination under rules promulgated by the Administrative Hearing Commission unless, upon application of the department, the commission finds that continued operation before final determination by the commission would present an imminent danger to the health, safety or welfare of any resident or client or substantial probability that death or serious injury would result.

(18) Any person aggrieved by the action of the department to deny or revoke a license or program license may seek a determination of the department director's decision by the Administrative Hearing Commission as set out in section 161.272, RSMo and the rules of the commission.

(19) The head of the facility or program at any time during the inspection process may withdraw, either orally or in writing, an application for a license or program license.

(20) At any time after an inspection is conducted, the head of the facility or program may choose to enter into a consent agreement with the department to obtain a probationary license. The consent agreement shall include a provision that the head of the facility or program shall voluntarily surrender the license if substantial compliance is not reached in accordance with the terms and deadlines established under the agreement. The agreement shall specify the stages, actions and time schedule to achieve substantial compliance.

(21) As set out in section 630.750, RSMo, if the departmental licensing survey team finds upon survey of a licensed residential facility or day program that the facility or program is not in compliance with any standard, the continuation of which noncompliance presents an imminent danger to the health, safety or welfare of a resident or client or a substantial probability that death or serious physical harm would result and the noncompliance is not immediately corrected, the department director shall issue the facility or program a notice of noncompliance and initiate the procedures set out in subsections (12)(C)—(G) of this rule to deny or revoke the facility's or program's license.

(22) If compliance with any standard is medically contraindicated for any resident or client, the head of the facility or program

shall submit a written statement to the licensing office indicating why and for how long compliance with the standard will not be possible. The request shall be signed by a physician and by the members of the resident's or client's multidisciplinary team.

(23) The director, Bureau of Quality Improvement, at his/her discretion, may waive a licensing rule for a specified period of time, or make an exception to a rule, if the head of the facility or program provides evidence that a waiver or exception is in the best interests of residents or clients. Each request for waiver or exemption shall be addressed to Director, Bureau of Quality Improvement, P.O. Box 687, Jefferson City, MO 65102.

*AUTHORITY: sections 630.050, 630.135 and 630.705, RSMo 1994.\* Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed March 14, 1984, effective Aug. 15, 1984. Amended: Filed July 15, 1985, effective Feb. 1, 1986. Amended: Filed March 18, 1987, effective Aug. 15, 1987. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Emergency amendment filed Sept. 15, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Amended: Filed Sept. 15, 1992, effective April 8, 1993. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996.*

*\*Original authority: 630.050, RSMo 1980, amended 1993, 1995; 630.135, RSMo 1980; and 630.705, RSMo 1980, amended 1982, 1984, 1985, 1990.*



DEPARTMENT OF MENTAL HEALTH  
 BUREAU OF QUALITY IMPROVEMENT  
 1706 E. ELM ST., P.O. BOX 596, JEFFERSON CITY, MO 65102  
**APPLICATION FOR LICENSE TO OPERATE A  
 RESIDENTIAL FACILITY OR DAY PROGRAM  
 FOR THE MENTALLY ILL, MENTALLY  
 DISORDERED, MENTALLY RETARDED OR  
 DEVELOPMENTALLY DISABLED.**

**DO NOT WRITE IN THIS SPACE**

<input type="checkbox"/> REAP			<input type="checkbox"/> PENDING			<input type="checkbox"/> RENEWAL		
VENDOR NO.				LO OR RC				
FEE FOR LICENSE		RECEIPT NO.		DATE				
LICENSE NO.				EFFECTIVE DATE				
LICENSED CAPACITY		TYPE OF FACILITY		CODE				

**PLEASE TYPE OR USE BLACK INK**

I, \_\_\_\_\_, the chief administrative officer of the establishment described herein, certify that I am fully empowered to administer and conduct the residential facility or day program described herein and that the following information is true to the best of my knowledge and belief.

SOCIAL SECURITY NO. OF CHIEF ADMINISTRATIVE OFFICER	PROFESSION
---	------------

EMPLOYER TAX I.D. NO.

NAME OF FACILITY	PHONE NO. ( )
------------------	------------------

SPECIFIC LOCATION (STREET OR R.F.D.)

CITY	ZIP CODE	COUNTY
------	----------	--------

MAILING ADDRESS (IF DIFFERENT THAN ABOVE) (STREET, R.F.D. OR P.O. BOX)

CITY	ZIP CODE
------	----------

TYPE OF FACILITY

Residential Facility     Day Program     Foster Care     Respite Care

TYPE OF RESIDENT OR CLIENT SERVED

Mentally Ill/Mentally Disordered     Mentally Retarded Developmentally Disabled

TOTAL BEDS/DAY PROGRAM CLIENT CAPACITY	CURRENT NUMBER OF NON-AMBULATORY BEDS/CLIENTS
--	---

**OTHER LICENSE, ACCREDITATION OR CERTIFICATION OF THIS FACILITY**

LICENSING, ACCREDITING OR CERTIFYING BODY	FACILITY TYPE	LICENSE NO.	ISSUANCE DATE	EXPIRATION DATE

OWNER OF BUILDING (NAME & ADDRESS)	PHONE
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OWNER OF BUSINESS (NAME AND ADDRESS)	PHONE
--------------------------------------	-------

CONVICTION OF FELONY BY PARTNER, CORPORATE OFFICER, OR CHIEF ADMINISTRATIVE OFFICER

YES     NO    IF YES, PLEASE EXPLAIN ON SEPARATE SHEET

I understand that the establishment mentioned in this instance shall be eligible for a license only after it has complied with the requirements of the law and the regulations and codes, and that such a license is subject to revocation at any time that I fail to cause this establishment to continue to comply with the law, regulations and codes. Furthermore, I understand that agents of the Department of Mental Health are authorized by law to make inspections of the premises, talk to our employees about the operation of this facility, and to audit the financial records of this institution.

I understand that the annual license fee for a resident facility and day program which accepts more than three, but less than ten residents is \$10, and the annual license fee for a facility with ten or more residents is \$50. In accordance with the foregoing statement, enclosed and made a part of this application is \_\_\_\_\_ (my or our) check or money order in the amount of \_\_\_\_\_ (dollars) payable to the Missouri Department of Mental Health. Residential facilities and day programs which serve less than four persons, or which are owned and operated by a governmental entity, are not required to pay a fee. I understand that, unless my facility is licensed by the Division of Aging, I am required to submit a floor plan with an initial application and a staffing pattern with all applications.





<b>OWNERSHIP OF MANAGEMENT (CHECK ONLY ONE)</b>			
<b>A. GOVERNMENTAL</b>		<b>B. NON-GOVERNMENTAL</b>	
<input type="checkbox"/> City	<input type="checkbox"/> County	<b>NON-PROFIT</b>	<b>PROPRIETARY</b>
		<input type="checkbox"/> Church Operated	<input type="checkbox"/> Individual
		<input type="checkbox"/> Church Affiliated	<input type="checkbox"/> Partnership
		<input type="checkbox"/> Other Non-Profit	<input type="checkbox"/> Corporation
FACILITY SUPERVISOR NAME (IF OTHER THAN CHIEF ADMINISTRATIVE OFFICER)			
R.N. CONSULTANT NAME		LICENSE NO.	
SUPERVISING PHYSICIAN NAME		LICENSE NO.	
<b>ACKNOWLEDGEMENT</b>			
STATE OF MISSOURI			
City of _____	} SS.		
County of _____			
_____ and		PRESIDENT OF BOARD OF TRUSTEES, OWNER, OR ONE PARTNER OF PARTNERSHIP	
_____		CHIEF ADMINISTRATIVE OFFICER	
being duly sworn by me on _____			
oath, deposes and says that _____			
SHE/HE			
have read the foregoing application and that the statements contained therein			
are true and correct to the best of _____			
HIS/HER			
knowledge; and further gives assurance of the ability and intention of			
the _____			
EXACT LEGAL NAME OF FACILITY OR DAY PROGRAM			
to comply with the law			
for the operation of residential facilities or day programs for the mentally ill, mentally disordered, mentally retarded or			
developmentally disabled, sections 630.705 - 630.760, RSMo., and regulations established thereunder.			
_____ and		_____	
PRESIDENT OF BOARD OF TRUSTEES, OWNER OR ONE PARTNER OF PARTNERSHIP		CHIEF ADMINISTRATIVE OFFICER	
further certify that _____			
HE/SHE			
will comply with all requirements for correction and/or improvements in _____			
EXACT LEGAL NAME OF FACILITY OR DAY PROGRAM			
contained in the inspection reports completed by			
licensing authorities of the Missouri Department of Mental Health and submitted to said residential facility or day program.			
SIGNED (PRESIDENT OF BOARD OF TRUSTEES, OWNER OR ONE PARTNER OF PARTNERSHIP)		SIGNED (CHIEF ADMINISTRATIVE OFFICER)	
<b>NOTARY PUBLIC</b>			
NOTARY PUBLIC EMBOSSEER OR BLACK INK RUBBER STAMP SEAL	STATE OF _____		COUNTY (OR CITY OF ST. LOUIS) _____
	SUBSCRIBED AND SWORN BEFORE ME, THIS		
	DAY OF _____		19 _____
	<b>USE RUBBER STAMP IN CLEAR AREA BELOW.</b>		
NOTARY PUBLIC SIGNATURE _____		MY COMMISSION EXPIRES _____	
NOTARY PUBLIC NAME (TYPED OR PRINTED) _____			
<b>CHECK LIST:</b> Before mailing this application please be sure the following are enclosed, if required.			
• The license fee			
• Staffing pattern indicating the number of direct care staff on duty during each shift Monday through Sunday.			
• A floor plan of the facility with narrative indicating how each room is to be used (initial applications only).			

### 9 CSR 40-1.100 Implementation of Licensure Authority for Certain Day Programs and Community Residential Facilities

*Emergency rule filed Sept. 20, 1983, effective Oct. 1, 1983, expired Jan. 15, 1984.*

### 9 CSR 40-1.105 Implementation of Licensing Authority for Certain Day Programs and Community Residential Facilities

*PURPOSE: This rule clarifies what types of facilities are subject to licensure, and the relationship of licensure with community residential facilities and day programs that are licensed or certified by state agencies.*

*Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.*

(1) The department shall provide the following types of licenses:

(A) A license to day programs serving the mentally ill, mentally disordered, mentally retarded or developmentally disabled as specified under 9 CSR 40-1, 9 CSR 40-2, 9 CSR 40-9 and 9 CSR 40-10. A day program license is not required for day program activities which take place in a licensed community residential facility if all of the day program clients are residents of the facility and the facility does not have a day program contract with the department;

(B) A license to community residential facilities and semi-independent living arrangements serving persons who are mentally ill, mentally disordered, mentally retarded or developmentally disabled as specified under 9 CSR 40-1, 9 CSR 40-2, 9 CSR 40-4, 9 CSR 40-5, 9 CSR 40-6, and 9 CSR 40-7;

(C) A license to any community residential facility licensed by the Department of Social Services as a Residential Care Agency for Children as specified in section (3) of this rule;

(D) A program license to residential facilities serving mentally ill, mentally disordered, mentally retarded or developmentally disabled as specified in 9 CSR 40-1, 9 CSR 40-2, 9 CSR 40-3 and 9 CSR 40-8; and

(E) Discrete day programs or residential facilities located in different buildings but on a single premises shall be individually licensed provided the residential facility or day program is autonomous in providing essential client accommodations and services as required by the rules. Provisions for these services must not be shared with or dependent upon the space or staff of another facility or day program. Support services may be shared.

(2) The department deems as licensed with a program license any community residential facility which meets each of the following criteria:

(A) Has paid application fees and submitted applications as set out in 9 CSR 40-1.055;

(B) Is licensed by the Department of Social Services as set out in Chapter 198, RSMo and 13 CSR 15-10-13 CSR 15-16 as skilled nursing facility, intermediate care facility (ICF), residential care facility II or residential care facility I; and

(C) Has not been inspected and had a license or program license denied or revoked as set out in 9 CSR 40-1.055.

(3) As set out in section 630.730, RSMo, the department delegates its survey authority to the Department of Social Services for compliance with licensing rules as a Residential Care Agency for Children under 13 CSR 40-71. Licensing rules for Residential Care Agencies for Children under 13 CSR 40-71 are incorporated by reference into this rule. The department shall issue a license to any Residential Care Agency for Children if the following conditions are met:

(A) The facility has paid application fees and applied for licensing as set out in 9 CSR 40-1.055;

(B) The department has received documentation from the Department of Social Services indicating the facility has been found in compliance with 13 CSR 40-71;

(C) The facility has a current license from the Department of Social Services as a Residential Care Agency for Children; and

(D) The facility makes no request to be subject to the department's licensing rules under 9 CSR 40. If a facility does request to be subject to the department's licensing rules, the department shall implement its survey procedures in accordance with 9 CSR 40-1.055.

(4) Upon receipt of application and fee, the department deems as licensed any residential facility, or part of it, qualifying as an ICF/MR (mentally retarded) and certified

under Title XIX of the Social Security Act, 42 U.S.C. section 1396, and the regulations contained at 42 CFR part 442, so long as the facility or part of it remains certified. For these ICFs/MRs, certification standards in effect and contained at 42 U.S.C. section 1396, and 42 CFR part 442, incorporated by reference, shall constitute the applicable licensing standards for so long as the facility or part of the facility remains certified. As set out in section 630.730, RSMo, the department delegates its survey authority for these ICFs/MRs to the Department of Social Services and accepts the Department of Social Services' certification as evidence of the facility's compliance with the standards without any additional survey. At the option of the head of the facility, the head of the facility may apply to incorporate under one (1) license, individual facilities located at different sites under the administration of one (1) agency and one (1) head of facility.

(5) Any day program which is part of a Comprehensive Psychiatric Rehabilitation (CPR) Program and is surveyed as part of the certification survey process under 9 CSR 30-4 shall not require an additional survey to determine compliance with the licensing rules and shall be deemed licensed upon receipt of a current CPR certificate.

*AUTHORITY: sections 630.050 and 630.705, RSMo 1994.\* Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Emergency amendment filed June 10, 1985, effective June 24, 1985, expired Oct. 7, 1985. Amended: Filed June 10, 1985, effective Oct. 8, 1985. Amended: Filed July 15, 1985, effective Feb. 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Emergency amendment filed Feb. 2, 1990, effective Feb. 15, 1990, expired May 1, 1990. Amended: Filed Feb. 2, 1990, effective Sept. 28, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Amended: Filed Aug. 11, 1995, effective March 30, 1996.*

*\*Original authority: 630.050, RSMo 1980, amended 1993, 1995 and 630.705, RSMo 1980, amended 1982, 1984, 1985, 1990.*

### 9 CSR 40-1.118 Licensing Advisory Board

*PURPOSE: This rule establishes a licensure advisory board to advise the department regarding licensure policies and administrative rules.*



(1) The director, Bureau of Quality Improvement, may convene a licensing and certification advisory committee on an *ad hoc* basis for consultation regarding policies and initiatives of the Bureau of Quality Improvement. The members of the committee shall be geographically representative.

*AUTHORITY: sections 630.050 and 630.705, RSMo 1994.\* Original rule filed Aug. 4, 1987, effective Jan. 15, 1988. Amended: Filed April 14, 1988, effective Sept. 11, 1988. Emergency amendment filed March 30, 1990, effective April 15, 1990, expired Aug. 1, 1990. Amended: Filed March 30, 1990, effective June 30, 1990. Amended: Filed July 17, 1995, effective March 30, 1996.*

*\*Original authority: 630.050, RSMo 1980, amended 1993, 1995 and 630.705, RSMo 1980, amended 1982, 1984, 1985, 1990.*