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**MATT BLUNT**

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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.

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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. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

The rules are cited 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 in 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**—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

**R**ules filed as emergency rules may be effective not less than ten days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

**A**ll emergency rules must state the period during which they are in effect, and in no case can they be in effect more than 180 calendar days or 30 legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

#### EMERGENCY AMENDMENT

**4 CSR 10-2.160 Fees.** *The board is amending section (1) of this rule.*

**PURPOSE:** *The purpose of this amendment is to provide an exception to nonrefundable fees and fees applied to another application under extraordinary circumstances and to increase the amount of the certified public accountants examination.*

**EMERGENCY STATEMENT:** *This emergency amendment is necessary to preserve a compelling governmental interest requiring an early effective date in that the rule informs the public of an increase in examination fees for the certified public accountants. The examination applications are received in the board office from August 1 through October 1. The testing service has increased the cost of the examinations effective with the November 2001 examination. Based on a contractual agreement between the board and the testing service, the board is required to financially subsidize the testing service for any lost fees, which could cost the board up to \$20,000.00. Loss of such revenue could result in a depletion of the State Board of Accountancy Fund, which in turn will cause the*

*board to limit its complaint and investigative services. These services currently assist in protecting the health, safety and welfare of the public from fraudulent and incompetent licensees.*

*The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. In developing this emergency amendment, the board encouraged discussion of the examination application fee increase at its open meeting in June 2001 and provided the public the opportunity to offer their comments at that time. The board believes this emergency amendment to be fair to all interested parties under the circumstances. This emergency amendment was filed July 10, 2001, effective July 20, 2001, expires January 15, 2002.*

(1) The following fees are established by the Missouri State Board of Accountancy:

- (A) Initial Application for Certificate by Examination Fee—
- |                      |                   |
|----------------------|-------------------|
| 1. All parts of exam | \$/240.00/ 280.00 |
| 2. Per part          | \$ /60.00/ 70.00  |
- (B) Application for Reexamination Fee—
- |                      |                   |
|----------------------|-------------------|
| 1. All parts of exam | \$/240.00/ 280.00 |
| 2. Per part          | \$ /60.00/ 70.00  |
- (C) Application for Certificate Without Examination Fee— \$/240.00/ 280.00

**AUTHORITY:** *section 326.200, RSMo [Supp. 1998] 2000. Emergency rule filed Aug. 6, 1981, effective Aug. 16, 1981, expired Dec. 10, 1981. Original rule filed Aug. 6, 1981, effective Dec. 11, 1981. For intervening history, please consult the Code of State Regulations. Emergency amendment filed July 10, 2001, effective July 20, 2001, expires Jan. 15, 2002.*

## Title 13—DEPARTMENT OF SOCIAL SERVICES Division 15—Division of Aging Chapter 9—Certification

#### EMERGENCY AMENDMENT

**13 CSR 15-9.010 General Certification Requirements.** *The division proposes to amend sections (9) and (11).*

**PURPOSE:** *This amendment corrects errors made in sections (9) and (11) of this rule.*

**EMERGENCY STATEMENT:** *The Division of Aging finds a compelling governmental interest in ensuring that all certified intermediate care facilities and skilled nursing facilities affected by this rule be immediately relieved from the requirements of sections (9) and (11) of this rule which became effective in the Code of State Regulations on July 30, 2001. This emergency amendment is necessary to correct changes that were stated as being made but were not made in the text of the rule in the Order of Rulemaking that was published in the June 1, 2001 edition of the Missouri Register (26 MoReg 1208-1210). This emergency amendment is necessary to correct the unintended requirements and consequences on certified facilities made in the last amendment. This amendment is for correction purposes only. The scope of this amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The division believes this emergency amendment is fair to all interested persons affected by the circumstances. A proposed rule covering this same material is published in this issue of the Missouri Register. This emergency amendment was filed July 13, 2001, effective July 30, 2001, and expires February 28, 2002.*

(9) If a facility certified to participate in the Title XIX (Medicaid) or Title XVIII (Medicare) program elects to change the size of its distinct part, it must submit a written request to the Licensure/Certification Unit or the ICF/MR Unit of the division, as applicable. The request shall specify the room numbers involved, the number of beds in each room and the facility cost reporting year end date. The request must include a floor diagram of the facility and a signed DA-113 form, Bed Classification for Licensure and Certification by Category. A facility is allowed two (2) changes in the size of its distinct part during the facility *[fiscal]* cost reporting year. This may be two (2) increases or one (1) increase and one (1) decrease. It may not be two (2) decreases. The first change can be done only at the beginning of the *[fiscal]* facility cost reporting year and the second change can be done effective at the beginning of a *[calendar]* facility cost reporting quarter within that *[fiscal]* facility cost reporting year. All requests must be submitted to the Licensure/Certification Unit or the ICF/MR Unit of the division at least forty-five (45) days in advance. Any facility wishing to eliminate its distinct part to go to full certification may do so effective at the beginning of the next *[fiscal]* cost reporting year with forty-five (45) days notice. The distinct part may be reestablished only at the beginning of the next *[fiscal]* facility cost reporting year. A facility may change the location of the distinct part with thirty (30) days notice to the Licensure/Certification Unit or the ICF/MR Unit of the division.

(11) If it is determined by the division that a facility certified to participate in Medicaid or Medicare does not comply with federal regulations at the time of a federal survey, complaint investigation or state licensure inspection, the division shall take enforcement action using the regulations and procedures contained in the following sources:

- (A) 42 CFR chapter IV, part 431, subparts **D, E and F**;
- (B) 42 CFR chapter IV, part 442;
- [(C)]* 42 CFR chapter IV, subparts *E and F*;
- [(D)]*(C) Sections 1819(h) and 1919(h) of the Social Security Act;
- [(E)]*(D) 42 U.S.C. 1396(r);
- [(F)]* *The State Operations Manual (SOM) (HCFA Publication 7)*;
- [(G)]* *Survey and Certification Regional Letters*;
- [(H)]*(E) Sections 198.026 and 198.067, RSMo; and
- [(I)]*(F) 13 CSR 70-10.015 and 13 CSR 70-10.030.

*AUTHORITY: sections 208.151 and 536.021, RSMo 2000. Emergency rule filed Sept. 18, 1990, effective Oct. 1, 1990, expired Jan. 25, 1991. Original rule filed Nov. 2, 1990, effective June 10, 1991. Amended: Filed June 3, 1993, effective Dec. 9, 1993. Amended: Filed Feb. 1, 1995, effective Sept. 30, 1995. Amended: Filed May 11, 1998, effective Nov. 30, 1998. Amended: Filed Nov. 20, 2000, effective July 30, 2001. Emergency amendment filed July 13, 2001, effective July 30, 2001, expires Feb. 28, 2002. A proposed amendment covering this same material is published in this issue of the Missouri Register.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—Division of Medical Services  
Chapter 10—Nursing Home Program**

**EMERGENCY AMENDMENT**

**13 CSR 70-10.150 Enhancement Pools.** The division is amending subsections (1)(B) and (1)(C).

*PURPOSE: This amendment changes the dates for implementation of the enhancement pool for State Fiscal Year 2002.*

*EMERGENCY STATEMENT: This emergency amendment changes the dates of implementation of the enhancement pool for State*

*Fiscal Year 2002. This emergency amendment is necessary in order to protect the health and safety of senior Missourians who are living in nursing facilities by promoting quality of care through increased Medicaid reimbursement. The emergency amendment is also necessary to ensure compliance with the Medicaid State Plan as required by federal law. Absent this emergency amendment, the Division will be precluded from maximizing federal participation in funding of the medical assistance program which will cause financial strain on all nursing facilities which serve Medicaid recipients. As a result, the Missouri Division of Medical Services finds an immediate danger to the public health and welfare requiring emergency action and a need to preserve a compelling governmental interest which requires an early effective date. A proposed amendment covering this same material is published in this issue of the Missouri Register to allow for public comment to assure fairness to all interested persons and parties. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Division believes this emergency amendment to be fair to all interested parties under the circumstances. The emergency amendment was filed July 9, 2001, effective July 19, 2001, expires February 28, 2002.*

(1) Medicaid Enhancement Pools. Subject to federal approval, the Division of Medical Services shall administer two enhancement payment pools to pay for services covered by the Missouri Medicaid program. The total payment from the pools shall not exceed the difference between the Medicare upper limit and the per-diem reimbursement for all Medicaid nursing facilities for services covered by the Missouri Medicaid program. The Medicaid enhancement pool shall be calculated and distributed in the manner described below.

(B) All Medicaid enrolled nursing facilities may participate in distributions from the second enhancement payment pool, for State Fiscal Year *[2001]* **2002**.

1. The distributions from the second pool shall be calculated as a percentage, to be determined by the Department of Social Services, of the aggregate difference between the Medicare Upper Limit and per-diem reimbursement for all Medicaid enrolled nursing facilities, for the period *[August 1, 2000]* **July 1, 2001–June 30, [2001] 2002**.

2. The second pool shall be distributed based on a quarterly amount, made in addition to per-diem payments, to all Medicaid enrolled nursing facilities, applicable to services provided in State Fiscal Year *[2001]* **2002**, based on their pro-rata share of Medicaid days.

(C) The aggregate difference between the Medicare Upper Limit and the per-diem reimbursement for Medicaid nursing facilities will be calculated on an annual basis. The per-diem Medicaid rates used in the calculation will be those being paid at the time of the calculation and the Medicare Upper Limit will be based on the current RUGS system of Medicare nursing facility reimbursement with appropriate adjustments to assure comparability with the Medicaid rate. The difference will be calculated on a facility basis and multiplied by the reported Medicaid days at the particular nursing facility for the most recent cost report year. The product of all calculations will be added together to obtain the aggregate difference. Medicaid days will be determined from the paid day report from Missouri's fiscal agent for pay cycles during the State's Fiscal Year *[2000]* **2001**.

*AUTHORITY: sections 208.153, 208.159, and 208.201, RSMo 2000. Emergency rule filed Nov. 3, 2000, effective Nov. 13, 2000, expired May 11, 2001. Original rule filed Nov. 13, 2000, effective May 30, 2001. Emergency amendment filed July 9, 2001, effective July 19, 2001, expires Feb. 28, 2002. A proposed amendment covering this same material is published in this issue of the Missouri Register.*