

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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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 rule-making 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 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.012 Registration—Training. The director of agriculture is amending section (4) and removing the forms that follow this rule in the *Code of State Regulations*.

PURPOSE: The purpose of this amendment is to more appropriately set the training interval and curriculum requirements that will increase the quality of training programs in Missouri while also creating uniformity in training with programs in other states.

PUBLISHER'S NOTE: The forms referenced in this rule may be accessed through the Missouri Department of Agriculture's website at www.mda.state.mo.us or by request from the agency at (573) 751-4278.

(4) Every individual, except clerical personnel and others not actually handling LPGs or servicing appliances or equipment, within any business involved in handling, storing or transporting LPGs or involved in the installation, repairing or servicing of piping, equipment or appliances for use with LPGs must attend and complete **[a] an initial training program, including the passing of a written examination[, managers must attend every five (5) years and all other personnel every three (3) years, regarding the safe handling, storing and bulk delivery of LPGs and the safe installation, repairing or servicing of piping, equipment and appliances for use with LPGs.] with a score of at least seventy-five percent (75%). Every individual subject to the requirements of this section shall attend refresher training at least once every three (3) years. New employees shall be trained by their employer until such time that training is available through a state-approved training program. [These] Each training program's curriculum must be based on the National Propane Gas Association's (NPGA) Certified Employee Training Program (CETP) or equivalent, structured to meet the trainees needs, and approved by the director. All training programs submitted to the director must contain information on applicable statutes and regulations governing liquefied petroleum gases; must be resubmitted to the director for review and approval on an annual basis or at such time change has been made; and any training program that, through audit, does not meet the approved training program criteria, may be rejected for use by the director.**

AUTHORITY: section 323.020, RSMo [1994] 2000. Original rule filed July 13, 1977, effective Nov. 11, 1977. Amended: Filed May 2, 1985, effective Sept. 27, 1985. Amended: Filed March 3, 1989, effective June 29, 1989. Amended: Filed Nov. 13, 1997, effective June 30, 1998. Amended: Filed Dec. 3, 2001.

PUBLIC COST: This proposed amendment is estimated to cost state agencies or political subdivisions less than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment is estimated to cost private entities four hundred ninety-six thousand, three hundred-ten dollars and fifty cents (\$496,310.50) in the aggregate every three (3) years.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Agriculture, Weights and Measures Division, Ron Hooker, Acting Director, PO Box 630, Jefferson City, MO 65102-0630. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER: 2 CSR 90-10.012

Title 2-Department of Agriculture

Division 90-Weights and Measures

Chapter 10-Liquefied Petroleum Gases

Type of Rulemaking; Rule Name and Number: Proposed amendment, 2 CSR 90-10.012
Registration Training

II. SUMMARY OF FISCAL IMPACT

| Estimated Number of entities | Classification of business entities affected | Estimated cost of compliance In the aggregate |
|--|--|---|
| 636 | Cylinder Exchange | \$62,487.00 |
| 1592 | HVAC Technicians | \$256,671.00 |
| 955 | LP Dealers & Employees | \$177,152.50 |
| Approximate aggregate cost every three years | | \$496,310.50 |

III. WORKSHEET

| | | |
|-----------------------------|-----------------|--------------|
| Cylinder Exchange Personnel | 636 @ \$98.25 | \$62,487.00 |
| HVAC Technicians | 1592 @ \$161.25 | \$256,710.00 |
| LP Dealers & Employees | 955 @ \$185.50 | \$177,152.50 |

IV. ASSUMPTIONS AND METHODOLOGY

Based on the number of persons contained in the propane program and the database that have received training through state approved training programs.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.013 Installation Requirements. The director of agriculture is amending section (11) and removing the forms that follow this rule in the *Code of State Regulations*.

PURPOSE: The purpose of this amendment is to more appropriately address the unique application of cylinders utilized in hot air balloon service. This amendment will give the balloon owners and operators greater flexibility in refueling the balloons while maintaining an adequate level of safety.

PUBLISHER'S NOTE: The forms referenced in this rule may be accessed through the Missouri Department of Agriculture's website at www.mda.state.mo.us or by request from the agency at (573) 751-4278.

(11) All LPG dispensers shall have recommended fill procedures posted in a conspicuous location and all cylinder fill dispensers shall be equipped with a state-approved scale to be utilized for the safe filling of LPG cylinders. LP gas cylinders of one hundred (100) pounds water capacity or less shall be filled by weight only utilizing a state-approved scale. Cylinders of one hundred (100) pounds capacity or less shall not be filled from any LP gas delivery vehicle. **An exception may be made by the inspection authority for cylinders utilized in hot air balloon service if the cylinders are approved for such service, have an accurate approved method of gauging, are in good condition and are filled in a safe location away from any source of ignition.**

AUTHORITY: section 323.020, RSMo [1994] 2000. Original rule filed July 13, 1977, effective Nov. 11, 1977. Amended: Filed May 2, 1985, effective Sept. 27, 1985. Amended: Filed March 3, 1989, effective June 29, 1989. Amended: Filed Nov. 13, 1997, effective June 30, 1998. Amended: Filed Dec. 3, 2001

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Agriculture, Weights and Measures Division, Ron Hooker, Acting Director, PO Box 630, Jefferson City, MO 65102-0630. 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 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.020 NFPA Manual No. 54, National Fuel Gas Code. The director of agriculture is amending the Summary section and section (1).

PURPOSE: The proposed amendment to this rule will adopt the most recent edition of the National Fire Protection Association Manual 54, the *National Fuel Gas Code*. Adoption of this code

will more appropriately address safety hazards associated with liquefied petroleum gas appliances, equipment and systems.

SUMMARY: The scope of National Fire Protection Association (NFPA) Manual No. 54, *National Fuel Gas Code, [1996] 1999* edition, is to develop fire safety codes, standards, recommended practices and manuals, as may be considered desirable, covering the installation of piping and appliances using fuel gases such as natural gas, manufactured gas, liquefied petroleum gas and liquefied petroleum gas-air mixture.

(1) Standards contained in National Fire Protection Association (NFPA) Manual No. 54, *National Fuel Gas Code, [1996] 1999* edition are [adopted] **incorporated herein by reference**. The balance of this rule sets forth requirements for liquefied petroleum (LPG) applications not covered in the manual.

AUTHORITY: sections 261.023.6 and 323.020, RSMo [1994] 2000. Original rule filed Jan. 24, 1968, effective Feb. 3, 1968. Amended: Filed Sept. 8, 1969, effective Sept. 18, 1969. Amended: Filed May 13, 1977, effective Jan. 13, 1978. Amended: Filed May 2, 1985, effective Sept. 27, 1985. Amended: Filed March 3, 1989, effective June 29, 1989. Amended: Filed Nov. 13, 1997, effective June 30, 1998. Amended: Filed Dec. 3, 2001.

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 one hundred fifty thousand, one hundred twenty-three dollars and fifty cents (\$150,123.50) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Agriculture, Weights and Measures Division, Ron Hooker, Acting Director, PO Box 630, Jefferson City, MO 65102-0630. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER: 2 CSR 90-10.020

Title 2-Department of Agriculture

Division 90-Weights and Measures

Chapter 10-Liquefied Petroleum Gases

Type of Rulemaking; Rule Name and Number: Proposed amendment, 2 CSR 90-10.020

II. SUMMARY OF FISCAL IMPACT

| Estimated Number of Entities | Classification of business entities affected | Estimated cost of compliance In the aggregate |
|------------------------------|--|---|
| 2,169 | LP Company Employees | \$72,119.25 |
| 444 | LP Gas Companies | 14,763.00 |
| 1,902 | Service Company Employees | 63,241.00 |

III. WORKSHEET

| | | |
|----------------------------------|-----------------------|------------------|
| LP Gas Company Employees | 2,169@ \$33.25 | \$72,119.25 |
| LP Gas Companies | 444 @ \$33.25 | 14,763.00 |
| <u>Service Company Employees</u> | <u>1902 @ \$33.25</u> | <u>63,241.00</u> |
| Total Cost | | \$150,123.50 |

IV. ASSUMPTIONS AND METHODOLOGY

Costs obtained from information received from the Missouri Propane Gas Association, The National Fire Protection Association and the LP Gas Inspection Program Database.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.040 NFPA Manual No. 58, *Storage and Handling of Liquefied Petroleum Gases*. The director of agriculture is amending sections (1) and (6) and adding a new section (8).

PURPOSE: The proposed amendment to this rule will adopt the most recent edition of the National Fire Protection Association Manual 58, the standard for the storage and handling of liquefied petroleum gases. Adoption of this code will more appropriately address safety hazards associated with liquefied petroleum gas appliances, equipment and systems.

(1) This rule *[adopts]* **incorporated by reference** National Fire Protection Association (NFPA) Manual No. 58, *Storage and Handling of Liquefied Petroleum Gases*, [1995] **2001** edition as the current Standard for the Storage and Handling of Liquefied Petroleum Gases *[except that sections 2-2.6.6 shall not apply]*.

(6) At all LPG dispensers, it shall be the dispenser owner's responsibility to *[train]* **provide initial training** to specific persons on the operation of the dispenser. It shall be illegal for any person other than the trained person to operate the dispensing device. **It shall be the responsibility of the owner or manager of each business, where a dispenser is located and operated, to provide continuing training, as required by section 2 CSR 90-10.012(4), for each employee operating the dispenser.**

(8) **The written Fire Safety Analysis, required by the 2001 edition of the National Fire Protection Association's Pamphlet 58, *Liquefied Petroleum Gas Code*, section 3.10.2.2 shall be prepared by a person approved by the Department of Agriculture's Division of Weights and Measures, who has relevant experience and is knowledgeable of the practices of the LP gas industry. The Fire Safety Analysis for an engineered facility, such as one that incorporates refrigerated storage, automated fuel standby (either industrial or utility) or pipeline terminals, shall be prepared, stamped and signed by a professional engineer who has relevant experience in LP gas or fire protection.**

AUTHORITY: sections 261.023.6 and 323.020, RSMo [1994] 2000. Original rule filed Jan. 24, 1968, effective Feb. 3, 1968. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 3, 2001.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than \$3,765,300 in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than \$19,498,816 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Agriculture, Weights and Measures Division, Ron Hooker, Acting Director, PO Box 630, Jefferson City, MO 65102-0630. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER: 2 CSR 90-10.040

Title 2-Department of Agriculture

Division 90-Weights and Measures

Chapter 10-Liquefied Petroleum Gases

Type of Rulemaking; Rule Name and Number: Proposed amendment, 2 CSR 90-10.040 NFPA Manual No. 58, Storage and Handling of Liquefied Petroleum Gases.

II. SUMMARY OF FISCAL IMPACT

| Affected Agency or political subdivision | Estimated cost of compliance in the aggregate |
|--|---|
| Public school | \$3,757,600.00 |
| Department of Natural Resources-Parks | \$7,700.00 |

III. WORKSHEET

| | | | |
|----------------------|---------------------------------------|------------------|----------------|
| Tank Fire Analysis | Public Schools | 488 @ \$3,700.00 | \$1,805,600.00 |
| Internal Tank Valves | Public Schools | 488 @ \$4,000.00 | 1,952,000.00 |
| | Department of Natural Resources-Parks | 1 @ \$4,000.00 | 4,000.00 |
| | Department of Natural Resources-Parks | 1 @ \$3,700.00 | 3,700.00 |
| Total Costs | | | \$3,765,300.00 |

IV. ASSUMPTIONS AND METHODOLOGY

The LP Gas Program database, review of inspections with the inspection staff and the Missouri propane Gas Associations does not indicate any effect on public entities.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER: 2 CSR 90-10.040

Title 2-Department of Agriculture

Division 90-Weights and Measures

Chapter 10-Liquefied Petroleum Gases

Type of Rulemaking; Rule Name and Number: Proposed amendment, 2 CSR 90-10.040 NFPA Manual No. 58, Storage and Handling of Liquefied Petroleum Gases.

II. SUMMARY OF FISCAL IMPACT

| Estimated Number of Entities | Classification of business Entities affected | Estimated cost of compliance In the aggregate |
|------------------------------|--|---|
| 220,000 | Cylinder owners | \$5,049,000.00 |
| 917 | LP Gas Dealers | 8,572,116.00 |
| 731 | Industrial sites | 5,628,700.00 |
| Total Cost | | \$19,498,700.00 |

III. WORKSHEET

| | | |
|--------------------------------------|-------------------|-----------------|
| Cylinders needing OPD's | 220,000 @ \$22.95 | \$5,049,000.00 |
| Industrial Site Internal Tank valves | 731 @ \$4,000.00 | 2,924,000.00 |
| Industrial site Fire Analysis | 731 @ \$3,700.00 | 2,704,700.00 |
| Dealer Tank Internal valves | 917 @ \$4,000.00 | 5,179,216.00 |
| Dealer Tanks Requiring Fire Analysis | 917 @ \$3,700.00 | 3,392,900.00 |
| Total Cost | | \$19,498,816.00 |

IV. ASSUMPTIONS AND METHODOLOGY

The information utilized in the preparation this fiscal note was obtained from the Missouri LP Propane Gas Association, a cylinder manufacturer, LP Gas equipment dealer and LP Gas retailers and LP Gas Inspection database

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 2—Cosmetology Schools**

PROPOSED AMENDMENT

4 CSR 90-2.010 Schools. The board is proposing to amend paragraph (7)(I)3. and section (10).

PURPOSE: This rule is being amended to delete the portion of the rule that requires student kits to contain sterilizing agents. Also, this amendment will require instructor licenses to be posted with a current photograph attached.

(7) Minimum Equipment and Training Supplies. All schools of cosmetology in Missouri shall have on hand and maintain in good working condition at all times the following equipment and training supplies:

(I) Sterilizers.

1. Five (5) large wet sterilizers or individual wet containers in each station of the clinic that are large enough to cover combs and brushes (each shall contain a wet sterilizing agent).

2. Three (3) dry sterilizers or individual dry containers in each station of the clinic that are large enough to hold combs and brushes clear and free of unsterilized items and tools.

3. All kits shall *[contain sterilizing agents]* **be kept clean and remain free of unsterilized items and tools;**

(10) Supervision. Every holder of the license to operate a school shall be responsible to provide continuous and adequate supervision of the school's students by licensed instructors at all times during regular school hours. The holder(s) of the school license shall employ and have present in the school a competent licensed instructor for every twenty-five (25) students enrolled and scheduled to be in attendance for a given class period. **Instructor licenses shall be conspicuously displayed with a photograph taken within the last two (2) years.** Instructor trainees shall not be counted as licensed instructors for purposes of meeting this requirement and under no circumstances shall an instructor trainee be left solely in charge of the school.

AUTHORITY: sections 329.040 and 329.210, RSMo Supp. 1999 and] as amended by HB 567 (2001) and 329.050, 329.120 and 329.230, RSMo [1994] 2000. This version of rule filed June 26, 1975, effective July 6, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 30, 2001.

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 State Board of Cosmetology, Pamela A. Hoelscher, Executive Director, PO Box 1062, Jefferson City, MO 65102. 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 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 2—Cosmetology Schools**

PROPOSED AMENDMENT

4 CSR 90-2.020 Manicuring Schools. The board is proposing to amend paragraph (3)(G)3.

PURPOSE: This rule is being amended to delete the portion of the rule that requires student kits to contain sterilizing agents.

(3) Minimum equipment and training supplies for manicuring schools shall be—

(G) Sterilizers.

1. Three (3) large wet sterilizers or individual wet containers in each station of the clinic that are large enough to cover all needed implements (each shall contain a wet sterilizing agent).

2. Two (2) individual containers in each station of the clinic that are large enough to cover all needed implements each shall be kept clear and free of unsterilized items and tools.

3. All kits shall *[contain sterilizing agents]* **be kept clean and remain free of unsterilized items and tools;**

AUTHORITY: sections 329.040 and 329.210 as amended by HB 567 (2001) and 329.230, RSMo [1994] 2000. Original rule filed March 9, 1982, effective June 11, 1982. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 30, 2001.

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 State Board of Cosmetology, Pamela A. Hoelscher, Executive Director, PO Box 1062, Jefferson City, MO 65102. 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 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 2—Cosmetology Schools**

PROPOSED AMENDMENT

4 CSR 90-2.030 Esthetic Schools. The board is proposing to amend subsection (4)(V).

PURPOSE: This rule is being amended to delete the portion of the rule that requires student kits to contain sterilizing agents.

(4) Minimum Equipment and Training Supplies. Esthetic schools in Missouri shall have on hand and maintain in good working condition at all times the following equipment and training supplies:

(V) Individual student kit materials for each student enrolled which shall include *[sterilizing agent and]* the following materials: skin cleanser, skin freshener, moisturizer foundation (light, medium and dark), concealer (light, medium and dark), blusher, (light, medium and dark), eye liner pencil, liquid or cream mascara, wedge sponges, powder brush, contour brush, applicators, plastic spatulas, and esthetic textbook. **All student kits shall be kept clean and remain free of unsterilized items and tools.**

AUTHORITY: sections 329.040 and 329.210 as amended by HB 567 (2001) and 329.230, RSMo [1994] 2000. Original rule filed Dec. 14, 1995, effective June 30, 1996. Amended: Filed Nov. 30, 2001.

PUBLIC COST: This proposed amendment will not cost state agencies 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 State Board of Cosmetology, Pamela A. Hoelscher, Executive Director, PO Box 1062, Jefferson City, MO 65102. 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 4—Beauty Shops**

PROPOSED AMENDMENT

4 CSR 90-4.020 Practice Outside of or Away from Beauty Shops. The board is proposing to amend subsection (3)(A).

PURPOSE: This rule is being amended to delete the portion of the rule that requires kits to contain an active fumigant.

(3) Portable Kit Requirements.

(A) All supplies and implements shall be transported in an airtight container [containing an active fumigant,] and all implements, towels and instruments shall be sterilized and wrapped or stored in individual plastic containers. **All kits shall be kept clean and remain free of unsterilized items and tools.**

AUTHORITY: sections 329.110.2], RSMo Supp. 1999] and 329.230, RSMo [1994] 2000, and 329.210 as amended by HB 567 (2001). Original rule filed Dec. 7, 1983, effective March 13, 1984. Amended: Filed Aug. 2, 1990, effective Dec. 31, 1990. Rescinded and readopted: Filed March 15, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 30, 2001.

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 State Board of Cosmetology, Pamela A. Hoelscher, Executive Director, PO Box 1062, Jefferson City, MO 65102. 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 8—Training Hours**

PROPOSED AMENDMENT

4 CSR 90-8.010 Hours. The board is proposing to amend subsection (1)(B).

PURPOSE: This rule is being amended to comply with revisions made to section 329.040.3(2), RSMo that became effective with the passage of House Bill 567 of the 91st General Assembly extending

the maximum hours accepted for a course of study for students, instructor trainees and apprentices.

(1) Minimum–Maximum Hours Accepted.

(B) All students, instructor trainees and apprentices shall be enrolled in a course of study of no less than three (3) hours per day and no more than [eight (8)] **twelve (12)** hours per day with a weekly total that is no less than fifteen (15) hours and no more than [forty-eight (48)] **seventy-two (72)** hours.

AUTHORITY: sections 329.040[,], and 329.210, as amended by HB 567 (2001) and 329.230, RSMo 2000. This version of rule filed June 26, 1975, effective July 6, 1975. Amended: Filed March 31, 1988, effective June 27, 1988. Amended: Filed Aug. 2, 1990, effective Dec. 31, 1990. Amended: Filed Dec. 14, 1995, effective June 30, 1996. Rescinded and readopted: Filed March 1, 2001, effective Aug. 30, 2001. Amended: Filed Nov. 30, 2001.

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 State Board of Cosmetology, Pamela A. Hoelscher, Executive Director, PO Box 1062, Jefferson City, MO 65102. 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 12—Instructor Trainees**

PROPOSED AMENDMENT

4 CSR 90-12.080 Renewal Requirements for Instructor License. The board is proposing to amend section (2).

PURPOSE: This rule is being amended to require instructors to provide proof of obtaining twelve (12) hours of continued education from a board-approved seminar.

(2) Renewal is contingent upon attending a board-approved seminar and submitting to the board proof of **twelve (12) hours of** attendance issued by seminar sponsors, showing the date and place of the seminar. It is the responsibility of each licensed instructor to attend a board-approved seminar within the two (2) years immediately preceding the renewal date and insure that evidence of attendance accompanies the application for each license renewal.

AUTHORITY: sections 329.120 and 329.230, RSMo [1986] 2000 and 320.210 as amended by HB 567 (2001). Original rule filed Oct. 11, 1978, effective Jan. 13, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 30, 2001.

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 State Board of Cosmetology, Pamela A. Hoelscher, Executive Director, PO Box 1062, Jefferson City, MO 65102. 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 13—General Rules

PROPOSED RULE

4 CSR 90-13.070 Change of Mailing Address

PURPOSE: This rule requires a license holder to provide the board with a current name and mailing address.

(1) A licensee shall ensure that the office has their current legal name and address.

(A) A licensee whose address has changed shall inform the office of the address change within thirty (30) days of the effective date.

(B) A licensee whose name is changed by marriage or court order shall notify the office in writing within thirty (30) days of the name change and provide a copy of the appropriate documents verifying the name change.

AUTHORITY: sections 320.120 and 329.230, RSMo 2000 and 320.210 as amended by HB 567 (2001). Original rule filed Nov. 30, 2001.

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 Cosmetology, Pamela A. Hoelscher, Executive Director, PO Box 1062, Jefferson City, MO 65102. 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 100—Division of Credit Unions
Chapter 2—State-Chartered Credit Unions

PROPOSED AMENDMENT

4 CSR 100-2.085 Credit Union Service Organization (CUSO). The director of the Division of Credit Unions proposes amending this rule by amending sections (1), (2), (3) and (4), adding a new section (5), amending the current section (5) and renumbering it as section (6), deleting the current section (6) and adding a new section (7), renumbering current sections (7) and (8), as sections (8) and (9) respectively, adding a new subsection (9)(B), deleting current section (9), and adding a new section (10).

PURPOSE: This proposed amendment allows credit unions greater flexibility in structuring and funding CUSOs, offers credit unions

the ability to fund CUSOs engaging in a broader range of activities, modifies the restrictions on the CUSO related activities of certain credit union related parties, identifies an appeal process, and provides CUSOs the ability to object to certain items being considered for inclusion in examination reports.

(1) Definition. A credit union service organization (CUSO) is a legal entity established by or funded by one (1) or more credit unions (with or without participation of other parties) to meet the needs of its member credit union(s) by providing [primarily those] services and performing [primarily those] activities that are associated with [routine] credit union operations.

(2) Structure. A credit union can invest in a CUSO, only if the CUSO [must be organized] is structured as a corporation, a limited liability company, or [as] a limited partnership with the credit union participating as a limited partner. [These forms of organization do not guarantee against potential liability of the participating credit union.] The credit union must obtain legal advice as to whether the organization and operation of the CUSO is in a manner that meets the goal of limited liability. In general, the corporate form must be adequately capitalized and operated as a separate entity. The limited partnership form must not engage in activities that would cause the limited partnership to be treated as a general partnership. For purposes of this rule, “corporation” means a legally incorporated corporation as established and maintained under relevant state or federal law.

(3) Funding. No single credit union’s investment(s) in [a] and/or loan(s) to any or all CUSO(s) shall exceed in the aggregate [one per centum (1%) of the total paid in and unimpaired capital and surplus of the credit union (shares and undivided earnings)]. The credit union also may lend in the aggregate to the CUSO up to one per centum (1%) of its total paid in and unimpaired capital and surplus.] twenty-five percent (25%) of the credit union’s net capital (reserves and undivided earnings), unless prior approval is obtained from the director of the Division of Credit Unions.

(4) Permissible Services and Activities. A credit union can invest in and/or lend to a CUSO, only if the CUSO complies with all applicable laws and limits its services and activities to the following general categories of services or activities:

[(A) A CUSO may perform any of the following operational services: credit card and debit card services; automatic teller machine (ATM) services; electronic funds transfer (EFT) services, accounting services, data processing services, sale or lease of computer hardware and software, management and personnel training and support, payment item processing, locator services, marketing services, debt collection services, credit analysis, loan servicing, and coin and currency services.

(B) A CUSO may offer the following financial services: financial planning and counseling, retirement counseling, investment counseling, discount brokerage services, estate planning, income tax preparation, developing and administering individual retirement accounts (IRA), Keogh, deferred compensation and other personnel benefit plans; trust services; acting as trustee, guardian, conservator, estate administrator, or in any other fiduciary capacity; real estate agency services; agent for sale of insurance; personal property leasing; and provision of vehicle warranty programs. A CUSO must comply with applicable state and local laws when engaging in activities or services as listed previously. Any service or activity which is not authorized in the preceding subsection (4)(A) and this subsection must be approved by the director of the Division of Credit Unions before a CUSO may offer that service or activity. Any

request for approval must include a full explanation of the proposed service or activity and how it is associated with routine credit union operations.]

- (A) Checking and currency services;
- (B) Clerical, professional and management services;
- (C) Loan origination;
- (D) Electronic transaction services;
- (E) Financial counseling services;
- (F) Fixed asset services;
- (G) Insurance brokerage or agency;
- (H) Leasing;
- (I) Loan support services;
- (J) Record retention, security and disaster recovery services;
- (K) Securities brokerage services;
- (L) Shared credit union branch (service center) operations;
- (M) Travel agency services;
- (N) Trust and trust-related services;
- (O) Real estate brokerage services; or
- (P) Other services or activities approved by the director of the Division of Credit Unions.

(5) In connection with providing a permissible service, a CUSO may invest in a non-CUSO service provider. The amount of the CUSO's investment is limited to the amount necessary to participate in the service provider, or a greater amount if necessary to receive a reduced price for goods or services.

[[5]] (6) Prohibited Activities. A CUSO may not acquire control, directly or indirectly, of another depository financial institution nor invest in shares, stocks or obligations of an insurance company, trade association, liquidity facility of other similar organization. The credit union will not engage in any activities, contract for or enter into any form or manner of arrangement that will allow the credit union to be committed or potentially committed for an amount in excess of its legally allowed investment in or *[[endings]]* loans to the CUSO(s).

[[6] *Insider Dealings.* Individuals who serve as officials of or who are employed by a credit union and immediate family members of those individuals may not receive any salary, commission, investment income or other income or compensation from any CUSO affiliated with their credit union. For purposes of this section, official means any director or committee member and immediate family member means a spouse or a child, parent, grandchild, grandparent, brother or sister or the spouse of any such individual. An affiliated CUSO is one which a credit union invests in or loans to.]

(7) Related Parties.

(A) The officials and senior management employees (and their immediate family members) of a credit union that has outstanding loans or investments in a CUSO must not receive any salary, commission, investment income, or other income or compensation from the CUSO either directly or indirectly, or from any person being served through the CUSO. This provision does not prohibit such credit union officials or senior management employees from assisting in the operation of a CUSO, provided the officials or senior management employees are not compensated by the CUSO. Further, the CUSO may reimburse the credit union for the services provided by such credit union officials and senior management employees only if the account receivable of the credit union due from the CUSO is paid in full at least every one hundred twenty (120) days. For purposes of this section, "official" means affiliated credit union directors or committee members. For purposes of this section, "senior management employee" means affiliated credit union chief executive officer (typically this individual holds the title of

President or Treasurer/Manager), any assistant chief executive officers (e.g. Assistant President, Vice President, or Assistant Treasurer/Manager) and the chief financial officer (Comptroller). For purposes of this section, "immediate family member" means a spouse or other family members living in the same household.

(B) The prohibition contained in subsection (A) of this section also applies to credit union employees not otherwise covered if the employees are directly involved in dealing with the CUSO unless the credit union's board of directors determines that the credit union employees' positions do not present a conflict of interest.

(C) All transactions with business associates or family members of credit union officials, senior management employees, and their immediate family members, not specifically prohibited by subsections (A) and (B) of this section must be conducted at arm's length and in the interest of the credit union.

[[7]] (8) Accounting.

(A) Credit unions must follow generally accepted accounting principles (GAAP) in their involvement with CUSOs.

(B) Credit unions must obtain, from any CUSO for which the credit union has an outstanding loan or investment, a certified public accountant (C.P.A.) audit on at least an annual basis and financial statements (balance sheet and income statement) on at least a quarterly basis.

(C) A CUSO must agree in writing with its participating credit unions to follow GAAP.

[[8]] (9) Director Access to Books and Records.

(A) A CUSO must agree, in writing, with its participating credit unions to provide the director or his/her representative with complete access to any books and records of the CUSO and to make periodic reports in the manner and form deemed necessary by the director in carrying out his/her duties.

(B) Any findings made by the director or his/her representative that are intended for distribution to the CUSO's participating credit unions shall be presented first to the CUSO's board of directors. The CUSO shall be given fifteen (15) days to object in writing, with a detailed explanation, to any information contained in the director's findings that the CUSO reasonably believes could jeopardize its independent relationship with the CUSO's participating credit unions such that the credit unions would be exposed to liability. Such written objections shall be submitted to the director, who shall then make a determination as to the need to amend the findings prior to presenting them to the participating credit unions. The director or his/her representative may make such additional inquiries or investigations as deemed necessary for a determination of the issue.

[[9] *Preexisting Credit Union Service Organizations.* Any CUSO that was in existence prior to January 26, 1986 and that was legally operating in a manner that, although inconsistent with this rule, may continue operation until January 26, 1987.]

(10) Right to Appeal. In any matter relating to a credit union's interest in a CUSO that requires the director to exercise his or her decision-making authority to approve or deny a credit union's request, the credit union may exercise its right to appeal the director's denial pursuant to the provisions of Chapter 536, RSMo. Such appeal shall be heard pursuant to sections 536.100 to 536.140, RSMo, if such matter is deemed a contested case following a hearing before the division as determined by rules promulgated by the director. If no such hearing is available for review of the director's decision, then

the credit union may seek review pursuant to the remedies afforded in section 536.150, RSMo.

AUTHORITY: sections 370.070, 370.100, 370.120 [and 370.275, RSMo 1986] and 370.075, RSMo [Supp. 1988] 2000. Original rule filed Oct. 17, 1985, effective Jan. 26, 1986. Amended: Filed Nov. 30, 2001.

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 Division of Credit Unions, John P. Smith, Director, PO Box 1607, Jefferson City, MO 65102. 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 205—Missouri Board of Occupational Therapy Chapter 1—General Rules

PROPOSED RESCISSION

4 CSR 205-1.030 Policy for Release of Public Records. This rule established the policy regarding the release of information on any meeting, record or vote of the committee.

PURPOSE: This rule is being rescinded to allow the board to adopt an updated administrative policy for better compliance to sections 610.010–610.200, RSMo, the Missouri “Sunshine Law.”

AUTHORITY: sections 324.065, RSMo Supp. 1997 and 610.010–610.200, RSMo 1994 and Supp. 1997. Original rule filed Aug. 4, 1998, effective Dec. 30, 1998. Rescinded: Filed Nov. 30, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Board of Occupational Therapy, Vanessa Beauchamp, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335. 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 205—Missouri Board of Occupational Therapy Chapter 3—Licensure Requirements

PROPOSED AMENDMENT

4 CSR 205-3.010 Application for Licensure as an Occupational Therapist

PURPOSE: This amendment deletes the forms that immediately follow this rule in the *Code of State Regulations*.

AUTHORITY: sections 324.050, 324.056, 324.065, 324.068, 324.071, 324.083 and 324.086, RSMo [Supp. 1997] 2000. Original rule filed Aug. 4, 1998, effective Dec. 30, 1998. Amended: Filed Nov. 30, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Occupational Therapy, Vanessa Beauchamp, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335. 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 205—Missouri Board of Occupational Therapy Chapter 3—Licensure Requirements

PROPOSED AMENDMENT

4 CSR 205-3.020 Application for Licensure as an Occupational Therapy Assistant

PURPOSE: This amendment deletes the forms that immediately follow this rule in the *Code of State Regulations*.

AUTHORITY: sections 324.050, 324.056, 324.065, 324.068, 324.071, 324.083 and 324.086, RSMo [Supp. 1997] 2000. Original rule filed Aug. 4, 1998, effective Dec. 30, 1998. Amended: Filed Nov. 30, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Occupational Therapy, Vanessa Beauchamp, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335. 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 220—State Board of Pharmacy Chapter 2—General Rules

PROPOSED AMENDMENT

4 CSR 220-2.020 Pharmacy Permits. The board is proposing to add a new subsection (9)(J).

PURPOSE: This amendment is to implement section 329.220, RSMo that became effective with the passage of House Bill 567 of the 91st General Assembly and provides a definition of Class J: Shared Service.

(9) The following classes of pharmacy permits or licenses are hereby established:

(J) Class J: Shared Service. A pharmacy that provides services as defined in section 338.010, RSMo, and is involved in the processing of a request from another pharmacy to fill or refill a prescription drug order, or that performs or assists in the performance of functions associated with the dispensing process, drug utilization review (DUR), claims adjudication, refill authorizations and therapeutic interventions.

AUTHORITY: sections 338.140, RSMo 2000 and 338.220, [RSMo Supp. 1999] as amended by HB 567 (2001) and Omnibus State Reorganization Act of 1974 (Appendix B). Original rule filed July 18, 1962, effective July 28, 1962. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 30, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, Kevin Kinkade, Executive Director, PO Box 625, Jefferson City, MO 65102. 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 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 220—State Board of Pharmacy
Chapter 2—General Rules**

PROPOSED RULE

4 CSR 220-2.650 Standards of Operation for a Class J: Shared Services Pharmacy

PURPOSE: The purpose of this rule is to establish minimum standards of operation for Class J: Shared Services Pharmacy, in compliance with House Bill 567 of the 91st General Assembly.

(1) Class J: Shared Services: Shared Service Pharmacy is defined as the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order, or that performs or assists in the performance of functions associated with the dispensing process, drug utilization review (DUR), claims adjudication, refill authorizations, and therapeutic interventions.

(A) A pharmacy may perform or outsource centralized prescription processing services provided the parties:

1. Have the same owner, or have a written contract outlining the services to be provided and the responsibilities and accountabilities of each party in fulfilling the terms of said contract in compliance with federal and state laws and regulations;

2. Maintain separate licenses for each location involved in providing shared services; and

3. Share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to fill or refill a prescription drug order.

(B) There must be separate and distinct record keeping systems between shared service pharmacies with real-time on-line access to shared services by both pharmacies. Transfer of prescription information between two (2) pharmacies that are accessing the same real-time, on-line database pursuant to the operation of a shared service pharmacy operation shall not be considered a prescription copy and, therefore, is not subject to the requirements of 4 CSR 220-2.120.

(C) The parties performing or contracting for centralized prescription processing services shall maintain a policy and procedures manual and documentation that implementation is occurring in a manner that shall be made available to the board for review upon request and that includes, but is not limited to, the following:

1. A description of how the parties will comply with federal and state laws and regulations;

2. The maintenance of appropriate records to identify the responsible pharmacist(s) in the dispensing and counseling processes;

3. The maintenance of a mechanism for tracking the prescription drug order during each step in the dispensing process;

4. The provision of adequate security to protect the confidentiality and integrity of patient information;

5. The maintenance of a quality assurance program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care and resolve identified problems.

(2) Pharmacies that participate in shared services are hereby exempt from the provisions of 4 CSR 220-2.200 Sterile Pharmaceuticals, subsection (4)(D) regarding the delivery of such products directly to the patient.

AUTHORITY: sections 338.140, 338.240, and 338.280, RSMo 2000 and 338.210 and 338.220 as amended by HB 567 (2001). Original rule filed Nov. 30, 2001.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Pharmacy, Kevin Kinkade, Executive Director, PO Box 625, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 73—Missouri Board of Nursing Home Administrators
Chapter 2—General Rules**

PROPOSED AMENDMENT

13 CSR 73-2.015 Fees. The board is amending subsections (1)(C) and (E), and section (2).

PURPOSE: This amendment establishes the dollar amount for the state exam fee and the payee of that fee. It also deletes language referencing the computer administration fee.

(1) The following fees are required by the Board of Nursing Home Administrators:

(C) State Exam Fee *[and computer administration fee for the state exam as fixed by the National Association of Board of Examiners of Long Term Care Administrators;]* **\$75.00**
 (E) License Renewal Late Penalty Fee
 (This fee is in addition to the renewal fee listed in subsection (1)/(C)/(D)) **\$25.00;**

(2) Fees listed in (1)(A) and [(D)] (C)–(H) must be made payable to the Division of Aging in the form of a cashier's check, company check or money order. Fees listed in (1)(B) *[and (C)]* must be made payable to the National Association of Board of Examiners of Long Term Care Administrators (NAB).

AUTHORITY: section 344.070, RSMo [Supp. 1998] 2000. Original rule filed Jan. 3, 1992, effective May 14, 1992. Amended: Filed March 4, 1993, effective Aug. 9, 1993. Emergency amendment filed Nov. 17, 1999, effective Dec. 11, 1999, expired June 7, 2000. Amended: Filed Nov. 1, 1999, effective April 30, 2000. Emergency amendment filed Nov. 30, 2001, effective Jan. 1, 2002, expires June 29, 2002. Amended: Filed Nov. 30, 2001.

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 Board of Nursing Home Administrators, Diana Love, Executive Secretary, PO Box 1337, 2023 St. Mary's Blvd., Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 73—Board of Nursing Home Administrators Chapter 2—General Rules

PROPOSED AMENDMENT

13 CSR 73-2.070 Examination. The board is amending sections (2) and (3), moving and renumbering sections (4)–(7) to section (3) subsections (A)–(D), adding a new section 4, and renumbering sections (8)–(11).

PURPOSE: This amendment establishes separate procedures for taking the national exam and the state exam.

(2) The examination(s) must be taken within twelve (12) months of the written notice of board evaluation and qualification. Failure to do so will cause full reapplication to be necessary.

(3) Qualified applicants will be eligible to take the national *[and/or state]* examination through the testing service by following the procedures set forth in subsections [(4)–(7)] (A)–(D) *[of this rule]*.

[(4)] (A) Applicants must submit the National Association of Boards of Examiners of Long Term Care Administrators (NAB) Application Form for Computerized Testing, **the Fee Payment Transmittal Form**, and the required fees to the board office. The applicant will receive from the testing service an authorization letter including a list of testing center vendors, each center's toll-free telephone number and instructions on the scheduling process.

[(5)] (B) Applicants must schedule to sit the examination within sixty (60) days of the date on the testing service's authorization letter.

[(6)] (C) Failure to schedule and sit the examination(s) within the sixty (60)-day period will cause the applicant's name to be removed from the eligibility list kept by the testing service. Applicants may reschedule by resubmitting the NAB Application Forms and paying any required fees.

[(7)] (D) Applicants must comply with all criteria and requirements established by the board, the National Association of Board of Examiners of Long Term Care Administrators (NAB), the testing service and the testing center.

(4) Qualified applicants will be eligible to take the state examination administered by the board once a written request and the seventy-five dollars (\$75) fee are received by the board. The examination will be scheduled at least monthly if one (1) or more applicants are awaiting examination.

[(8)] (5) Individuals making initial application for licensure, within twenty-one (21) days of a board meeting date, may be required to wait until a subsequent date to be evaluated.

[(9)] (6) Applicants shall obtain a passing score on the examination(s) administered by the board. The passing score shall be based upon the scale score passing point of one hundred thirteen (113) on the federal portion of the examination and seventy-five percent (75%) on the state portion of the examination.

[(10)] (7) If an applicant fails to make a passing grade on one or both of the required examinations, the applicant may make application for reexamination and pay the required fees. If an applicant fails only one of the required examinations and then fails to retake and pass the examination within a twelve (12)-month period, the applicant shall be required to take and pass both examinations before the board will issue the applicant a license.

[(11)] (8) If an applicant fails the examination a third time, the applicant must complete a course of instruction prescribed and approved by the board. After completion of the board-prescribed course of instruction, the applicant may reapply for board-approved examination(s). No applicant shall be licensed by the board after a third licensure examination failure unless the applicant successfully completes the board-prescribed course of instruction and passes the board-approved examination(s). With regard to any nationally certified examination required for licensure, no examination scores from other states shall be recognized by the board after the applicant has failed for a third time to pass the examination.

AUTHORITY: section 344.070, RSMo [Supp. 1998] 2000. Original rule filed May 13, 1980, effective Aug. 11, 1980. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Nov. 30, 2001, effective Jan. 1, 2002, expires June 29, 2002. Amended: Filed Nov. 30, 2001.

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 Board of Nursing Home Administrators, Diana Love, Executive Secretary, PO Box 1337, 2023 St. Mary's Blvd., Jefferson City, MO 65102. 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.