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SALUS POPULI SUPREMA LEX ESTO

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



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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

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HOW TO CITE RULES AND RSMo

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

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

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

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

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

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

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2005.

EXECUTIVE ORDER 06-24

WHEREAS, Abraham Lincoln, the 16th President of the United States, was one of the Nation's most prominent leaders, demonstrating true courage during the Civil War, one of the greatest crises in the Nation's history; and

WHEREAS, born on February 12, 1809, Abraham Lincoln rose to the Presidency through a legacy of honesty, integrity, intelligence, and commitment to the United States; and

WHEREAS, with the belief that all men were created equal, Abraham Lincoln led the effort to free all slaves in the United States; and

WHEREAS, the Congress of the United States has created the "Abraham Lincoln Bicentennial Commission" to study and recommend worthy federal activities to honor Abraham Lincoln in 2009, the year of his bicentennial; and

WHEREAS, it is most appropriate for the State of Missouri to plan and carry out its own bicentennial tributes to Abraham Lincoln, and to coordinate those activities with those of the federal Abraham Lincoln Bicentennial Commission.

NOW, THEREFORE, I, MATT BLUNT, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the Laws of the State of Missouri, do hereby establish a commission to be known as the "Missouri Abraham Lincoln Bicentennial Commission." The Commission shall have the following duties:

1. To study and recommend activities that may be carried out by the State of Missouri to honor Abraham Lincoln during the year of his bicentennial;
2. To educate Missourians about the life of Abraham Lincoln, most especially his years of service as the 16th President of the United States;
3. To assist local governments and organizations with planning, preparation, and grant applications for bicentennial events, programs and projects;
4. To plan and implement worthy activities to commemorate the bicentennial year; and
5. To coordinate federal, state and local bicentennial activities occurring in Missouri.

The Commission shall be composed of 10 members, as follows:

1. Two members of the House of Representatives, to be appointed by the Speaker of the House. One member shall be appointed from each political party;
2. Two members of the Senate, to be appointed by the President pro tempore of the Senate. One member shall be appointed from each political party;
3. One member who is a Missouri designated representative to the federal Abraham Lincoln Bicentennial Commission Governor's Council, to be appointed by the Governor; and
4. Five members with tourism, education, civil rights, economic development, historical or civic backgrounds, to be appointed by the Governor.

The Governor shall appoint one member from each political party to serve as co-chairs.

The "Missouri Abraham Lincoln Bicentennial Commission" shall expire on December 31, 2009.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 3rd day of July, 2006.



Matt Blunt
Governor

ATTEST:



Robin Carnahan
Secretary of State

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

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

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

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

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

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

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 232—Missouri State Committee of Interpreters Chapter 3—Ethical Rules of Conduct

PROPOSED AMENDMENT

4 CSR 232-3.010 General Principles. The board is proposing to add section (4) and renumber the remaining sections accordingly.

PURPOSE: This rule is being amended to define the term "casual setting."

(4) A person is not considered to be interpreting pursuant to 209.319 to 209.339, RSMo if, in a casual setting, a person is acting as an interpreter gratuitously or is engaged in interpreting incidental to traveling.

(A) A casual setting is defined as any event in which the sole

purpose of communication is social or family interaction and at which no decisions are made with long-term effects of a legal, financial, or medical nature.

[(4)] (5) For the purpose of these rules, a consumer shall be defined as any person, persons, or entity receiving interpreting services.

[(5)] (6) An interpreter shall not accept or continue an assignment if the interpreter does not possess the ability, education, training, experience, and qualifications as defined in rule 4 CSR 232-3.010(2).

[(6)] (7) An interpreter shall convey the content and affect of the source message transmitted, in a culturally and linguistically accurate manner, using the language or communication system most readily understood by the consumer.

(A) For the purpose of these rules, message shall mean the auditory or visual information that is to be interpreted into another language or communication system.

[(7)] (8) An interpreter shall not extend or lengthen an assignment for the sole purpose of financial gain.

[(8)] (9) An interpreter shall not misrepresent her/his licensure, ability, education, training, educational credentials, or certification as defined in rule 4 CSR 232-3.010(2).

[(9)] (10) The interpreter shall not interject personal opinion during an assignment or on matters pertaining to the assignment.

[(10)] (11) The interpreter shall safeguard any information obtained relating to an assignment. If an interpreting assignment is an event open to the public, the interpreter may disclose information regarding the location of the assignment and general nature of the event.

[(11)] (12) When an assignment is not an event open to the public, an interpreter shall not disclose information relating to the assignment to include location, nature of the assignment, or individuals present during the assignment without the written consent of the consumer.

(A) For the purpose of this rule, an interpreter may disclose the general location of an assignment for the purpose of contacting the interpreter, in the event of an emergency. However, the interpreter shall remain responsible for any unauthorized disclosure of information relating to an interpreting assignment.

(B) An interpreter may reveal such information as reasonably necessary to establish a claim or defense in a legal proceeding.

[(12)] (13) The interpreter shall not accept or continue an assignment when the objectivity or competency of the interpreter is or can reasonably be expected to be impaired because of an emotional, mental, psychological, or substance abuse disorder.

[(13)] (14) The interpreter shall not accept or continue an assignment if the interpreter's inability to remain neutral affects the interpretation.

[(14)] (15) The interpreter shall not accept or continue an interpreting assignment when the objectivity or competency of the interpreter is impaired because of the interpreter's familial, sexual, and/or emotional relationship with the consumer or consumer's family.

[(15)] (16) If the interpreter discovers a need to withdraw from an assignment, the interpreter shall advise the consumer.

[(16)] (17) An interpreter shall not delegate an assignment to a person who is not qualified or does not possess the appropriate certification, as defined in rule 4 CSR 232-3.010(2), for the service to be provided.

[(17)] (18) An interpreter shall not engage in an exploitive relationship with a consumer. For the purposes of these ethical rules of conduct, an exploitive relationship is any relationship between the interpreter and consumer that may take advantage of, or cause harm to, the consumer.

[(18)] (19) An interpreter shall maintain an appearance that does not interfere with the message as defined in 4 CSR 232-3.010[(6)](7)(A).

[(19)] (20) Within the limits of the law, and after receiving written consumer consent, an interpreter must respond in writing, within thirty (30) days from the date of a written request or inquiry from the committee, mailed to the interpreter's address currently registered with the committee.

[(20)] (21) An interpreter shall not practice interpreting as defined in section 209.285(20), RSMo upon the lapse, expiration, suspension, or revocation of a certification.

AUTHORITY: sections 209.328.1, RSMo 2000 and 209.285, 209.321 and 209.334, RSMo Supp. 2005. Original rule filed Feb. 18, 1999, effective July 30, 1999. Amended: Filed Dec. 1, 2000, effective May 30, 2001. Amended: Filed Nov. 6, 2002, effective May 30, 2003. Amended: Filed Sept. 8, 2003, effective March 30, 2004. Amended: Filed March 18, 2005, effective Sept. 30, 2005. Amended: Filed Dec. 1, 2005, effective June 30, 2006. Amended: Filed July 17, 2006.

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 Committee of Interpreters, Pamela Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102, by facsimile to (573) 526-3489, or by e-mail at interp@mail.state.mo.us. 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 235—State Committee of Psychologists
Chapter 5—Rules of Conduct**

PROPOSED RESCISSION

4 CSR 235-5.030 Ethical Rules of Conduct. This rule complied with section 337.050, RSMo which allowed the committee to promulgate ethical principles governing the practice of psychology.

PURPOSE: This rule is being rescinded and readopted to provide more clarity to licensees when interpreting the board's rules regarding ethical conduct.

AUTHORITY: section 337.050.9, RSMo Supp. 1989. Original rule filed July 2, 1991, effective Feb. 6, 1992. Amended: Filed Nov. 13, 1992, effective July 8, 1993. Rescinded: Filed July 17, 2006.

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

PRIVATE COST: This 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 Missouri State Committee of Psychologists, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-0613 or at scop@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 235—State Committee of Psychologists
Chapter 5—Rules of Conduct**

PROPOSED RULE

4 CSR 235-5.030 Ethical Rules of Conduct

PURPOSE: This rule complies with section 337.050, RSMo which allows the committee through the division to promulgate ethical principles governing the practice of psychology.

(1) General Principles.

(A) Purpose. The ethical rules of conduct constitute the standards against which the required professional conduct of a psychologist is measured.

(B) Scope. The psychologist shall be governed by these ethical rules of conduct whenever providing psychological services in any context. These ethical rules of conduct shall apply to the conduct of all licensees and applicants, including the applicant's conduct during the period of education, training and employment which is required for licensure. The term psychologist, as used within these ethical rules of conduct, shall be interpreted accordingly whenever psychological services are being provided in any context.

(C) Responsibility for Own Actions. The psychologist, when functioning as a licensed psychologist, shall be fully responsible for his/her own professional decisions and professional actions.

(D) Violations. A violation of these ethical rules of conduct constitutes unprofessional conduct and is sufficient reason for disciplinary action or denial of either original licensure, reinstatement or renewal of licensure.

(E) Aids to Interpretation. *The Ethical Principles of Psychologists, Code of Conduct, Standards of Providers of Psychological Services and Specialty Guidelines for the Delivery of Psychological Services*, (publication date August, 1990) promulgated by the American Psychological Association and the *Code of Conduct* (publication date August, 1990) promulgated by the Association of State and Provincial Psychology Boards, shall be used as an aid in resolving ambiguities which may arise in the interpretation of the ethical rules of conduct, except that these ethical rules of conduct shall prevail whenever any conflict exists between these rules and any professional association standard. *The Ethical Principles of Psychologists and Code of Conduct, Standards of Providers of Psychological Services and Specialty Guidelines for the Delivery of Psychological Services* can be obtained from the American Psychological Association, 750 First Street, NE, Washington, DC 20002-4242, or by calling (800) 374-2721. *The Code of Conduct* can be obtained by contacting the Association of State and Provincial Psychology Boards, PO Box 241245, Montgomery, AL 36124-1245 or by calling (334) 832-4580.

(2) Definitions.

(A) Client—means a receiver of psychological services. A corporate entity or other organization can be a client when the professional contract is to provide services of benefit primarily to the organization rather than to individuals. In the case of individuals with legal

guardians, including minors and legally incompetent adults, the legal guardian shall be the client for decision making purposes, except that the individual receiving services shall be the client for:

1. Issues directly affecting the physical or emotional safety of the individual, such as sexual or other exploitative multiple relationships; and

2. Issues specifically reserved to the individual, and agreed to by the guardian prior to rendering of services, such as confidential communication in a therapy relationship.

(B) Confidential information—means information revealed by an individual(s) or otherwise obtained by a psychologist, where there is a reasonable expectation that because of the relationship between the individual(s) and the psychologist, or the circumstances under which the information was revealed or obtained, the information shall not be disclosed by the psychologist without the informed written consent of the individual(s). When a corporation or other organization is the client, rules of confidentiality apply to information pertaining to the organization, including personal information about individuals when obtained in the proper course of that contract. That information about individuals is subject to confidential control of the organization, not of the individual, and can be made available to the organization, unless there is reasonable expectation by that individual that information was obtained in a separate professional relationship with that individual and is therefore subject to confidentiality requirements in itself.

(C) Court order—means the written or oral communication of a member of the judiciary, or other court magistrate or administrator, if that authority has been lawfully delegated to that magistrate or administrator.

(D) Licensed—means licensed, certified, registered, or any other term when such term identifies a person whose professional behavior is subject to regulation by the committee.

(E) Professional relationship—means a mutually agreed upon relationship between a psychologist and a client(s) for the purpose of the client(s) obtaining the psychologist's professional expertise.

(F) Professional service—means all actions of the psychologist in the context of a professional relationship with a client.

(G) Supervisee—means any person, including a psychological trainee, psychological intern, psychological resident, provisionally licensed psychologist, psychological assistant and qualified assistant who functions under the extended authority of the psychologist to provide, or while in training to provide, psychological services.

(3) Competence.

(A) Limits on Practice. The psychologist shall limit practice and supervision to the areas in which competence has been gained through professional education, training derived through an organized training program and supervised professional experience. If important aspects of the client's problems fall outside the boundaries of competency, then the psychologist shall assist his/her client in obtaining additional professional consultation.

(B) Maintaining Competency. The psychologist shall maintain current competency in the areas in which s/he practices, through continuing education, consultation, other training, or any combination of these, in conformance with current standards of scientific and professional knowledge.

(C) Adding New Services and Techniques.

1. The psychologist, when developing competency in a new service or technique, shall engage in ongoing consultation with other psychologists or relevant professionals and shall seek appropriate education, training, supervised experience or all of the above in the new area, service or technique. The psychologist shall inform any client whose treatment will involve a newly developing service or technique of its innovative nature and the known risks associated with it, and of the client's right to freedom of choice concerning services received.

2. In those emerging areas without generally recognized standards for preparatory training, psychologists shall take reasonable

steps to ensure the competence of their work and to protect clients/patients, organizational clients, and others from harm.

3. When assuming forensic roles, psychologists shall become familiar with the judicial or administrative rules governing their roles and seek relevant consultation and training.

4. In emergencies, psychologists may provide services to individuals for whom no other services are available, even if the psychologist may not have obtained the necessary training, provided such services are designed to assure that needed services are not denied. These services shall terminate as soon as the emergency has ended and/or appropriate services are available.

(D) Accurate Representation. A psychologist shall accurately represent his/her areas of competence, education, training, experience, and professional affiliations to the committee, the public, and colleagues.

(E) Sufficient Professional Information. A psychologist rendering a formal professional opinion about a person, for example about the fitness of a parent in a custody hearing, shall not do so without direct and substantial professional contact with or a formal assessment of that person.

(4) Maintenance and Retention of Records.

(A) The psychologist rendering professional individual services to a client (or a dependent), or services billed to a third party payer, shall maintain professional records that include:

1. Name of the client and other identifying information such as address, telephone number, age, and/or sex;

2. The presenting problem(s) or purpose or diagnosis;

3. Any assessment including test results or other evaluative results obtained and any basic test data from which they were derived;

4. The date and description of each contact or service provided or pertaining to the client;

5. The nature, type and goals of any psychological interventions;

6. The fee arrangement and documentation of discussion with client prior to initiation of services;

7. A copy of all test or other evaluative reports prepared as part of the professional relationship;

8. Notation and results of formal consults with other providers;

9. Notation of referrals given or recommended to the client;

10. Any releases executed by the client;

11. Records shall contain data relating to financial transactions between the psychologist and client, including fees assessed and collected;

12. Written informed consent must be obtained concerning all aspects of services including assessment and therapy;

13. A provisionally licensed psychologist must include on the informed consent the fact that the provisional licensee is working under the supervision of a licensed psychologist. The informed consent form must identify the supervising psychologist; and

14. Entries in the records must be made within ten (10) days following each consultation or rendition of service. Entries that are made after the date of service must indicate the date entries are made, as well as the date of service.

(B) To meet the requirements of these rules, but not necessarily for other legal purposes, the psychologist shall assure that all data entries in the professional records are maintained for a period of not fewer than five (5) years after the last date of service rendered, or not less than the time required by other regulations, if that is longer.

1. The psychologist shall store and dispose of written, electronic and other records in such a manner as to ensure their confidentiality. The psychologist shall maintain the confidentiality of all psychological records in the psychologist's possession or under the psychologist's control except as otherwise provided by law or pursuant to authorization of a client specifically requesting or authorizing release or disclosure of the client's psychological records; and

2. For each person professionally supervised, the psychologist

shall maintain, for a period of not less than five (5) years after the last date of supervision, a record of the supervisory session that shall include the type, place, and general content of the session, as well as other information required by these rules, other law or good practice.

(5) Continuity of Care.

(A) The psychologist shall make prior arrangements for another appropriate professional(s) to be available for consultation during periods of his/her extended absences from professional availability. The psychologist shall inform the client of available emergency services for use during those times when s/he cannot be reached. These periods include, but are not limited to, after-office hours, weekends, holidays or vacations.

(B) The psychologist shall make provisions for the transfer or disposal of all written or electronic records of the client in the event of the psychologist's death or incapacitation.

(6) Multiple Relationships.

(A) Impaired Psychologist. The psychologist shall not undertake or continue a professional relationship with a client when the competency of the psychologist, is or could reasonably be expected to be impaired due to mental, emotional, physiologic, pharmacologic or substance abuse conditions. If a condition develops after a professional relationship has been initiated, the psychologist shall terminate the relationship in an appropriate manner, shall notify the client in writing of the termination and shall assist the client in obtaining services from another professional.

(B) Multiple Relationship Affecting Psychologist's Judgment. The psychologist shall not undertake or continue a professional relationship with a client when the objectivity or competency of the psychologist is, or could reasonably be expected to be impaired because of the psychologist's present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative or legal relationship with the client or a relevant person associated with or related to the client. If a dual relationship develops or is discovered after the professional relationship has been initiated, the psychologist shall terminate the professional relationship in an appropriate manner, shall notify the client in writing of this termination and shall assist the client in obtaining services from another professional.

(C) Prohibited Relationships.

1. The psychologist, in interacting with any current client or with a client to whom the psychologist has at anytime within the previous twenty-four (24) months rendered counseling, psychotherapeutic or other professional psychological services for the treatment or amelioration of emotional distress or behavioral inadequacy, shall not enter into a financial or other potentially exploitative relationship with him/her/them.

2. The psychologist, in interacting with any current client or with a person to whom the psychologist at any time within the previous sixty (60) months has rendered counseling, psychotherapeutic or other professional psychological services for the treatment or amelioration of emotional distress or behavioral inadequacy, shall not—

A. Engage in sexual intercourse, which includes any genital contact of the psychologist with the client or the client with the psychologist. This specifically prohibits sexual intercourse, sodomy—oral, anal copulation, or both; or any penetration of the anal opening by any one (1) part or object;

B. Engage in kissing with the mouth, lips or tongue of the psychologist with the client or the client with the psychologist;

C. Touching or caressing by either the psychologist or client of the other person's breasts, genitals or buttocks;

D. Engage in any deliberate or repeated comments, gestures or physical contact of a sexual nature that exploits the professional relationship with the client;

E. Terminate a therapeutic relationship with a client or student for the purpose, expressed or implied, of having a sexual relationship with that person;

F. Exhibitionism and voyeurism—exposing one's self or

encouraging another to expose him/herself for the purpose of sexual gratification; or

G. Engage in any verbal or physical behavior toward him/her which is sexually seductive, demeaning, or harassing.

3. Prohibited exploitation in professional relationships. The psychologist shall not exploit, sexually or otherwise, his/her professional relationship with clients, supervisees, students, employees, research participants or others.

(7) Client Welfare.

(A) Providing Explanation of Procedures.

1. The psychologist shall give a truthful, understandable and reasonably complete account of the client's condition to the client or the parent of minor children or legal guardian. The psychologist shall keep the client fully informed as to the purpose and nature of any evaluation, treatment or other procedures, and of the client's right to freedom of choice regarding services provided.

2. When a psychologist agrees to provide services to a person or entity at the request of a third party, the psychologist shall explain and document the nature of the relationships with all individuals or organizations involved. This includes the role of the psychologist, who is the client, the probable uses of the services provided or the information obtained, and any known or probable limits to confidentiality.

(B) Termination of Services. Whenever professional services are terminated, the psychologist shall provide alternative sources of professional services or assistance when indicated. The psychologist shall terminate a professional relationship when it is reasonably clear that the client is not benefitting from the relationship, and shall prepare the client appropriately for such termination.

(C) Unnecessary Service. The psychologist shall not exploit clients by providing unnecessary psychological service.

(D) Stereotyping. The psychologist shall not impose on the client any stereotypes of behavior, values or roles related to age, gender, religion, race, disability, nationality or sexual preference which would interfere with the objective provision of psychological services to the client. The psychologist obtains training, experience or counsel to assure competent service or research relating to these persons.

(E) Sexual or Other Multiple Relations With a Client. The psychologist shall not enter into a sexual or other multiple relationship with a client, as specified in subsections (6)(B) and (C) of these ethical rules of conduct.

(F) Solicitation of Business by Clients. The psychologist providing services to an individual client shall not induce that client(s) to solicit business on behalf of the psychologist.

(G) Referrals on Request. The psychologist shall make an appropriate referral to another professional when requested to do so by the client.

(H) Offering Services to Clients of Others. In deciding whether to offer services to someone already receiving similar services elsewhere, the psychologist shall carefully consider the treatment issues and the potential client's welfare. The psychologist shall discuss these issues with the client to minimize the probable risks of confusion and conflict, and proceed with caution and sensitivity to the therapeutic issues.

(8) Welfare of Supervisees, Clients, Research Subjects and Students.

(A) Welfare of Supervisees and Students. The psychologist shall not harass or exploit a supervisee or student in any way—sexually, financially or otherwise. The psychologist as a teacher shall recognize that the primary obligation is to help others acquire knowledge and skill. The psychologist shall maintain high standards of scholarship by presenting psychological information objectively, fully and accurately. The teaching duties of the psychologist shall be performed on the basis of careful preparation so that the instruction is accurate, current and scholarly.

(B) Welfare of Clients and Research Subjects.

1. Clarifying expectations. The psychologist shall document that

the client has been informed as to the purpose and nature of an evaluation, research, treatment or educational procedure as well as reasonable alternatives in language commensurate with the individual's level of comprehension.

2. Minors and those with diminished capacity. Whenever possible, the psychologist shall obtain informed consent from children and from individuals with diminished mental capacity regarding their participation in psychological services or research. If they object to participation, the psychologist shall consider the individual's basic rights in light of those factors such as age, psychological maturity and the judgment of the individual's parents or legal guardians. The psychologist's decision shall be based upon the best interests of the individual.

3. Voluntary and mandatory procedures. The psychologist shall inform recipients as to the voluntary or mandatory nature of the assessment, treatment, research, educational or training procedure. When a procedure is voluntary, the psychologist shall inform the clients, students or research participants of their freedom of choice and any alternatives to participation.

4. Electronic recording and filming. The psychologist shall obtain permission from clients, students and research participants prior to the use of observation or electronic taping, recording or filming procedures.

5. Access to confidential information of others. When the possibility exists that others may obtain access to confidential information, the psychologist shall explain this possibility, together with plans for protecting confidentiality, to clients, students or research participants as part of the procedure for obtaining informed consent.

6. Inducements for research participants. In offering clinical or other professional services as an inducement for obtaining research participants, the psychologist shall make clear the nature of the services as well as the risks and obligations.

7. Research involving risk or discomfort. When conducting research, the psychologist shall clearly communicate to participants the experience they are likely to have, especially those that they might find negative, such as physical risk or discomfort, or negative emotional reactions.

8. Freedom to avoid or withdraw from research. Individuals are ordinarily free to decline to participate or to withdraw from research without adverse consequences. When research participation is mandated by a third party, the psychologist shall describe the probable consequences of consenting, declining to participate or subsequently withdrawing from the research.

9. Protecting the right of the individual to avoid or withdraw from research. When the psychologist conducts research with individuals whose real or ascribed power is different than that of the psychologist, special care shall be taken to protect their rights to decline participation or withdraw from research.

10. Waiving informed consent.

A. Before deciding to waive informed consent, the psychologist planning research that may not require informed consent, such as certain types of archival research or anonymous naturalistic observations, shall consult with federal and state guidelines or human subject review committees.

B. When informed consent by a legally authorized person is not permitted or required by law, psychologists shall take reasonable steps to protect the individual's rights and welfare.

11. Research obligations and responsibilities. Prior to conducting research, the psychologist shall establish a clear and fair agreement with participants that clarifies the obligations and responsibilities of each party.

12. Post-research consultation with participants. The psychologist shall inform participants of procedures for contacting him/her, within a reasonable time period following participation, should stress, harm or related questions or concerns arise.

13. Provision of participants research results and conclusions. When conducting research, the psychologist shall provide participants, regardless of age or diminished mental capacity, with the

opportunity to receive information about the general results and conclusions of that research.

14. The sharing and utilization of data. The psychologist shall clarify, in advance, the plans for sharing and utilizing research data with participants and any other persons.

15. Research planning. In planning a study, the psychologist shall carefully evaluate ethical acceptability. If the weighing of scientific and human values suggests the possibility of a violation of any principle, the psychologist shall seek ethical advice through peer consultation and institutional review boards, and observe stringent safeguards to protect the rights of human participants and the welfare of animal subjects.

16. Animal subjects' welfare. When working with animal subjects, the psychologist shall ensure that the animals will be treated humanely. The psychologist shall only inflict discomfort, illness or pain when the objectives of the research cannot be achieved by other methods. Any procedures that do inflict pain, stress or privation must be strongly justified by their prospective scientific, educational or applied value.

17. Assessment of risk level and protection of human participants. Assessing the degree of risk to research participants, according to recognized standards, is of primary ethical concern to the psychologist. Human participants shall be protected from physical and mental harm as well as any danger that may arise from research procedures.

18. Deception and debriefing. The psychologist shall not deceive human participants about the experience of participating in a study, especially those aspects that subjects might find negative, such as physical risk, discomfort or unpleasant emotional experiences. Any deceptive aspects of a study shall be explained at the conclusion or earlier. Before conducting such a study, psychologists have a special responsibility to determine whether—

A. The use of deceptive techniques is justified by the study's prospective scientific, educational or applied value; and

B. Alternative procedures are available that do not use concealment or deception.

19. Minimizing invasiveness of data gathering. Interference with the milieu in which data are collected shall be kept to a minimum.

(9) Protecting Confidentiality of Clients.

(A) Informing Others of Legal Limits of Confidentiality. The psychologist shall inform clients at the outset of a professional relationship of those constraints on confidentiality that can be reasonably anticipated.

(B) Safeguarding Confidential Information. The psychologist shall safeguard the confidential information obtained in the course of practice, teaching, research or other professional duties. Psychologists who offer services, products or information via electronic transmission shall inform clients/patients of the risks to privacy and limits of confidentiality.

(C) Disclosure of Confidential Information. The psychologist shall disclose confidential information to others only with the informed written consent of the client with the exceptions as set forth here.

1. Disclosure without informed written consent. The psychologist may disclose confidential information without the informed written consent of the client when the psychologist judges that disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on the client or on another person. In that case, the psychologist shall disclose the confidential information only to appropriate professional workers, public authorities, the potential victim, the family, or both, of the client. When the client is an organization, disclosure shall be made only after the psychologist has made a reasonable and unsuccessful attempt to have the problems corrected within the organization.

2. Use of interpreters. Psychologists using the services of an interpreter shall obtain informed consent from the client/patient to use that interpreter, shall ensure that confidentiality of test results

and test security are maintained, and include in recommendation reports and diagnostic or evaluative statements, including forensic testimony, discussion or any limitations on the data obtained.

3. Legally dependent clients. At the beginning of a professional relationship, to the extent that the client can understand, the psychologist shall inform a client who is below the age of majority or who has a legal guardian of the limit the law imposes on the right of confidentiality with respect to his/her communications with the psychologist.

4. Multiple clients. When service is rendered to more than one (1) client during a joint session, for example to a family or a couple or a parent and child or a group, the psychologist shall, at the beginning of the professional relationship, clarify to all parties the manner in which confidentiality will be handled. All parties shall be given opportunity to discuss and to accept whatever limitations of confidentiality will be adhered to in the situation.

5. Release of confidential information. The psychologist may release confidential information upon court order, as defined in section (2) of this rule, or to conform with state or federal law or regulation.

6. Abuse reports of abuse of children and vulnerable adults. The psychologist shall be familiar with any relevant law concerning the reporting of abuse of children and vulnerable adults, and shall comply with the law.

7. Discussion of client information among professionals. When rendering psychological services as part of a team or when interacting with other appropriate professionals concerning the welfare of the client, the psychologist may share confidential information about the client provided the psychologist takes reasonable steps to assure that all persons receiving the information are informed about the confidential nature of the information and abide by the rules of confidentiality.

(D) Limited Access to Client Records. The psychologist shall limit access to client records and shall assure that all persons working under his/her authority comply with the requirements for confidentiality of client material.

(E) Disguising Confidential Information. For any confidential information used in teaching, research or writing, the psychologist shall insure that the reported material is appropriately disguised to prevent client identification.

(F) Observation and Electronic Recording. The psychologist shall ensure that diagnostic interviews or therapeutic sessions with a client are observed or electronically recorded only with the informed written consent of the client.

(G) Confidentiality After Termination of Professional Relationship. The psychologist shall continue to treat client records as confidential information after the professional relationship between the psychologist and the client has ceased.

(10) Integrity and Representation of Title and Services.

(A) Display of License. The psychologist shall display prominently on the premises of the professional practice the psychologist's current Missouri license to practice psychology.

(B) Use of Appropriate Title. When representing him/herself to the public through advertisements, including telephone listings, business cards, letterhead and other public announcements, the psychologist shall use a title which accurately reflects professional education, training and experience. This title shall be clearly presented as to denote the actual status and training of the person. Initials of titles are not appropriate for use. For example, the title of Psychological Resident shall not be listed as P.R., the title of Clinical Psychologist shall not be listed as C.P., or the title of Provisional Licensed Psychologist shall not be listed as P.L.P. The use of initials for the highest earned relevant academic degree is acceptable.

(C) Accurate Representation of Services. When announcing or advertising professional services, the psychologist may list the following information to describe the provider and services provided: name, highest relevant academic degree earned from a regionally

accredited institution, date, type and level of certification or licensure, diplomate status, American Psychological Association (APA) membership status, address, telephone number, office hours, a brief listing of the types of psychological services offered, an appropriate presentation of fee information, foreign languages spoken and a policy with regard to third-party payments. Psychologists licensed on the basis of a master's degree shall not advertise their services using a higher degree earned in a field other than psychology.

(D) Accurate Representation of Qualifications. The psychologist shall not misrepresent directly or by implication his/her professional qualifications, such as, education, experience or areas of competence.

(E) Accurate Representation of Affiliations. The psychologist shall not misrepresent directly or by implication his/her affiliations, or the purposes or characteristics of institutions and organizations with which the psychologist is associated.

(F) False or Misleading Information. The psychologist shall not include false or misleading information in public statements concerning psychological services offered. Public statements include, but are not limited to, communication by means of periodical, book, list, directory, television, radio or motion picture. They shall not contain:

1. A false, fraudulent, misleading, deceptive or unfair statement;
2. A misrepresentation of fact or a statement likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;
3. A testimonial from a client regarding the quality of a psychologist's services or products;
4. A statement intended or likely to create false or unjustified expectations of favorable results;
5. A statement implying unusual, unique or one-of-a-kind abilities;
6. A statement intended or likely to appeal to a client's fears, anxieties or emotions concerning the possible results of failure to obtain the offered services;
7. A statement concerning the comparative desirability of offered services; or
8. A statement of direct solicitation of individual clients.

(G) Accurate Representation of Services or Products. The psychologist shall not associate with or permit his/her name to be used in connection with any services or products in such a way as to misrepresent—

1. The services or products;
2. The degree of his/her responsibility for the services or products; or
3. The nature of his/her association with the services or products.

(H) Correction of Misrepresentation by Others. The psychologist shall correct others who misrepresent his/her professional qualifications or affiliations.

(I) Accurate Claims. The psychologist shall take credit only for work actually done, including publication credit.

(J) Publication Credit. Publication credit shall accurately reflect the relative contribution of the individuals involved, regardless of professional status. A student generally is listed as the principal author of any multiple-authored article based primarily on the student's thesis or dissertation. Minor contributions to publications shall be acknowledged in footnotes or in an introductory statement.

(K) Acknowledging All Sources. Plagiarism in either written or oral form is unethical. Acknowledgment through specific citations shall be made for unpublished as well as published material that has directly influenced the research or writing.

(L) Fabrication of Data. A psychologist shall not fabricate data. If a psychologist discovers significant errors in their published data, they shall take reasonable steps to correct these errors in a correction, retraction, erratum or other appropriate publication means.

(11) Remuneration.

(A) Financial Arrangements.

1. All financial arrangements shall be made clear to each client in advance of billing.

2. The psychologist shall not mislead or withhold from any client, prospective client or third-party payor information about the cost of his/her professional services.

3. The psychologist shall not exploit a client or responsible payor by charging a fee that is excessive for the services performed or by entering into a bartering arrangement in lieu of a fee.

4. The primary obligation of the psychologist employed by an institution, agency or school is to persons entitled to his/her services through the institution, agency or school. A psychologist shall not accept a private fee or any other form of remuneration from those persons unless the policies of a particular institution, agency or school make explicit provision for private work with its clients by members of its staff. In those instances, the client or guardian shall be fully apprised of available services and all policies affecting him/her, prior to entering into a private professional relationship with the psychologist.

(B) Improper Arrangements.

1. The psychologist shall neither derive nor solicit any form of monetary profit or personal gain as a result of his/her professional relationship with clients or immediate exclients, beyond the payment of fees for psychological services rendered. However, unsolicited token gifts from a client are permissible.

2. The psychologist shall not use his/her professional relationship with clients or immediate exclients to derive personal gain, other than through fees for professional services, for him/herself, or for any other person, or for any organization from the sale or promotion of a nonpsychology-related product or service.

3. The psychologist shall neither give nor receive any commission, rebate or other form of remuneration for referral of a client for professional services.

4. The psychologist shall not bill for services that are not rendered. However, s/he may bill for missed appointments which the client did not cancel in advance, if this is part of the financial arrangements made in accordance with paragraph (11)(A)1. of this rule.

(12) Assessment Procedures.

(A) Competent Use of Assessment Techniques. The psychologist shall use, administer and interpret psychological assessment techniques competently and maintain current knowledge about research developments and revisions concerning the techniques that are used.

(B) Confidential Information. The psychologist shall treat an assessment result or interpretation regarding an individual as confidential information.

(C) Communication of Results. The psychologist shall accompany communication of results of assessment procedures to the client, parents, legal guardians or other agents of the client by adequate interpretive aids or explanations.

(D) Reservations Concerning Results. The psychologist shall include in his/her report of the results of an assessment procedure any deficiencies of the assessment norms for the individual assessed and any relevant reservations or qualifications which affect the validity, reliability or other interpretation of results.

(E) Protection of Integrity of Assessment Procedures. The psychologist shall not reproduce or describe in popular publications, lectures or public presentations, psychological tests or other assessment devices in ways that might invalidate them.

(F) Information for Professional Users. The psychologist offering an assessment procedure or automated interpretation service to other professionals shall accompany this offering by a manual or other printed material which fully describes the development of the assessment procedure or service, the rationale, evidence of validity and reliability, and characteristics of the normative population. The psychologist shall explicitly state the purpose and application for which

the procedure is recommended and identify special qualifications required to administer and interpret it properly. The psychologist shall ensure that the advertisements for the assessment procedure or interpretive services are factual and descriptive.

(13) Violations of Law.

(A) Violations of Applicable Statutes. The psychologist shall not violate any applicable statute or administrative rule regarding the practice of psychology.

(B) Use of Fraud, Misrepresentation or Deception. The psychologist shall not use fraud, misrepresentation or deception in:

1. Obtaining a psychology license;
2. Passing a psychology licensing examination;
3. Assisting another to obtain a psychology license or to pass a psychology licensing examination;
4. Billing clients or third-party payors;
5. Providing psychological service;
6. Reporting the results of psychological evaluations or services;

or

7. Conducting any other activity related to the practice of psychology.

(14) Aiding Unauthorized Practice.

(A) Aiding Unauthorized Practice. The psychologist shall not aid or abet another person in misrepresenting his/her professional credentials or in illegally engaging in the practice of psychology.

(B) Employing Other Licensed Professionals. A psychologist may employ or utilize the services of other licensed professionals in his/her practice so long as this professional is acting within the terms and scope of his/her respective license.

(C) Delegating Professional Responsibility. The psychologist shall not delegate professional responsibilities to a person not qualified, not appropriately credentialed to provide those services, or both.

(D) Providing Supervision. The psychologist shall exercise appropriate supervision over supervisees, as set forth in the regulations of the committee.

1. In academic and supervisory relationships, psychologists establish timely and specific processes for providing feedback to students and supervisees. Information regarding the process is provided to the student and supervisees at the beginning of supervision.

2. Psychologists evaluate students and supervisees on the basis of their actual performance on relevant and established program requirements.

(15) Resolving Issues.

(A) Reporting of Violations to Committee. The psychologist who has knowledge or believes in good faith that there has been a violation of the statutes or rules of the committee shall inform the committee in writing. When the information regarding that violation is obtained in a professional relationship with a client, the psychologist shall report it only with the written permission of the client. Nothing in this rule shall relieve a psychologist of the duty to file any report required by applicable statutes. Failure to report a violation of the statutes and/or rules, is in itself, an ethics violation.

(B) Providing Information to Client. When a psychologist learns from a client of a possible violation of the statutes or rules of the committee, or when a psychologist receives a request from a client for information on how to file a complaint with the committee, the psychologist has an obligation to inform the client of the standards of practice of psychology and how to file a complaint with the committee.

(C) Cooperating with the Committee. The psychologist shall cooperate with the State Committee of Psychologists by responding personally or through his/her attorney to inquiries.

(D) Circumventing Disciplinary Rules. Psychologists shall not circumvent a disciplinary rule of professional conduct through actions of another.

AUTHORITY: sections 337.030, Supp. 2005 and 337.050.9, RSMo 2000. Original rule filed July 2, 1991, effective Feb. 6, 1992. Amended: Filed Nov. 13, 1992, effective July 8, 1993. Rescinded and readopted: Filed July 17, 2006.

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 Missouri State Committee of Psychologists, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-0613 or at scop@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 235—State Committee of Psychologists
Chapter 7—Continuing Education**

PROPOSED AMENDMENT

4 CSR 235-7.020 Continuing Education Reports. The committee is proposing to amend the original Purpose statement.

PURPOSE: This rule is being amended to provide clarity to the existing rule.

PURPOSE: This rule establishes the criteria for maintaining record of continuing education [program records] claimed.

AUTHORITY: sections 337.030, RSMo Supp. 2005 and 337.050.12, RSMo [Supp. 1998] 2000. Original rule filed Dec. 31, 1998, effective Aug. 30, 1999. Amended: Filed July 17, 2006.

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 Missouri State Committee of Psychologists, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-0613 or at scop@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 235—State Committee of Psychologists
Chapter 7—Continuing Education**

PROPOSED AMENDMENT

4 CSR 235-7.030 Categories of Continuing Education Programs and Credits. The committee is proposing to amend sections (1) and (2) of the rule.

PURPOSE: This rule is being amended to provide additional clarity with regard to the categories of continuing education programs and credits.

(1) The committee recognizes the following categories of continuing education programs, seminars or activities and established credit hours.

(A) Category A formal activities, a minimum of fifteen (15) credits per reporting cycle. Category A activities are defined as—

1. Formal continuing education programs that may consist of programs, seminars, or activities accredited by any accredited or identified sponsor listed in 4 CSR 235-7.005(1). The number of continuing education credits assigned by an association as defined in these rules will be accepted.

2. Regularly scheduled postgraduate courses offered by a “recognized educational institution” as defined in 4 CSR 235-7.005(7), which are relevant to the practice of psychology. [One-quarter (1/4) hour of academic credit constitutes ten (10) continuing education credits.] One (1) [semester] credit hour or the equivalent of academic credit constitutes fifteen (15) continuing education credits.

3. Writing or speaking, including a paper or other presentation at a formal professional meeting, a paper published in a professional journal, or a book or an original chapter in an edited book in the area of psychology or a related field. Credit will be granted for the year of publication or presentation in the case of a paper. Continuing education credits will be granted at the rate of [four (4) for each paper or] two (2) per presentation, eight (8) for each published journal article or chapter in a published book, ten (10) for editing a published book, and fifteen (15) for the [publication of a book] authorship of a published book.

4. Preparation and teaching a graduate level course at a recognized educational institution where the contents of which are primarily psychological. Continuing education credits will be granted at the rate of five (5) hours per class with a maximum of ten (10) per reporting cycle. No single course shall be reported more than one (1) time per reporting cycle.

(B) Category B other programs, seminars, or activities, a maximum of twenty-five (25) credits per reporting cycle of Category B activities may count towards the two (2)-year, forty (40) continuing education credit hour requirement in 4 CSR 235-7.010. Category B programs, seminars, or activities are defined as—

[1. Self-study.

A. Any licensed psychologist may receive up to ten (10) hours of self-study credit in a two (2)-year reporting cycle by studying psychology related material, including but not limited to videotapes, audiotapes and publications, in furtherance of general academic and professional competence; and

2. Other continuing education experiences. The committee will accept a maximum of eight (8) hours of continuing education received from any or all of the five (5) categories of continuing education experiences found in this paragraph unless otherwise specified.]

1. The categories of continuing education experiences and the number of hours of continuing education for each category are as follows:

A. Meetings. Registered attendance at relevant professional meetings (international, national, regional, state, local). Three (3) hours per day;

B. Workshops, seminars and courses. Registered attendance at relevant nonaccredited workshops, seminars, colloquium, grand rounds or academic courses. Number of actual attendance hours;

C. [Publications. Books, articles published by applicant in relevant professional books, journals, or periodicals. Three (3) hours in a non-refereed journal; six (6) hours in a refereed journal;] Preparation and teaching of an undergraduate level course at a recognized educational institution where the contents

of which are primarily psychological, three (3) hours per class, nine (9) maximum per reporting cycle. No single course shall be reported more than one (1) time per reporting cycle; and

[D.] *Presentations.* Presentations by applicant at relevant professional meetings (international, national, regional, state, or local). Number of clock hours for a maximum of three (3) hours per presentation; and

[E.] *D.* Individual study. Self-study of professional material including relevant books, journals, periodicals, [tapes] other forms of media, and other materials and preparation of relevant lectures and talks to public groups. Preparation credit may not be claimed under this category for presentations credited under paragraph 1. of this subsection. The committee will accept a maximum of [four (4)] ten (10) hours continuing education credits in individual study.

(2) Experience Not Acceptable for Continuing Education. The [board] committee will not consider personal psychotherapy, workshops for personal growth, [or] services to professional associations, providing supervision or case conference as meeting the requirements for continuing education.

AUTHORITY: sections 337.030, RSMo Supp. 2005 and 337.050.12, RSMo [Supp. 1998] 2000. Original rule filed Dec. 31, 1998, effective Aug. 30, 1999. Amended: Filed July 17, 2006.

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 Missouri State Committee of Psychologists, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-0613 or at scop@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 267—Office of Tattooing, Body Piercing and Branding
Chapter 2—Licensing Requirements

PROPOSED AMENDMENT

4 CSR 267-2.020 Fees. The board is proposing to amend sections (1)–(3).

PURPOSE: The Division of Professional Registration is statutorily obligated to enforce and administer the provisions of sections 324.520–324.526, RSMo. Fees are set so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the Office of Tattooing, Body Piercing and Branding for administering the provisions of sections 324.520–324.526, RSMo. Therefore, the division is reducing the fees associated with licensure.

(1) The operator of a tattoo, body piercing or branding establishment shall pay a biennial license fee to the office as follows:

- (A) Tattoo establishment [§375] \$187
- (B) Body piercing establishment [§375] \$187
- (C) Branding establishment [§375] \$187
- (D) Combined tattoo, body piercing or branding establishment [§450] \$225
- (E) Renewal for a tattoo, body piercing or branding establishment [§375] \$187

(F) Renewal for a combined tattoo, body piercing and/or branding establishment [§450] \$225

(2) The operator of a temporary tattoo, body piercing and/or branding establishment shall pay a fee to the division as follows:

- (A) Temporary tattoo establishment (per event) [§250] \$125
- (B) Temporary body piercing establishment (per event) [§250] \$125
- (C) Temporary branding establishment (per event) [§250] \$125
- (D) Temporary combined tattoo, body piercing and/or branding establishment (per event) [§300] \$150

(3) A person who wishes to practice as a tattooist, body piercer, or brander shall pay a biennial fee to the division as follows:

- (A) Tattooist [§ 75] \$37
- (B) Renewal for tattooist [§ 75] \$37
- (C) Body piercer [§ 75] \$37
- (D) Renewal for a body piercer [§ 75] \$37
- (E) Brander [§ 75] \$37
- (F) Renewal for a brander [§ 75] \$37
- (G) Combined practitioner [§ 150] \$75
- (H) Renewal for combined practitioner [§ 150] \$75

AUTHORITY: section 324.522, RSMo Supp. [2004] 2005. Original rule filed Aug. 15, 2002, effective Feb. 28, 2003. Amended: Filed Feb. 15, 2005, effective Aug. 30, 2005. Amended: Filed July 17, 2006.

PUBLIC COST: This proposed amendment will reduce the Tattoo Fund by approximately seventy-five thousand thirty-eight dollars (\$75,038) biennially for the life of the rule. It is anticipated that the total reduction will recur biennially for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will save private entities an estimated seventy-five thousand thirty-eight dollars (\$75,038) biennially for the life of the rule. It is anticipated that the total savings will recur biennially for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Tattooing, Body Piercing and Branding, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489 or via e-mail at tattoo@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PUBLIC ENTITY FISCAL NOTE

I. RULE NUMBER**Title 4 -Department of Economic Development****Division 267 - Office Tattooing, Body Piercing and Branding****Chapter 2 - Licensing Requirements****Proposed Rule - 4 CSR 267-2.020 Fees**

Prepared May 31, 2006 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Loss of Revenue
State Board of Chiropractic Examiners	\$75,038.00

Total Loss of Revenue
Biennially for the Life of the Rule **\$75,038.00**

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The division is statutorily obligated to enforce and administer the provisions of sections 324.520-324.526, RSMo. Pursuant to Section 324.522, RSMo, the division shall by rule and regulation set the amount of fees authorized by sections 324.520-324.526, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 324.520-324.526, RSMo.

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 - Department of Economic Development
Division 267 - Office of Tattooing, Body Piercing and Branding
Chapter 2 - Licensing Requirements
Proposed Amendment - 4 CSR 267-2.020 Fees
 Prepared May 31, 2006 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated savings for compliance with the amendment by affected entities:
41	Tattoo Establishments (application fee - \$188 decrease)	\$7,708
43	Tattoo Establishments (biennial renewal fee - \$188 decrease)	\$8,084
2	Body Piercing Establishments (application fee - \$188 decrease)	\$176
5	Body Piercing Establishments (biennial renewal fee - \$188 decrease)	\$940
1	Branding Establishments (application fee - \$188 decrease)	\$188
	Branding Establishments (biennial renewal fee - \$188 decrease)	\$0
41	Combined Tattoo, Body Piercing or Branding Establishments (application fee - \$225 decrease)	\$9,225
89	Combined Tattoo, Body Piercing or Branding Establishments (biennial renewal fee - \$225 decrease)	\$20,025
138	Tattooists (application fee - \$38 decrease)	\$5,204
250	Tattooists (renewal fee - \$38 decrease)	\$9,500
59	Body Piercers (application fee - \$38 decrease)	\$2,242
61	Body Piercers (renewal fee - \$38 decrease)	\$2,318
1	Branders (application fee - \$38 decrease)	\$38
	Branders (renewal fee - \$38 decrease)	\$0
26	Combined Practitioner (application fee - \$75 decrease)	\$1,950
87	Combined Practitioner (renewal fee - \$75 decrease)	\$6,525
1	Temporary Tattoo Establishments (temporary license fee/per event - \$125 decrease)	\$125

1	Temporary Body Piercing Establishments (temporary license fee/per event - \$125 decrease)	\$125
1	Temporary Branding Establishments (temporary license fee/per event - \$125 decrease)	\$125
2	Temporary Combined Tattoo, Body Piercing or Branding Establishments (temporary license fee/per event - \$150 decrease)	\$300
Estimated Biennial Cost Savings for the Life of the Rule		\$75,050

III. WORKSHEET

See table above

IV. ASSUMPTION

1. The figures reported above are based on FY04 and FY05 actuals and FY06 projections.
2. It is anticipated that the total saving will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE

The division is statutorily obligated to enforce and administer the provisions of sections 324.520-324.526, RSMo. Pursuant to Section 324.522, RSMo, the division shall by rule and regulation set the amount of fees authorized by sections 324.520-324.526, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 324.520-324.526, RSMo.

**Title 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 345—Missouri School Improvement Program**

PROPOSED RESCISSION

5 CSR 50-345.020 Policies on Waiver of Regulations. This rule established the criteria and procedures for annually identifying school district and/or school building eligibility for waivers in compliance with state statutes.

PURPOSE: This rule is being rescinded because the passage of rule 5 CSR 50-345.200 replaced the need for this rule.

AUTHORITY: sections 160.518, 160.545, 161.092, 161.210 and 163.031.5(3), RSMo 2000. This rule was previously filed as 5 CSR 30-345.020. Original rule filed Sept. 30, 1999, effective March 30, 2000. Amended: Filed May 25, 2001, effective Jan. 30, 2002. Rescinded: Filed July 14, 2006.

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

PRIVATE COST: This 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 Department of Elementary and Secondary Education, Attn: Becky Kemna, Coordinator, School Improvement and Accreditation, PO Box 480, Jefferson City, MO 65102-0480. 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 5—DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 805—Educator Preparation**

PROPOSED AMENDMENT

5 CSR 80-805.015 Procedures and Standards for Approval of Professional Education Programs in Missouri. The State Board of Education is proposing to amend the Purpose, sections (1)–(7), amend and renumber sections (9)–(14) and incorporate by reference materials, and delete sections (8), (15) and (16).

PURPOSE: This amendment updates and clarifies language in the rule and modifies elements in the Missouri Standards for Teacher Education Programs (MoSTEP) and the Benchmarks for Preliminary Professional Education Programs, which are incorporated by reference.

PURPOSE: This rule provides procedures and standards for approval of professional education programs in baccalaureate degree granting [four (4)-year] colleges and universities in Missouri. The rule also provides procedures and standards for approval of preliminary teacher education programs in associate's degree granting [two (2)-year] colleges in Missouri and acceptance of **academic credits from [the two (2)-year] these colleges for purposes of meeting requirements for teacher certification [and student transfer to the four (4)-year colleges and universities].**

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporat-

ed by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency as its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) For the purpose of this rule, unless the context clearly requires otherwise, the following terms shall mean:

[(A)] **Advanced certification program.** A post-baccalaureate program leading to additional certification;

[(B)] **(A) Annual reports.** Written reports prepared by the professional education unit each year attesting to its continuing capacity to meet the standards and requirements of the State Board of Education (board);

[(C)] **(B) Approved [program].** [The status granted a professional education program by the board authorizing the recommendation of] **The action by the board authorizing a professional education program(s) to recommend** candidates for certification as a result of the program having demonstrated [its capacity to satisfy the] **compliance with all of the standards** for the preparation of educational professionals, not to exceed seven (7) years;

[(D)] **(C) Candidate[s].** [Individuals] **An individual** admitted to or enrolled in a program[s] for [initial or advanced] the preparation of teachers or other professional school personnel;

[(E)] **(D) Certification.** The official recognition by the board that an individual has met state requirements and is, therefore, approved to practice as a duly certified/licensed education professional;

[(F)] **Clinical experiences.** Activities that are conducted in off-campus settings, such as a school, classroom, or community center. They include classroom observations, tutoring, assisting teachers and administrators, student teaching, and internships;

[(G)] **Conceptual framework.** The rationale and organizing principles that guide the development of the design, curriculum, and accountability for professional education;

[(H)] **(E) [Conditional Approval** The status granted a professional education program by the board authorizing an institution to recommend] **Approved with conditions.** The action by the board authorizing a professional education program to recommend candidates for certification [from such programs] for a period, not to exceed two (2) years, with conditions and limitations stipulated by the board[;]. **This decision indicates that a program is not in compliance with one (1) or more of the standards used to evaluate the program;**

[(I)] **(F) [Denial of approval** Board action that denies or removes the authorization of an institution to] **Disapproved.** The action by the board to deny or revoke the authorization of a professional education program to recommend candidates for state certification [from programs that fail to meet the standards and requirements for the preparation of educational professionals];

[(J)] **Diversity.** Differences among groups of people based on culture, ethnicity, race, language, socio-economic status, gender, regional/geographic background and exceptionalities. The Department of Elementary and Secondary Education (DESE) does not consider diversity of geographic origins, religion, or language group to be good faith representation of wide-range cultural diversity;

[(K)] **(G) Evaluation team.** A team selected by [DESE] the Department of Elementary and Secondary Education (DESE) for the purpose of conducting an on-site review and evaluation of an institution's professional education unit and programs; the team includes a member of DESE, faculty from elementary or secondary schools and institutions of higher education possessing board approved professional education programs;

[(L)] **Governance.** The system and structure for defining policy and administering procedures for the professional education unit;

(M) Initial certification programs. Programs at the baccalaureate or post-baccalaureate levels that prepare candidates for their first certificate of license to teach;

*[(N)](H) Interim review. A review conducted during a period of program approval, consistent with board procedures and standards and authorized by the commissioner of education (**commissioner**) when s/he has reason to believe that an institution or an approved program is no longer in compliance with state standards [or when an institution recommends a candidate for certification from a nonapproved program];*

[(O)](I) Preliminary professional education program. A program that provides the introductory or early phases of teacher preparation culminating in a two (2)-year associate's degree;

[(P) Professional community. Professional education candidates, faculty/staff in PK–12 schools, higher education faculty, and others in the educational enterprise;]

*[(Q)](J) Professional education unit. [An institution of higher education,] A college, school, department, or other administrative entity within [the] **an institution of higher education** that is primarily responsible for the initial and advanced preparation of teachers and other professional school personnel; **and***

[(R) Professional education faculty. Those individuals employed by a college or university who teach one (1) or more courses in education, provide services to education students (e.g., advising or supervising student teaching), or administer some portion of the unit; professional education faculty may include both higher education faculty and school-based personnel who are considered to be members of an institution's professional education unit;]

*[(S)](K) Professional education program. A planned sequence of courses and experiences [leading to a degree, state certification, and/or adequate preparation to provide professional education services in schools] **for preparing teachers or other professional school personnel to work in pre-kindergarten through grade twelve (PK–12) schools;**].*

[(T) Program approval process. The sequence of events by which professional education programs are reviewed and evaluated by DESE to determine if they meet the standards for the preparation of school personnel; and

(U) Scholarly activities. The active involvement in one's area of specialization as demonstrated through such faculty activities as research, articles published, program evaluation studies, documentation of ongoing activities, grant seeking, and presentations at professional meetings.]

(2) Professional education programs [at] **offered by** institutions of higher education **in Missouri** shall be evaluated according to [the standards listed below and in] the Missouri Standards for Teacher Education Programs (MoSTEP) and the Benchmarks for Preliminary Teacher Education Programs, **along with a glossary (October 2006)** which are hereby incorporated by reference and made a part of this rule, **as published by the Department of Elementary and Secondary Education, Educator Preparation, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions.**

[(A) Standard 1: Performance Standards for Education Professionals. (Initial and Advanced) The professional education unit ensures that candidates for professional certification possess the knowledge, skills, and competencies defined as appropriate for their area of responsibility.

(B) Standard 2: Program and Curriculum Design. (Initial and Advanced) The professional education unit has high quality professional education programs that are derived from a conceptual framework that is knowledge-based, articulated, shared, coherent, consistent with the unit and/or institutional mission, and continuously evaluated.

(C) Standard 3: Clinical Experiences. (Initial and Advanced) The professional education unit ensures that

clinical experiences for programs are well-planned, of high quality, integrated throughout the program sequence, and continuously evaluated.

(D) Standard 4: Composition, Quality, and Competence of Student Population. (Initial and Advanced) The professional education unit has and implements plans to recruit, admit, and retain a diverse student population who demonstrate potential for professional success in schools.

(E) Standard 5: Qualifications, Composition, Assignments, and Development of Professional Education Faculty, and Quality of Instruction. (Initial and Advanced) The professional education unit has and implements plans to recruit, employ and retain a diverse faculty who demonstrate professional qualifications and high quality instruction.

(F) Standard 6: Governance, Organization, and Authority. (Initial and Advanced) Governing boards and administrators shall indicate commitment to the preparation of educational personnel, as related to the institution's mission and goals, by adopting and implementing policies and procedures supportive of programs for the preparation of professional educators.

(G) Standard 7: Professional Community. (Initial and Advanced) The professional education unit and the professional community collaborate to improve programs for the preparation of school personnel and to improve the quality of education in the schools.

(H) Standard 8: Resources for Operating the Unit and for Supporting Teaching and Learning. (Initial and Advanced) The professional education unit has sufficient facilities, equipment, and budgetary resources to fulfill its mission and offer quality programs. The unit has adequate resources to support teaching and scholarship by faculty and candidates.]

(3) In lieu of [the standards listed above] **MoSTEP**, the board may accept the standards of any accrediting agency used for the evaluation of a professional education unit in an institution of higher education, if the agency is approved by the United States Department of Education and has established a formal agreement with DESE.

(4) An institution of higher education [desiring] **seeking** initial approval of its professional education program(s) shall submit a written request and supporting documentation in accordance with the standards and procedures in MoSTEP.

(5) An institution of higher education [desiring continuing approval of its] **with state-approved** professional education program(s) shall submit to DESE annual reports in a form consistent with the rules and regulations promulgated by the board.

(6) An evaluation team shall conduct an on-site review of an institution's professional education program(s) to determine compliance with MoSTEP [listed above] and shall prepare a report for the commissioner [of education].

(7) The commissioner [of education] shall review the **evaluation** team's report and may request additional information from the institution before recommendations are made to the board.

[(8) For professional education programs that receive a rating of "not met" by the evaluation team or programs for which the commissioner of education has indicated to the institution that s/he may recommend denial of approval, the institution shall be afforded an opportunity for a hearing to provide evidence to support approval or conditional approval of those programs. The hearing shall be conducted by the commissioner of education or his/her designee according to the provisions of Chapter 536, RSMo.]

[(9)](8) The commissioner [of education] shall recommend to the board that the professional education program(s) of the institution be [granted approval; conditional approval; or be denied approval] **approved, approved with conditions or disapproved**. The commissioner's recommendation [of the commissioner of education] shall not include [denial of approval to] **disapproval** of programs for which the institution was not afforded an opportunity for a hearing, according to the provisions of Chapter 536, RSMo.

[(10)](9) The board shall review the recommendations of the commissioner [of education] and shall [grant approval; conditional approval; or deny approval of] **approve, approve with conditions, or disapprove** an institution's professional education program(s). The board shall not [deny approval to] **disapprove** programs for which the institution was not afforded an opportunity for a hearing according to the provisions of Chapter 536, RSMo.

(A) Should the board [grant conditional approval to] **approve with conditions** any professional education program(s) offered by an institution, the institution's authorization to recommend candidates for certification shall not exceed two (2) years with conditions and limitations stipulated by the board. [Conditional approval] **Approved with conditions** for a professional education program(s) shall not be extended or renewed without consent of the board or its designee.

(B) Should the board [deny approval to] **disapprove** any professional education program(s) offered by an institution of higher education, the commissioner [of education] shall notify the institution of the [denial] **decision** and inform the institution of the reasons for the [denial] **decision**.

[(11)](10) The commissioner [of education] may authorize an interim review of [an institution] **a professional education unit** or an approved professional education program(s) in accordance with the rules and regulations promulgated by the board. As a result of the review, and upon the recommendation of the commissioner [of education], the board may [discontinue an institution's] **disapprove a unit's or program's** authorization to recommend candidates for certification.

[(12)](11) Requisite conditions, guidelines, procedures and standards, as set forth in the rules and regulations promulgated by the board, shall be followed by **any** institutions seeking board approval of their professional education program(s).

[(13)](12) DESE will accept, for purposes of teacher certification and student transfer to baccalaureate degree granting four (4)-year institutions of higher education,] **academic** credits from state-approved preliminary teacher education programs in Missouri's [two (2)-year] **community** colleges to meet general education, subject knowledge and/or professional education competencies [equivalent to those in the first two (2) years of the baccalaureate educational experience] **required for certification**.

[(14)](13) All institutions of higher education in Missouri seeking [DESE] approval for preliminary professional education programs shall be reviewed and evaluated by DESE and approved by the board pursuant to MoSTEP and the Benchmarks for Preliminary Teacher Education Programs.

[(15) It is not the intent of this rule to cause Missouri's four (4)-year teacher preparation institutions to deny acceptance of credit for candidates from any two (2)-year or other four (4)-year institutions of higher education.]

[(16) It is not the intent of this rule to deny acceptance of any nonprofessional education credit earned at two (2)-year community colleges to meet the renewal requirements for a certificate of license to teach.]

AUTHORITY: sections 161.092 and 168.021, RSMo Supp. [2003] 2005 and 161.097 and 161.099, RSMo 2000. This rule was previously filed as 5 CSR 80-800.015. Original rule filed Sept. 29, 1986, effective Jan. 12, 1987. For intervening history, please consult the Code of State Regulations. Amended: Filed July 14, 2006.

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 Elementary and Secondary Education. ATTN: Dr. Mike Lucas, Director of Educator Preparation, PO Box 480, Jefferson City, MO 65102-0480. 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 18—PUBLIC DEFENDER COMMISSION
Division 10—Office of State Public Defender
Chapter 3—Guidelines for the Determination of
[Indigency] Indigence**

PROPOSED AMENDMENT

18 CSR 10-3.010 Guidelines for the Determination of [Indigency] Indigence. The commission is changing the chapter title, the rule title, amending the purpose section, adding a new section (1) and amending and renumbering old sections (1)–(3).

PURPOSE: This amendment allows the State Public Defender greater discretion in finding eligibility for public defender representation for individuals accused of crimes.

PURPOSE: This rule establishes the guidelines for the determination of [indigency] indigence and prescribes a form for that purpose.

(1) Eligibility for Representation.

(A) A person shall be considered eligible for representation when it appears from all the circumstances of the case including his/her ability to make bond, his/her income and the number of persons dependent on him/her for support that the person does not have the means at his/her disposal or available to him/her to obtain counsel in his/her behalf and is indigent as hereafter determined.

(B) The determination of indigence of any person seeking the services of the State Public Defender System shall be made by the defender or anyone serving under him/her at any stage of the proceeding. Upon motion by either party, the court in which the case is pending shall have authority to determine whether the services of the public defender may be utilized by the defendant. Upon the court's finding that the defendant is not indigent, the public defender shall no longer represent the defendant.

[(1)] (2) Public Assistance, Unemployment Compensation and Income Maintenance Payments.

(A) Unemployed defendants receiving public assistance are eligible for defense services provided by the Office of State Public Defender regardless of the amount of the benefits. If the defendant is receiving public assistance and has a part-time job, or other asse/s/ts, the weekly amount of benefits and the additional source of income should be added together and compared to the maximum Qualifying Income Scale to Determine [Indigency] Indigence.

(B) If a defendant is receiving disability payments, pension, unemployment compensation or Social Security, this is considered income and the amount of the payment must be considered.

[[2]] (3) Maximum Qualifying Income Scale.

(A) A defendant may be considered indigent if his/her gross pay and other sources of income do not exceed the federal poverty guideline as issued in the *Federal Register* by the U.S. Department of Health and Human Services.

(B) When making the financial determination, the following factors should be taken into consideration:

1. **Debts and Expenses**—Debts should be taken into consideration to the extent that *[payments reduce the take-home pay of the defendant.] they are reasonable and necessary.* Debts *[caused by hospital bills, taxes, fines, child support and alimony are allowable only if actual payments on debts are being made] are considered only if actual payments are being made;*

[2. Bond—If the defendant has been released on bail on any case in the amount of five thousand dollars (\$5,000) or more, a presumption is created that the defendant is not indigent and the ability of the defendant to meet the bail must be given consideration;]

[3.] 2. Spouse's Income—The spouse's *[income should be considered if the spouse is employed and supports the defendant. The income shall also be considered if they share the household expenses] financial status shall be considered unless the spouse is the alleged victim;*

[4.] 3. Parent's Income—The parent's income should be considered if they support the defendant and the defendant is under eighteen (18) years of age **unless a parent is an alleged victim of the charged offense.** Defendants eighteen (18) years or older shall be considered independent from family income unless they are full-time students or are dependent upon their parents or when *[the] one or both parents [or a relative] post bond; and*

[5. Mortgage—If the defendant owns or is buying a home, the defendant's equity must be determined. If defendant's equity exceeds ten thousand dollars (\$10,000), the defendant would not qualify for a public defender; and]

[6.] 4. Assets—*[Unless the defendant is charged with a Class A felony, cash in excess of one thousand dollars (\$1,000) creates a presumption of non-indigency.] If the person owns or is buying a home, the equity must be determined and considered on the question of indigence.* Bank accounts, stocks, bonds, jewelry, equity in insurance and any other financial assets must be considered. *[All vehicles are assets and must also be considered. If the total value of the asset(s) is more than two thousand dollars (\$2,000), the defendant is presumed not to be indigent.]*

[[3]] (4) Discretionary Aspects of Determining *[Indigency] Indigence.*

(A) The previously mentioned financial criteria are to be applied in all cases and considered with the probable expense and burden of defending the case. If a person is determined to be eligible for the services provided by the State Public Defender System and if, at the time such determination is made, s/he is able to provide a limited cash contribution toward the cost of representation without imposing a substantial hardship upon himself/herself or his/her dependents, such contribution shall be required as a condition of his/her representation by the State Public Defender System. If at any time, either during or after the disposition of his/her case, such defendant becomes financially able to meet all or some part of the cost of services rendered to him/her, s/he shall be required to reimburse the commission in such amounts as s/he can reasonably pay, either by a single payment or by installments of reasonable amounts, in accor-

dance with a schedule of charges for public defender services prepared by the commission; **and**

[[B] If a defendant is found not indigent and not eligible for a public defender, s/he has the right to appeal that decision to the court; and]

[[C]] (B) An individual requesting public defender service shall complete and sign an Application for Public Defender Services.

AUTHORITY: sections 600.017(10), 600.086 and 600.090, RSMo 2000. Original rule filed Nov. 12, 1985, effective Feb. 13, 1986. Amended: Filed Feb. 14, 2002, effective Aug. 30, 2002. Amended: Filed July 24, 2006.

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 State Public Defender Commission, 3402 Buttonwood, Columbia, MO 65201, ATTN: Daniel Gralike. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 20—DEPARTMENT OF INSURANCE
Division 400—Life, Annuities and Health
Chapter 5—Advertising and Material Disclosures

PROPOSED RULE

20 CSR 400-5.410 Disclosure of Material Facts in Annuity Sales

PURPOSE: This rule is to provide standards for the disclosure of certain information about annuity contracts to protect consumers and foster consumer education. The rule specifies material information which must be disclosed and the method for disclosing it in connection with the offer and sale of annuity contracts. The goal of this regulation is to ensure that purchasers of annuity contracts understand certain basic features of an annuity contract. This rule is based upon the Annuity Disclosure Model Regulation, adopted by the National Association of Insurance Commissioners in 1998. The rule is a minimum standard, but is not a substitute for complete disclosure of material facts prior to sale as required by law.

(1) Applicability. This regulation applies to all group and individual annuity contracts and certificates except:

(A) Annuities that are registered under federal securities law with the United States Securities and Exchange Commission;

(B) Immediate and deferred annuities that contain no nonguaranteed elements;

(C)

1. Annuities used to fund:

A. An employee pension plan which is covered by the Employee Retirement Income Security Act (ERISA);

B. A plan described by Sections 401(a), 401(k) or 403(b) of the *Internal Revenue Code*, where the plan, for purposes of ERISA, is established or maintained by an employer;

C. A governmental or church plan defined in Section 414 or a deferred compensation plan of a state or local government or a tax exempt organization under Section 457 of the *Internal Revenue Code*; or

D. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

2. Notwithstanding paragraph 1., the regulation shall apply to annuities used to fund a plan or arrangement that is funded solely by contributions an employee elects to make whether on a pre-tax or after-tax basis, and where the insurance company has been notified that plan participants may choose from among two (2) or more fixed annuity providers and there is a direct solicitation of an individual employee by a producer for the purchase of an annuity contract. As used in this subsection, direct solicitation shall not include any meeting held by a producer solely for the purpose of educating or enrolling employees in the plan or arrangement; and

(D) Structured settlement annuities.

(2) Definitions. Unless inconsistent with definitions provided by statute, the following terms and phrases shall mean:

(A) "Contract owner" means the owner named in the annuity contract or certificate holder in the case of a group annuity contract.

(B) "Determinable elements" means elements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements include the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable elements only, or from both determinable and guaranteed elements.

(C) "Generic name" means a short title descriptive of the annuity contract being applied for or illustrated such as "single premium deferred annuity."

(D) "Guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these, that are guaranteed and determined at issue. An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed.

(E) "Non-guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.

(F) "Structured settlement annuity" means a "qualified funding asset" as defined in Section 130(d) of the *Internal Revenue Code* or an annuity that would be a qualified funding asset under section 130(d) but for the fact that it is not owned by an assignee under a qualified assignment.

(3) Standards for the Disclosure Document and Buyer's Guide.

(A)

1. Where the application for an annuity contract is taken in a face-to-face meeting, the applicant shall at or before the time of application be given both the disclosure document described in subsection (3)(B) and the Buyer's Guide contained in section (5).

2. Where the application for an annuity contract is taken by means other than in a face-to-face meeting, the applicant shall be sent both the disclosure document and the Buyer's Guide no later than five (5) business days after the completed application is received by the insurer.

A. With respect to an application received as a result of a direct solicitation through the mail:

(I) Providing a Buyer's Guide in a mailing inviting prospective applicants to apply for an annuity contract shall be deemed to satisfy the requirement that the Buyer's Guide be provided no later than five (5) business days after receipt of the application.

(II) Providing a disclosure document in a mailing inviting a prospective applicant to apply for an annuity contract shall be deemed to satisfy the requirement that the disclosure document be provided no later than five (5) business days after receipt of the application.

B. With respect to an application received via the Internet:

(I) Taking reasonable steps to make the Buyer's Guide available for viewing and printing on the insurer's website shall be deemed to satisfy the requirement that the Buyer's Guide be provided no later than five (5) business days after receipt of the application.

(II) Taking reasonable steps to make the disclosure document available for viewing and printing on the insurer's website shall be deemed to satisfy the requirement that the disclosure document be provided no later than five (5) business days after receipt of the application.

C. A solicitation for an annuity contract provided in other than a face-to-face meeting shall include a statement that the proposed applicant may contact the insurance department of the state for a free annuity Buyer's Guide. In lieu of the foregoing statement, an insurer may include a statement that the prospective applicant may contact the insurer for a free annuity Buyer's Guide.

3. Where the Buyer's Guide and disclosure document are not provided at or before the time of application, a free look period of no less than fifteen (15) days shall be provided for the applicant to return the annuity contract without penalty. This free look shall run concurrently with any other free look provided under state law or regulation.

(B) At a minimum, the following information shall be included in the disclosure document required to be provided under this regulation:

1. The generic name of the contract, the company product name, if different, and form number, and the fact that it is an annuity;

2. The insurer's name and address;

3. A description of the contract and its benefits, emphasizing its long-term nature, including examples where appropriate:

A. The guaranteed, non-guaranteed and determinable elements of the contract, and their limitations, if any, and an explanation of how they operate;

B. An explanation of the initial crediting rate, specifying any bonus or introductory portion, the duration of the rate and the fact that rates may change from time-to-time and are not guaranteed;

C. Periodic income options both on a guaranteed and non-guaranteed basis;

D. Any value reductions caused by withdrawals from or surrender of the contract;

E. How values in the contract can be accessed;

F. The death benefit, if available, and how it will be calculated;

G. A summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract; and

H. Impact of any rider, such as a long-term care rider;

4. Specific dollar amount or percentage charges and fees with an explanation of how they apply; and

5. Information about the current guaranteed rate for new contracts that contains a clear notice that the rate is subject to change.

(C) Insurers shall define terms used in the disclosure statement in language that facilitates the understanding by a typical person within the segment of the public to which the disclosure statement is directed.

(4) Report to Contract Owners. For annuities in the payout period with changes in non-guaranteed elements and for the accumulation period of a deferred annuity, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract that contains at least the following information:

(A) The beginning and end date of the current report period;

(B) The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;

(C) The total amounts, if any, that have been credited, charged to the contract value or paid during the current report period; and

(D) The amount of outstanding loans, if any, as of the end of the current report period.

(5) Buyer's Guide to Fixed Deferred Annuities.

(A) The language of the Fixed Deferred Annuity Buyer's Guide is limited to that contained in the form set forth as Exhibit A, or to language approved by the director. Companies may purchase personalized brochures from the National Association of Insurance Commissioners (NAIC) or may request permission to reproduce the Fixed Deferred Annuity Buyer's Guide, which is included herein, in their own type style and format. The face page of the Fixed Deferred Annuity Buyer's Guide shall read as stated in Exhibit A.

Exhibit A
Fixed Deferred Annuity Buyer's Guide

Prepared by the National Association of Insurance Commissioners

The National Association of Insurance Commissioners is an association of state insurance regulatory officials. This association helps the various insurance departments to coordinate insurance laws for the benefit of all consumers.

This guide does not endorse any company or policy.

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It is important that you understand the differences among various annuities so you can choose the kind that best fits your needs. This guide focuses on *fixed deferred* annuity contracts. There is, however, a brief description of *variable* annuities. If you're thinking of buying an equity-indexed annuity, an appendix to this guide will give you specific information. This Guide isn't meant to offer legal, financial or tax advice. You may want to consult independent advisors. At the end of this Guide are questions you should ask your agent or the company. Make sure you're satisfied with the answers before you buy.

WHAT IS AN ANNUITY?

An annuity is a contract in which an insurance company makes a series of income payments at regular intervals in return for a premium or premiums you have paid. Annuities are most often bought for future retirement income. Only an annuity can pay an income that can be guaranteed to last as long as you live.

An annuity is neither a life insurance nor a health insurance policy. It's not a savings account or a savings certificate. You shouldn't buy an annuity to reach short-term financial goals.

Your value in an annuity contract is the premiums you've paid, less any applicable charges, plus interest credited. The insurance company uses the value to figure the amount of most of the benefits that you can choose to receive from an annuity contract. This guide explains how interest is credited as well as some typical charges and benefits of annuity contracts.

A *deferred* annuity has two parts or *periods*. During the *accumulation period*, the money you put into the annuity, less any applicable charges, earns interest. The earnings grow tax-deferred as long as you leave them in the annuity. During the second period, called the *payout period*, the company pays income to you or to someone you choose.

WHAT ARE THE DIFFERENT KINDS OF ANNUITIES?

This guide explains major differences in different kinds of annuities to help you understand how each might meet your needs. But look at the specific terms of an individual contract you're

considering and the disclosure document you receive. If your annuity is being used to fund or provide benefits under a pension plan, the benefits you get will depend on the terms of the plan. Contact your pension plan administrator for information.

This Buyer's Guide will focus on individual fixed deferred annuities.

Single Premium or Multiple Premium

You pay the insurance company only one payment for a *single premium* annuity. You make a series of payments for a *multiple premium* annuity. There are two kinds of multiple premium annuities. One kind is a *flexible premium* contract. Within set limits, you pay as much premium as you want, whenever you want. In the other kind, a *scheduled premium* annuity, the contract spells out your payments and how often you'll make them.

Immediate or Deferred

With an *immediate* annuity, income payments start no later than one year after you pay the premium. You usually pay for an immediate annuity with one payment.

The income payments from a *deferred* annuity often start many years later. Deferred annuities have an accumulation period, which is the time between when you start paying premiums and when income payments start.

Fixed or Variable

- Fixed

During the accumulation period of a *fixed deferred* annuity, your money (less any applicable charges) earns interest at rates set by the insurance company or in a way spelled out in the annuity contract. The company guarantees that it will pay no less than a minimum rate of interest. During the payout period, the amount of each income payment to you is generally set when the payments start and will not change.

- Variable

During the accumulation period of a *variable* annuity, the insurance company puts your premiums (less any applicable charges) into a separate account. You decide how the company will invest those premiums, depending on how much risk you want to take. You may put your premium into a stock, bond or other account, with no guarantees, or into a fixed account, with a minimum guaranteed interest. During the payout period of a variable annuity, the amount of each income payment to you may be fixed (set at the beginning) or variable (changing with the value of the investments in the separate account).

HOW ARE THE INTEREST RATES SET FOR MY FIXED DEFERRED ANNUITY?

During the accumulation period, your money (less any applicable charges) earns interest at rates that change from time to time. Usually, what these rates will be is entirely up to the insurance company.

Current Interest Rate

The current rate is the rate the company decides to credit to your contract at a particular time. The company will guarantee it will not change for some time period.

- The *initial rate* is an interest rate the insurance company may credit for a set period of time after you first buy your annuity. The initial rate in some contracts may be higher than it will be later. This is often called a bonus rate.
- The *renewal rate* is the rate credited by the company after the end of the set time period. The contract tells how the company will set the renewal rate, which may be tied to an external reference or index.

Minimum Guaranteed Rate

The *minimum guaranteed interest rate* is the lowest rate your annuity will earn. This rate is stated in the contract.

Multiple Interest Rates

Some annuity contracts apply different interest rates to each premium you pay or to premiums you pay during different time periods.

Other annuity contracts may have two or more accumulated values that fund different benefit options. These accumulated values may use different interest rates. You get only one of the accumulated values depending on which benefit you choose.

WHAT CHARGES MAY BE SUBTRACTED FROM MY FIXED DEFERRED ANNUITY?

Most annuities have charges related to the cost of selling or servicing it. These charges may be subtracted directly from the contract value. Ask your agent or the company to describe the charges that apply to your annuity. Some examples of charges, fees and taxes are:

Surrender or Withdrawal Charges

If you need access to your money, you may be able to take all or part of the value out of your annuity at any time during the accumulation period. If you take out part of the value, you may pay a *withdrawal charge*. If you take out all of the value and surrender, or terminate, the annuity, you may pay a *surrender charge*. In either case, the company may figure the charge as a percentage of the

value of the contract, of the premiums you've paid or of the amount you're withdrawing. The company may reduce or even eliminate the surrender charge after you've had the contract for a stated number of years. A company may waive the surrender charge when it pays a death benefit.

Some annuities have stated terms. When the term is up, the contract may automatically expire or renew. You're usually given a short period of time, called a *window*, to decide if you want to renew or surrender the annuity. If you surrender during the window, you won't have to pay surrender charges. If you renew, the surrender or withdrawal charges may start over.

In some annuities, there is no charge if you surrender your contract when the company's current interest rate falls below a certain level. This may be called a *bail-out* option.

In a multiple-premium annuity, the surrender charge may apply to each premium paid for a certain period of time. This may be called a *rolling* surrender or withdrawal charge.

Some annuity contracts have a *market value adjustment* feature. If interest rates are different when you surrender your annuity than when you bought it, a market value adjustment may make the cash surrender value higher or lower. Since you and the insurance company share this risk, an annuity with a MVA feature may credit a higher rate than an annuity without that feature.

Be sure to read the Tax Treatment section and ask your tax advisor for information about possible tax penalties on withdrawals.

Free Withdrawal

Your annuity may have a limited *free withdrawal* feature. That lets you make one or more withdrawals without a charge. The size of the free withdrawal is often limited to a set percentage of your contract value. If you make a larger withdrawal, you may pay withdrawal charges. You may lose any interest above the minimum guaranteed rate on the amount withdrawn. Some annuities waive withdrawal charges in certain situations, such as death, confinement in a nursing home or terminal illness.

Contract Fee

A contract fee is a flat dollar amount charged either once or annually.

Transaction Fee

A transaction fee is a charge per premium payment or other transaction.

Percentage of Premium Charge

A percentage of premium charge is a charge deducted from each premium paid. The percentage may be lower after the contract has been in force for a certain number of years or after total premiums paid have reached a certain amount.

Premium Tax

Some states charge a tax on annuities. The insurance company pays this tax to the state. The company may subtract the amount of the tax when you pay your premium, when you withdraw your contract value, when you start to receive income payments or when it pays a death benefit to your beneficiary.

WHAT ARE SOME FIXED DEFERRED ANNUITY CONTRACT BENEFITS?

Annuity Income Payments

One of the most important benefits of deferred annuities is your ability to use the value built up during the accumulation period to give you a lump sum payment or to make income payments during the payout period. Income payments are usually made monthly but you may choose to receive them less often. The size of income payments is based on the accumulated value in your annuity and the annuity's *benefit rate* in effect when income payments start. The benefit rate usually depends on your age and sex, and the annuity payment option you choose. For example, you might choose payments that continue as long as you live, as long as your spouse lives or for a set number of years.

There is a table of guaranteed benefit rates in each annuity contract. Most companies have *current* benefit rates as well. The company can change the current rates at any time, but the current rates can never be less than the guaranteed benefit rates. When income payments start, the insurance company generally uses the benefit rate in effect at that time to figure the amount of your income payment.

Companies may offer various income payment options. You (the owner) or another person that you name may choose the option. The options are described here as if the payments are made to you.

- **Life Only** - The company pays income for your lifetime. It doesn't make any payments to anyone after you die. This payment option usually pays the highest income possible. You might choose it if you have no dependents, if you have taken care of them through other means or if the dependents have enough income of their own.
- **Life Annuity with Period Certain** - The company pays income for as long as you live and guarantees to make payments for a set number of years even if you die. This *period certain* is usually 10 or 20 years. If you live longer than the period certain, you'll continue to receive payments until you die. If you die during the period certain, your beneficiary gets regular payments for the rest of that period. If you die after the period certain, your beneficiary doesn't receive any payments from your annuity. Because the "period certain" is an added benefit, each income payment will be smaller than in a life-only option.
- **Joint and Survivor** - The company pays income as long as either you or your beneficiary lives. You may choose to decrease the amount of the payments after the first death. You may also be

able to choose to have payments continue for a set length of time. Because the *survivor* feature is an added benefit, each income payment is smaller than in a life-only option.

Death Benefit

In some annuity contracts, the company may pay a death benefit to your beneficiary if you die before the income payments start. The most common death benefit is the contract value or the premiums paid, whichever is more.

CAN MY ANNUITY'S VALUE BE DIFFERENT DEPENDING ON MY CHOICE OF BENEFIT?

While all deferred annuities offer a choice of benefits, some use different accumulated values to pay different benefits. For example, an annuity may use one value if annuity payments are for retirement benefits and a different value if the annuity is surrendered. As another example, an annuity may use one value for long-term care benefits and a different value if the annuity is surrendered. You can't receive more than one benefit at the same time.

WHAT ABOUT THE TAX TREATMENT OF ANNUITIES?

Below is a general discussion about taxes and annuities. You should consult a professional tax advisor to discuss your individual tax situation.

Under current federal law, annuities receive special tax treatment. Income tax on annuities is deferred, which means you aren't taxed on the interest your money earns while it stays in the annuity. Tax-deferred accumulation isn't the same as tax-free accumulation. An advantage of tax deferral is that the tax bracket you're in when you receive annuity income payments may be lower than the one you're in during the accumulation period. You'll also be earning interest on the amount you would have paid in taxes during the accumulation period. Most states' tax laws on annuities follow the federal law.

Part of the payments you receive from an annuity will be considered as a return of the premium you've paid. You won't have to pay taxes on that part. Another part of the payments is considered interest you've earned. You must pay taxes on the part that is considered interest when you withdraw the money. You may also have to pay a 10% tax penalty if you withdraw the accumulation before age 59 1/2. The Internal Revenue Code also has rules about distributions after the death of a contract holder.

Annuities used to fund certain employee pension benefit plans (those under Internal Revenue Code Sections 401(a), 401(k), 403(b), 457 or 414) defer taxes on plan contributions as well as on interest or investment income. Within the limits set by the law, you can use pretax dollars to make payments to the annuity. When you take money out, it will be taxed.

You can also use annuities to fund traditional and Roth IRAs under Internal Revenue Code Section 408. If you buy an annuity to fund an IRA, you'll receive a disclosure statement describing the tax treatment.

WHAT IS A "FREE LOOK" PROVISION?

Many states have laws which give you a set number of days to look at the annuity contract after you buy it. If you decide during that time that you don't want the annuity, you can return the contract and get all your money back. This is often referred to as a *free look* or *right to return* period. The free look period should be prominently stated in your contract. Be sure to read your contract carefully during the free look period.

HOW DO I KNOW IF A FIXED DEFERRED ANNUITY IS RIGHT FOR ME?

The questions listed below may help you decide which type of annuity, if any, meets your retirement planning and financial needs. You should think about what your goals are for the money you may put into the annuity. You need to think about how much risk you're willing to take with the money. Ask yourself:

- How much retirement income will I need in addition to what I will get from Social Security and my pension?
- Will I need that additional income only for myself or for myself and someone else?
- How long can I leave my money in the annuity?
- When will I need income payments?
- Does the annuity let me get money when I need it?
- Do I want a fixed annuity with a guaranteed interest rate and little or no risk of losing the principal?
- Do I want a variable annuity with the potential for higher earnings that aren't guaranteed and the possibility that I may risk losing principal?
- Or, am I somewhere in between and willing to take some risks with an equity-indexed annuity?

WHAT QUESTIONS SHOULD I ASK MY AGENT OR THE COMPANY?

- Is this a single premium or multiple premium contract?
- Is this an equity-indexed annuity?
- What is the initial interest rate and how long is it guaranteed?

- Does the initial rate include a bonus rate and how much is the bonus?
- What is the guaranteed minimum interest rate?
- What renewal rate is the company crediting on annuity contracts of the same type that were issued last year?
- Are there withdrawal or surrender charges or penalties if I want to end my contract early and take out all of my money? How much are they?
- Can I get a partial withdrawal without paying surrender or other charges or losing interest?
- Does my annuity waive withdrawal charges for reasons such as death, confinement in a nursing home or terminal illness?
- Is there a market value adjustment (MVA) provision in my annuity?
- What other charges, if any, may be deducted from my premium or contract value?
- If I pick a shorter or longer payout period or surrender the annuity, will the accumulated value or the way interest is credited change?
- Is there a death benefit? How is it set? Can it change?
- What income payment options can I choose? Once I choose a payment option, can I change it?

FINAL POINTS TO CONSIDER

Before you decide to buy an annuity, you should review the contract. Terms and conditions of each annuity contract will vary.

Ask yourself if, depending on your needs or age, this annuity is right for you. Taking money out of an annuity may mean you must pay taxes. Also, while it's sometimes possible to transfer the value of an older annuity into a new annuity, the new annuity may have a new schedule of charges that could mean new expenses you must pay directly or indirectly.

You should understand the long-term nature of your purchase. Be sure you plan to keep an annuity long enough so that the charges don't take too much of the money you put in. Be sure you understand the effect of all charges.

If you're buying an annuity to fund an IRA or other tax-deferred retirement program, be sure that you're eligible. Also, ask if there are any restrictions connected with the program.

Remember that the quality of service that you can expect from the company and the agent is a very important factor in your decision.

When you receive your annuity contract, **READ IT CAREFULLY!!** Ask the agent and company for an explanation of anything you don't understand. Do this *before* any free look period ends.

Compare information for similar contracts from several companies. Comparing products may help you make a better decision.

If you have a specific question or can't get answers you need from the agent or company, contact your state insurance department.

(B. Appendix for Equity-indexed Annuities. This paragraph sets forth supplementary information to be used in the solicitation or sale of equity-indexed annuities):

EQUITY-INDEXED ANNUITIES

This appendix to the Buyer's Guide for Fixed Deferred Annuities will focus on equity-indexed annuities. Like other types of fixed deferred annuities, equity-indexed annuities provide for annuity income payments, death benefits and tax-deferred accumulation. You should read the Buyer's Guide for general information about those features and about provisions such as withdrawal and surrender charges.

WHAT ARE EQUITY-INDEXED ANNUITIES?

An equity-indexed annuity is a fixed annuity, either immediate or deferred, that earns interest or provides benefits that are linked to an external equity reference or an equity index. The value of the index might be tied to a stock or other equity index. One of the most commonly used indices is Standard & Poor's 500 Composite Stock Price Index (the S&P 500)¹, which is an equity index. The value of any index varies from day to day and is not predictable.

When you buy an equity-indexed annuity you own an insurance contract. You are not buying shares of any stock or index.

While immediate equity-indexed annuities may be available, this appendix will focus on deferred equity-indexed annuities.

HOW ARE THEY DIFFERENT FROM OTHER FIXED ANNUITIES?

An equity-indexed annuity is different from other fixed annuities because of the way it credits interest to your annuity's value. Some fixed annuities only credit interest calculated at a rate set in the contract. Other fixed annuities also credit interest at rates set from time to time by the insurance company. Equity-indexed annuities credit interest using a formula based on changes in the index to which the annuity is linked. The formula decides how the additional interest, if any, is calculated and credited. How much additional interest you get and when you get it depends on the features of your particular annuity.

Your equity-indexed annuity, like other fixed annuities, also promises to pay a minimum interest rate. The rate that will be applied will not be less than this minimum guaranteed rate even if the index-linked interest rate is lower. The value of your annuity also will not drop below a guaranteed minimum. For example, many single premium contracts guarantee the minimum value will never be less than 90 percent of the premium paid, plus at least 3% in annual interest (less any partial withdrawals). The guaranteed value is the minimum amount available during a term for withdrawals, as well as for some annuitizations (see "Annuity Income Payments") and death

¹ S&P 500 is a registered trademark of the McGraw-Hill Companies, Inc. used with permission.

benefits. The insurance company will adjust the value of the annuity at the end of each term to reflect any index increases.

WHAT ARE SOME EQUITY-INDEXED ANNUITY CONTRACT FEATURES?

Two features that have the greatest effect on the amount of additional interest that may be credited to an equity-indexed annuity are the indexing method and the participation rate. It is important to understand the features and how they work together. The following describes some other equity-indexed annuity features that affect the index-linked formula.

Indexing Method

The indexing method means the approach used to measure the amount of change, if any, in the index. Some of the most common indexing methods, which are explained more fully later on, include annual reset (ratcheting), high-water mark and point-to-point.

Term

The index term is the period over which index-linked interest is calculated; the interest is credited to your annuity at the end of a term. Terms are generally from one to ten years, with six or seven years being most common. Some annuities offer single terms while others offer multiple, consecutive terms. If your annuity has multiple terms, there will usually be a window at the end of each term, typically 30 days, during which you may withdraw your money without penalty. For installment premium annuities, the payment of each premium may begin a new term for that premium.

Participation Rate

The participation rate decides how much of the increase in the index will be used to calculate index-linked interest. For example, if the calculated change in the index is 9% and the participation rate is 70%, the index-linked interest rate for your annuity will be 6.3% ($9\% \times 70\% = 6.3\%$). A company may set a different participation rate for newly issued annuities as often as each day. Therefore, the initial participation rate in your annuity will depend on when it is issued by the company. The company usually guarantees the participation rate for a specific period (from one year to the entire term). When that period is over, the company sets a new participation rate for the next period. Some annuities guarantee that the participation rate will never be set lower than a specified minimum or higher than a specified maximum.

Cap Rate or Cap

Some annuities may put an upper limit, or cap, on the index-linked interest rate. This is the maximum rate of interest the annuity will earn. In the example given above, if the contract has a 6% cap rate, 6%, and not 6.3%, would be credited. Not all annuities have a cap rate.

Floor on Equity Index-Linked Interest

The floor is the minimum index-linked interest rate you will earn. The most common floor is 0%. A 0% floor assures that even if the index decreases in value, the index-linked interest that you earn will be zero and not negative. As in the case of a cap, not all annuities have a stated floor on index-linked interest rates. But in all cases, your fixed annuity will have a minimum guaranteed value.

Averaging

In some annuities, the average of an index's value is used rather than the actual value of the index on a specified date. The index averaging may occur at the beginning, the end, or throughout the entire term of the annuity.

Interest Compounding

Some annuities pay simple interest during an index term. That means index-linked interest is added to your original premium amount but does not compound during the term. Others pay compound interest during a term, which means that index-linked interest that has already been credited also earns interest in the future. In either case, however, the interest earned in one term is usually compounded in the next.

Margin/Spread/Administrative Fee

In some annuities, the index-linked interest rate is computed by subtracting a specific percentage from any calculated change in the index. This percentage, sometimes referred to as the "margin," "spread," or "administrative fee," might be instead of, or in addition to, a participation rate. For example, if the calculated change in the index is 10%, your annuity might specify that 2.25% will be subtracted from the rate to determine the interest rate credited. In this example, the rate would be 7.75% ($10\% - 2.25\% = 7.75\%$). In this example, the company subtracts the percentage only if the change in the index produces a positive interest rate.

Vesting

Some annuities credit none of the index-linked interest or only part of it, if you take out all your money before the end of the term. The percentage that is vested, or credited, generally increases as the term comes closer to its end and is always 100% at the end of the term.

HOW DO THE COMMON INDEXING METHODS DIFFER?

Annual Reset

Index-linked interest, if any, is determined each year by comparing the index value at the end of the contract year with the index value at the start of the contract year. Interest is added to your annuity each year during the term.

High-Water Mark

The index-linked interest, if any, is decided by looking at the index value at various points during the term, usually the annual anniversaries of the date you bought the annuity. The interest is based on the difference between the highest index value and the index value at the start of the term. Interest is added to your annuity at the end of the term.

Low-Water Mark

The index-linked interest, if any, is determined by looking at the index value at various points during the term, usually the annual anniversaries of the date you bought the annuity. The interest is based on the difference between the index value at the end of the term and the lowest index value. Interest is added to your annuity at the end of the term.

Point-to-Point

The index-linked interest, if any, is based on the difference between the index value at the end of the term and the index value at the start of the term. Interest is added to your annuity at the end of the term.

WHAT ARE SOME OF THE FEATURES AND TRADE-OFFS OF DIFFERENT INDEXING METHODS?

Generally, equity-indexed annuities offer *preset* combinations of features. You may have to make trade-offs to get features you want in an annuity. This means the annuity you chose may also have features you don't want.

Features

Trade-Offs

Annual Reset

Since the interest earned is "locked in" annually and the index value is "reset" at the end of each year, future decreases in the index will not affect the interest you have already earned. Therefore, your annuity using the annual reset method may credit more interest than annuities using other methods when the index fluctuates up and down often during the term. This design is more likely than others to give you access to index-linked interest before the term ends.

Your annuity's participation rate may change each year and generally will be lower than that of other indexing methods. Also an annual reset design may use a cap or averaging to limit the total amount of interest you might earn each year.

High-Water Mark

Since interest is calculated using the highest value of the index on a contract anniversary during the term, this design may credit higher interest than some other designs if the index reaches a high point early or in the middle of the term, then drops off at the end of the term.

Interest is not credited until the end of the term. In some annuities, if you surrender your annuity before the end of the term, you may not get index-linked interest for that term. In other annuities, you may receive index-linked interest, based on the highest anniversary value to date and the annuity's vesting schedule. Also, contracts with this design may have a lower participation rate than annuities using other designs or may use a cap to limit the total amount of interest you might earn.

Low-Water Mark

Since interest is calculated using the lowest value of the index prior to the end of the term, this design may credit higher interest than some other designs if the index reaches a low point early or in the middle of the term and then rises at the end of the term.

Interest is not credited until the end of the term. With some annuities, if you surrender your annuity before the end of the term, you may not get index-linked interest for that term. In other annuities, you may receive index-linked interest based on a comparison of the lowest anniversary value to date with the index value at surrender and the annuity's vesting schedule. Also, contracts with this design may have a lower participation rate than annuities using other designs or may use a cap to limit the total amount of interest you might earn.

Point-to-Point

Since interest cannot be calculated before the end of the term, use of this design may permit a higher participation rate than annuities using other designs.

Since interest is not credited until the end of the term, typically six or seven years, you may not be able to get the index-linked interest until the end of the term.

WHAT IS THE IMPACT OF SOME OTHER EQUITY-INDEXED ANNUITY PRODUCT FEATURES?

Cap on Interest Earned

While a cap limits the amount of interest you might earn each year, annuities with this feature may have other product features you want, such as annual interest crediting or the ability to take partial withdrawals. Also, annuities that have a cap may have a higher participation rate.

Averaging

Averaging at the beginning of a term protects you from buying your annuity at a high point, which would reduce the amount of interest you might earn. Averaging at the end of the term protects you against severe declines in the index and losing index-linked interest as a result. On the other hand, averaging may reduce the amount of index-linked interest you earn when the index rises either near the start or at the end of the term.

Participation Rate

The participation rate may vary greatly from one annuity to another and from time to time within a particular annuity. Therefore, it is important for you to know how your annuity's participation rate works with the indexing method. A high participation rate may be offset by other features, such as simple interest, averaging, or a point-to-point indexing method. On the other hand, an insurance company may offset a lower participation rate by also offering a feature such as an annual reset indexing method.

Interest Compounding

It is important for you to know whether your annuity pays compound or simple interest during a term. While you may earn less from an annuity that pays simple interest, it may have other features you want, such as a higher participation rate.

WHAT WILL IT COST ME TO TAKE MY MONEY OUT BEFORE THE END OF THE TERM?

In addition to the information discussed in this Buyer's Guide about surrender and withdrawal charges and free withdrawals, there are additional considerations for equity-indexed annuities. Some annuities credit none of the index-linked interest or only part of it if you take out money before the end of the term. The percentage that is vested, or credited, generally increases as the term comes closer to its end and is always 100% at the end of the term.

ARE DIVIDENDS INCLUDED IN THE INDEX?

Depending on the index used, stock dividends may or may not be included in the index's value. For example, the S&P 500 is a stock price index and only considers the prices of stocks. It does not recognize any dividends paid on those stocks.

HOW DO I KNOW IF AN EQUITY-INDEXED ANNUITY IS RIGHT FOR ME?

The questions listed below may help you decide which type of annuity, if any, meets your retirement planning and financial needs. You should consider what your goals are for the money you may put into the annuity. You need to think about how much risk you're willing to take with the money. Ask yourself:

Am I interested in a variable annuity with the potential for higher earnings that are not guaranteed and willing to risk losing the principal?

Is a guaranteed interest rate more important to me, with little or no risk of losing the principal?

Or, am I somewhere in between these two extremes and willing to take some risks?

HOW DO I KNOW WHICH EQUITY-INDEXED ANNUITY IS BEST FOR ME?

As with any other insurance product, you must carefully consider your own personal situation and how you feel about the choices available. No single annuity design may have all the features you want. It is important to understand the features and trade-offs available so you can choose the annuity that is right for you. Keep in mind that it may be misleading to compare one annuity to another unless you compare all the other features of each annuity. You must decide for yourself what combination of features makes the most sense for you. Also remember that it is not possible to predict the future behavior of an index.

QUESTIONS YOU SHOULD ASK YOUR AGENT OR THE COMPANY

You should ask the following questions about equity-indexed annuities in addition to the questions in the Buyer's Guide to Fixed Deferred Annuities.

- How long is the term?
- What is the guaranteed minimum interest rate?
- What is the participation rate? For how long is the participation rate guaranteed?
- Is there a minimum participation rate?
- Does my contract have an interest rate cap? What is it?
- Does my contract have an interest rate floor? What is it?
- Is interest rate averaging used? How does it work?
- Is interest compounded during a term?
- Is there a margin, spread, or administrative fee? Is that in addition to or instead of a participation rate?
- What indexing method is used in my contract?
- What are the surrender charges or penalties if I want to end my contract early and take out all of my money?

- Can I get a partial withdrawal without paying charges or losing interest? Does my contract have vesting? If so, what is the rate of vesting?

Final Points to Consider

Remember to read your annuity contract carefully when you receive it. Ask your agent or insurance company to explain anything you don't understand. If you have a specific complaint or can't get answers you need from the agent or company, contact your state insurance department.

AUTHORITY: sections 374.040, 374.045, 375.013, 375.936(4) and 375.936(6), RSMo 2000 and 375.144, RSMo Supp. 2005. Original rule filed July 14, 2006.

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on September 27, 2006. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on September 27, 2006. Written statements shall be sent to Kevin Hall, Department of Insurance, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons,
Methods, Limits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-7.440 is amended.

This rule establishes hunting seasons and limits and is excepted by section 536.021, RSMo from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.440 by establishing seasons and limits for hunting migratory waterfowl during the 2006–2007 seasons.

3 CSR 10-7.440 Migratory Game Birds and Waterfowl: Seasons, Limits

PURPOSE: This amendment establishes season dates and bag limits for hunting waterfowl within frameworks established by the U.S. Fish and Wildlife Service for the 2006–2007 seasons.

(1) Migratory game birds and waterfowl may be taken, possessed, transported and stored as provided in federal regulations. The head or one (1) fully feathered wing must remain attached to all waterfowl while being transported from the field to one's home or a commercial preservation facility. Seasons and limits are as follows:

(E) Blue-winged, green-winged and cinnamon teal may be taken from sunrise to sunset from September 9 through September 24. Limits: four (4) teal in the aggregate of species daily; eight (8) in possession.

SUMMARY OF PUBLIC COMMENTS: Seasons and limits are excepted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed July 14, 2006, effective **August 1, 2006**.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 3—Applications for License; License
Examinations**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.090 and 339.120, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 250-3.010 Applications for License is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2006 (31 MoReg 672–674). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 3—Applications for License; License
Examinations**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.090 and 339.120, RSMo Supp. 2005, the board amends a rule as follows:

4 CSR 250-3.020 License Examinations is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2006 (31 MoReg 675). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 5—Fees**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.090 and 339.120, RSMo Supp. 2005 and 620.140.2, RSMo 2000, the board amends a rule as follows:

4 CSR 250-5.030 Miscellaneous Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2006 (31 MoReg 675-677). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 5—Fees**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.090 and 339.120, RSMo Supp. 2005, the board adopts a rule as follows:

**4 CSR 250-5.040 Application Fees for School Accreditation
and Course Approval is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 1, 2006 (31 MoReg 678). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 6—Educational Requirements**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under section 339.120, RSMo Supp. 2005, the board rescinds a rule as follows:

4 CSR 250-6.010 Course of Study Required is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 678). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 6—Educational Requirements**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under section 339.120, RSMo Supp. 2005, the board rescinds a rule as follows:

4 CSR 250-6.020 Content of Prelicense Courses is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 678). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 6—Educational Requirements**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under section 339.120, RSMo Supp. 2005, the board rescinds a rule as follows:

4 CSR 250-6.040 General is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 678-679). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 6—Educational Requirements**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under section 339.120, RSMo Supp. 2005, the board rescinds a rule as follows:

4 CSR 250-6.050 Correspondence Courses is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 679). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 6—Educational Requirements**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.090 and 339.120, RSMo Supp. 2005, the board adopts a rule as follows:

**4 CSR 250-6.060 Content of Salesperson and Broker
Pre-Examination Courses and the Missouri Real Estate
Practice Course is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 1, 2006 (31 MoReg 679–681). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 7—Schools**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.045, RSMo 2000 and 339.090 and 339.120, RSMo Supp. 2005, the board rescinds a rule as follows:

4 CSR 250-7.010 Standards for Accreditation is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 682). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 7—Schools**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.045, RSMo 2000 and 339.090 and 339.120, RSMo Supp. 2005, the board adopts a rule as follows:

**4 CSR 250-7.010 Standards for Real Estate School
Accreditation and Renewal is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 1, 2006 (31 MoReg 682–685). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 7—Schools**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under section 339.120, RSMo Supp. 2005, the board rescinds a rule as follows:

4 CSR 250-7.020 Application for Accreditation is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 686). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 7—Schools**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.045, RSMo 2000 and 339.090 and 339.120, RSMo Supp. 2005, the board adopts a rule as follows:

4 CSR 250-7.020 Application for Accreditation is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 1, 2006 (31 MoReg 686–690). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 7—Schools**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under section 339.120, RSMo Supp. 2005, the board rescinds a rule as follows:

4 CSR 250-7.030 Correspondence Courses is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 691). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 7—Schools**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under section 339.120, RSMo Supp. 2005, the board rescinds a rule as follows:

4 CSR 250-7.040 Accreditation; Renewals; Fees is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 691). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 7—Schools**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.090 and 339.120, RSMo Supp. 2005, the board rescinds a rule as follows:

4 CSR 250-7.050 Prohibition of Advertising or Solicitation
is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 691). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 7—Schools**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.090 and 339.120, RSMo Supp. 2005, the board adopts a rule as follows:

4 CSR 250-7.060 Instructor Standards is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 1, 2006 (31 MoReg 691–692). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 7—Schools**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.045, RSMo 2000 and 339.090 and 339.120, RSMo Supp. 2005, the board adopts a rule as follows:

4 CSR 250-7.070 General Requirements is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 1, 2006 (31 MoReg 692–693). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 7—Schools**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.045, RSMo 2000 and 339.120, RSMo Supp. 2005, the board adopts a rule as follows:

4 CSR 250-7.080 Additional Requirements for Approved Schools Offering Distance Delivered Courses is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 1, 2006 (31 MoReg 693–695). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 7—Schools**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.045, RSMo 2000 and 339.090 and 339.120, RSMo Supp. 2005, the board adopts a rule as follows:

4 CSR 250-7.090 Investigation and Review of Accredited Schools and Approved Courses is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 1, 2006 (31 MoReg 696–697). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 10—Continuing Education**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.040 and 339.120, RSMo Supp. 2005 and 339.045, RSMo 2000, the board rescinds a rule as follows:

4 CSR 250-10.010 Requirements is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 698). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 10—Continuing Education**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.040 and 339.120, RSMo Supp. 2005 and 339.045, RSMo 2000, the board rescinds a rule as follows:

4 CSR 250-10.020 Sponsors is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 698). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 10—Continuing Education**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.040 and 339.120, RSMo Supp. 2005 and 339.045, RSMo 2000, the board rescinds a rule as follows:

4 CSR 250-10.030 Classroom Course Approval is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 698). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 10—Continuing Education**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.040 and 339.120, RSMo Supp. 2005 and 339.045, RSMo 2000, the board rescinds a rule as follows:

4 CSR 250-10.040 Classroom Course Instructor Approval is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 698–699). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 10—Continuing Education**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.040 and 339.120, RSMo Supp. 2005 and 339.045, RSMo 2000, the board rescinds a rule as follows:

4 CSR 250-10.050 Physical Facilities for Classroom Courses is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 699). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 10—Continuing Education**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.040 and 339.120, RSMo Supp. 2005 and 339.045, RSMo 2000, the board rescinds a rule as follows:

4 CSR 250-10.060 Advertising is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 699). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 10—Continuing Education**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.040 and 339.120, RSMo Supp. 2005 and 339.045, RSMo 2000, the board rescinds a rule as follows:

4 CSR 250-10.070 Records is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 699). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 10—Continuing Education**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under section 339.120, RSMo Supp. 2005, the board rescinds a rule as follows:

4 CSR 250-10.075 Individual Study Courses **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 699-700). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 10—Continuing Education**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.040 and 339.120, RSMo Supp. 2005 and 339.045, RSMo 2000, the board rescinds a rule as follows:

4 CSR 250-10.080 Investigation and Review **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 1, 2006 (31 MoReg 700). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 250—Missouri Real Estate Commission
Chapter 10—Continuing Education**

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under sections 339.045, RSMo 2000 and 339.090 and 339.120, RSMo Supp. 2005, the board adopts a rule as follows:

4 CSR 250-10.100 Continuing Education Requirements for Licensees **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 1, 2006 (31 MoReg 700-703). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes

effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 110—Fees**

ORDER OF RULEMAKING

By the authority vested in the Department of Social Services, Family Support Division under section 454.400.2(5), RSMo 2000, the division withdraws a rule as follows:

13 CSR 40-110.030 Annual Fee for Successful Support Collections **is withdrawn**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 1, 2006 (31 MoReg 731-733). This proposed rule is withdrawn.

SUMMARY OF COMMENTS: No comments were received.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 54—Exemptions and Federal Covered Securities**

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under section 409.2-201 and 409.6-605, RSMo Supp. 2005, the commissioner amends a rule as follows:

15 CSR 30-54.070 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2006 (31 MoReg 734). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Securities staff noted that the statement where the policy could be obtained was omitted.

RESPONSE AND EXPLANATION OF CHANGE: Statement is being entered.

15 CSR 30-54.070 Not-for-Profit Securities

(2) The following statements of policy are hereby incorporated by reference:

(B) Church Extension Funds as amended and published by NASAA on April 18, 2004. A copy of this policy can be obtained from NASAA, 750 First Street, NE, Suite 1140, Washington, DC 20002, and is available online at <http://www.nasaa.org/content/files/Church%5FExtension%5FFund%5FSecurities.pdf>. This rule does not incorporate any subsequent amendments or additions.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 20—Division of Community and Public Health
Chapter 20—Communicable Diseases**

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Health and Senior Services under sections 192.006 and 260.203, RSMo

2000 and 192.020, RSMo Supp. 2005, the director amends a rule as follows:

19 CSR 20-20.010 Definitions Relating to Communicable, Environmental and Occupational Diseases **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 15, 2006 (31 MoReg 478-480). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES**

**Division 20—Division of Community and Public Health
Chapter 20—Communicable Diseases**

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Health and Senior Services under sections 192.006 and 260.203, RSMo 2000 and 192.020, RSMo Supp. 2005, the director amends a rule as follows:

19 CSR 20-20.020 Reporting Communicable, Environmental and Occupational Diseases **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 15, 2006 (31 MoReg 480-487). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One comment was received.

COMMENT: The Missouri Department of Agriculture, Plant Industries asked how we defined T-2 mycotoxins.

RESPONSE: This rule is related to human infections only and they would not be impacted. No changes have been made to the rule as a result of this comment.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES**

**Division 20—Division of Community and Public Health
Chapter 20—Communicable Diseases**

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Health and Senior Services under sections 192.006 and 260.203, RSMo 2000 and 192.060, RSMo Supp. 2005, the director amends a rule as follows:

19 CSR 20-20.080 Duties of Laboratories **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 15, 2006 (31 MoReg 488). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One comment was received.

COMMENT: Labcorp—Kansas City commented that since they send the annual antibiogram report to the facility, couldn't the facility, rather than the laboratory, send the department a copy.

RESPONSE: MDHSS does not concur. The law requires all laboratories to report the annual antibiogram directly to the state. No changes have been made to the rule as a result of this comment.