
EMERGENCY RULE

TITLE 13 – DEPARTMENT OF SOCIAL SERVICES Division 35 – Children’s Division Chapter 71 – Rules for Residential Treatment Agencies for Children and Youth

EMERGENCY AMENDMENT

13 CSR 35-71.020 Basic Residential Treatment for Children and Youth Core Requirements (Applicable To All Agencies) – Basis for Licensure and Licensing Procedures. The division is amending subsections (2)(B) and (6)(C).

PURPOSE: This emergency amendment conforms Rule 13 CSR 35-71.020 to section 210.493, RSMo, as amended by Senate Bill 40, signed into law on July 6, 2023. Amended section 210.493 no longer requires officers, managers, and other support staff of licensed residential care facilities to undergo the background checks mandated in section 210.493.

*EMERGENCY STATEMENT: This emergency amendment is necessary to fulfill the compelling governmental interest of having the Division’s regulations conform to the Missouri statutes. In Senate Bill 40, the General Assembly deleted language in section 210.493 that previously required officers, managers, and other support staff of licensed residential care facilities to undergo the background checks mandated in section 210.493. Rule 13 CSR 35-71.020 presently provides that facilities seeking to be licensed as residential care facilities in Missouri must provide a certification that officers, managers, and other support staff who will have access to the facilities have, or will have, completed background checks and have been found eligible as required in section 210.493, RSMo. Because section 210.493 no longer requires officer, managers, and other support staff to complete backgrounds and be found eligible for presence and employment, Rule 13 CSR 35-71.020 will be in conflict with section 210.493 if not amended. A regulation that is in conflict with a statute is invalid. See 536.014 (“No department, agency, commission or board rule shall be valid in the event that . . . [t]he rule is in conflict with state law.”). The Division has a compelling governmental interest in making sure that the public is not confused by published regulations that are not valid. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The Division believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed on August 14, 2023, becomes effective August 28, 2023, and will expire on February 23, 2024.*

(2) Application Procedures.

(B) The application shall contain the following information:

1. The name, street address, mailing address, fax number, and phone number of the residential care facility;
2. The name, street address, mailing address, email address, and phone number of the director, owner, and operator of the LRCF;
3. The name, street address, mailing address, email address, phone number, and job title of the individual or individuals who are designated to submit the application on behalf of the residential care facility. This individual shall be an individual who is legally authorized to act on behalf of the residential care facility and to legally bind the residential care facility to the statements made and information provided in support of the application;
4. The name and description of the person operating the residential care facility, including a statement as to whether

the person operating the residential care facility is a firm, corporation, benevolent association, partnership, association, agency, or an incorporated or unincorporated organization, regardless of the name used. If the owner or operator of the residential care facility is incorporated, a corporation shall state the type of corporation, the state in which the corporation was incorporated, and the date of incorporation;

5. The name and address of the sponsoring organization of the residential care facility, if applicable;

6. The name and address of every school attended by, or to be attended by, the children served by the residential care facility;

7. A certification that [*officers, managers,*] contractors, volunteers with access to children, employees, [*and other support staff of the residential care facility*] and owners who will have access to the facilities have, or will have, completed background checks and have been found eligible as required in section 210.493, RSMo, and 13 CSR 35-71.015.

(6) Licensing Renewal.

(C) In addition to the completed application form, the residential care facility shall submit the following documents with the application for license renewal:

1. A current board roster, including the mailing address and place of employment of each member and a list of board officers;

2. A summary of any significant changes to programs and copies of any resulting policies or policy changes;

3. A copy of a current organizational chart;

4. Certification that all individuals who are required to submit to a background check have completed their background checks and have been found eligible by the division for employment or presence at the LRCF as provided in section 210.493, RSMo, and 13 CSR 35-71.015;

5. Annual results of a check of the family care safety registry for all staff, as well as interns, volunteers, and contractors. For individuals who reside outside of Missouri who are subject to the background check requirements provided for in section 210.493, RSMo, the LRCF shall require all [*officers, managers,*] contractors, volunteers with access to children, employees, [*other support staff,*] and owners of the LRCF who will have access to the facilities of the LRCF to successfully complete an annual background screening which shall consist of a check of the child abuse and neglect registry and a criminal background check of the state or jurisdiction in which the individual resides. LRCFs shall further implement and apply policies which require all personnel who are otherwise required to submit to a background check pursuant to section 210.493, RSMo, to immediately notify the LRCF if they are listed in a state or local government registry as a perpetrator of child abuse or neglect, or if they were arrested or charged with any crime listed in section 210.493, RSMo;

6. Evidence of current compliance with the fire and safety requirements of the State Fire Marshal;

7. A record of monthly drills for fire and emergency evacuations which are held at different times of the day and night;

8. Documentation that each operating site’s water supply and sewage disposal system is currently in compliance with the requirements of the Department of Health and Senior Services if not an approved public source;

9. A copy of the most recent financial audit and/or financial review;

10. A copy of the annual written staff training plan;

11. Documentation that each operating site food service is currently in compliance with requirements of the Department

EMERGENCY RULE

of Health and Senior Services or any local applicable ordinance;

12. A copy of the current personnel and/or program manual for the agency if there have been changes since last submitted to the licensing unit;

13. For any agency operating a swimming pool on grounds, documentation that the pool is operated and maintained in accordance with all applicable local ordinances and/or state guidelines;

14. A copy of the resume of all administrative and professional staff, if not previously submitted to the licensing unit;

15. Documentation of insurance for the agency for professional liability and commercial liability, worker's compensation insurance, fire and disaster insurance, and agency vehicle insurance; and

16. Documentation of Form 990 for all non-profit agencies and Internal Revenue Service return for for-profit agencies and self-disclosure of tax liabilities, including but not limited to, all employee withholding taxes.

*AUTHORITY: sections 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021. This rule originally filed as 13 CSR 40-71.020. Original rule filed Nov. 9, 1978, effective Feb. 11, 1979. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Aug. 14, 2023, effective Aug. 28, 2023, expires Feb. 23, 2024. An emergency amendment covering the same material will be published in the Sept. 15, 2023, issue of the **Missouri Register**.*

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

PRIVATE COST: This emergency amendment will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.