

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 symbolology under the heading of 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 If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission.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.

(ITP) [that is recognized by the Board for Certification of Interpreters (BCI) and housed in a regionally accredited institution of higher education] that is under the jurisdiction of a college or training program recognized by the United States Secretary of Education or the Commission on Collegiate Interpreter Education (CCIE) as being regionally or nationally accredited, or as approved by the Board for Certification of Interpreters (BCI).

AUTHORITY: sections 209.295(8) and 209.297(2), RSMo [2000] 2016. Original rule filed Nov. 27, 1996, effective July 30, 1997. Rescinded and readopted: Filed July 26, 2001, effective March 30, 2002. Amended: Filed Jan. 30, 2020.

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 Commission for the Deaf and Hard of Hearing, 3216 Emerald Drive, Suite B, Jefferson City, MO 65109. 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 100—Missouri Commission for the Deaf and Hard of Hearing
Chapter 200—Board for Certification of Interpreters**

PROPOSED AMENDMENT

5 CSR 100-200.150 Fees. The Missouri Commission for the Deaf and Hard of Hearing is amending section (3).

PURPOSE: This amendment would create the option to pay all fees online, as well as maintaining the system to pay in the form of cashier's check or money order.

(3) Payment of all fees must be made in the form of either a cashier's check or money order made payable to "MCDHH/BCI Fund/." or through a state-approved online payment method as indicated on the Missouri Commission for the Deaf and Hard of Hearing (MCDHH) website www.mcdhh.mo.gov. No personal checks or cash will be accepted.

AUTHORITY: sections 209.292, 209.295, and 209.311, RSMo 2016. Original rule filed June 20, 1996, effective Jan. 30, 1997. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 30, 2020.

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 cost private entities an estimate of one thousand four hundred ninety-one dollars (\$1,491) annually.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

**Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 100—Missouri Commission for the Deaf and Hard of Hearing
Chapter 200—Board for Certification of Interpreters**

PROPOSED AMENDMENT

5 CSR 100-200.085 Intern/Practicum Certification. The Missouri Commission for the Deaf and Hard of Hearing is amending section (1).

PURPOSE: This amendment will streamline the Intern/Practicum approval process by relying on authorities in the field to determine the quality of Interpreter Training Programs.

(1) Intern/Practicum Certification (IPC) will be granted to a student applicant upon verification of registration in an interpreting practicum or internship course in an Interpreter Training Program

*Commission for the Deaf and Hard of Hearing, 3216 Emerald Lane, Suite B, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: Title 5—Department of Elementary and Secondary Education
Division Title: Division 100—Missouri Commission for the Deaf and Hard of Hearing
Chapter Title: Chapter 200—Board for Certification of Interpreters**

Rule Number and Title:	5 CSR 100-200.150
Type of Rulemaking:	Proposed Rulemaking

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
228	Interpreter Candidates	\$597 per year
684	Certified Interpreters	\$894 per year
		Total= \$1,491

III. WORKSHEET

TEP: 96 testers x \$1.25 online payment fee= \$120 per year

Basic Performance: 40 testers x 2.15% of \$285=\$245.20 per year

Advanced and Master Performance: 20 testers x 2.15% of \$310=\$133.40 per year

Intern/Practicum: 53 applicants x \$1.25 online payment fee= \$66.25 per year

PCED: 17 applicants x \$1.75 online payment fee= \$29.75 per year

Provisional Certification: 2 applicants x \$1.25 online payment fee= \$2.50 per year

Renewal Fee/CEU Processing Fee: 606 Interpreters x \$1.25 online payment fee= \$757.50 per year

Conversion: 16 Interpreters x \$1.75 online payment fee= \$28.00 per year

Reinstatement: 62 Interpreters x \$1.75 online payment fee= \$108.50 per year

The annual amount to private entities is \$1,491 per year.

IV. ASSUMPTIONS

Online payment transactions will incur a transaction fee based upon the total transaction amount.

Current fee structure as per Jet Pay's agreement with OA (office of administration):

0 up to 50.00	\$1.25
50.01 to 75.00	\$1.75

75.01 to 100.00	\$2.15
Over 100.00	2.15%

Based on the TEP, Basic Performance, Advanced and Master Performance, Intern/Practicum, PCED (Provisional Certificate in Education) and the Provisional Certifications for 2017, 2018 and 2019, it is estimated to have 228 Interpreter Candidates per year.

The estimated number of TEP testers is 96 per year.

The estimated number of Basic testers is 40 per year.

The estimated number of Advanced and Master testers combined is 20 per year.

The estimated number of Intern/Practicums applicants is 53 per year.

The estimated number of PCED (Provisional Certificate in Education) candidates is 17 per year.

The estimated number of Provisional Certification candidates is 2 per year.

Based on the Renewal fee/CEU processing fees, Conversions and Reinstatement fees for 2017, 2018 and 2019, it is estimated to have 684 Interpreters per year.

The estimated number of Renewal fee/CEU processing fees for interpreters is 606 per year.

The estimated number of Conversions for interpreters is 16 per year.

The estimated number of Reinstatements for interpreters is 62 per year.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement and Procedure of General Applicability**

PROPOSED AMENDMENT

13 CSR 70-3.100 Filing of Claims, MO HealthNet Program. MO HealthNet is amending sections (1), (2), and (7).

PURPOSE: This amendment changes the claim form requirements for providers filing Pharmacy Claims, Professional Services Claims, and Dental Claims.

(1) Claim forms used for filing MO HealthNet services as appropriate to the provider of services are—

(B) Pharmacy Claim—[MO-8803, Revision 11/00 or] **Point-of-Service (POS)**, on-line claim format—NCPDP current version, or electronic claim submission;

(D) Professional Services Claim—[CMS-1500, Revision 12/90,] **CMS-1500 form (02-12) version** or electronic claim submission;

(E) Dental Claim—American Dental Association (ADA) [2002, 2004] **2019** revision, Dental Form, or electronic claim submission; or

(2) Specific claims filing instructions are modified as necessary for efficient and effective administration of the program as required by federal or state law or regulation. For specific claim filing instructions information, reference the appropriate:/—

(A) MO HealthNet provider manual, which is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at <http://manuals.momed.com/manuals/>, [September 27, 2018] **January 15, 2020**. This rule does not incorporate any subsequent amendments or additions; and

[(B) *Provider Bulletins, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at <https://dss.mo.gov/mhd/providers/pages/bulletins.htm>, September 27, 2018. This rule does not incorporate any subsequent amendments or additions; or]*

[(C)](B) Forms, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at <http://manuals.momed.com/manuals/presentation/forms.jsp>, [September 27, 2018] **January 15, 2020**. This rule does not incorporate any subsequent amendments or additions.

(7) Definitions.

(D) Date of service—The date of service which is used as the beginning point for determining the timely filing limit applies to the various claim types as follows:

1. Nursing home—The through date or ending date of service for each line item for each participant listed on the claim;

2. Pharmacy—The date dispensed for each line item for each individual participant listed [on the paper claim form, or] on electronically submitted claims through point-of-service (POS) or the Internet;

3. Outpatient hospital—The ending date of service for each individual line item on the claim;

4. Professional services (CMS-1500)—The ending date of service for each individual line item on the claim;

5. Dental—The date service was performed for each individual line item on the claim;

6. Inpatient hospital—The through date of service in the area indicating the claimed period of service; and

7. For service which involves the providing of dentures, hearing aids, eyeglasses, or items of durable medical equipment; for example, artificial larynx, braces, hospital beds, wheelchairs, the date of service will be the date of delivery or placement of the device or item.

AUTHORITY: sections 208.153, 208.201, and 660.017, RSMo 2016. This rule was previously filed as 13 CSR 40-81.070 and 13 CSR 40-81.071. Original rule filed June 2, 1976, effective Oct. 11, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 22, 2020.

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 Department of Social Services, MO HealthNet Division, PO Box 6500, Jefferson City, MO 65102. To be considered comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program**

PROPOSED AMENDMENT

13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates. The division is adding paragraph (3)(A)24.

PURPOSE: This proposed amendment provides for a per diem increase to nursing facility and HIV nursing facility per diem reimbursement rates of one dollar and sixty-one cents (\$1.61) effective for dates of service August 1, 2019 through June 30, 2020. The per diem increase shall be reduced to one dollar and forty-nine cents (\$1.49) effective for dates of service beginning July 1, 2020. These per diem adjustments correspond to the state fiscal year (SFY) 2020 appropriation for nursing facilities and are contingent upon approval by the Centers for Medicare and Medicaid Services (CMS).

(3) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed in 13 CSR 70-10.015, a nursing facility's reimbursement rate may be adjusted as described in this section. Subject to the limitations prescribed in 13 CSR 70-10.080, an HIV nursing facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per diem rate adjustments. Global per diem rate adjustments shall be added to the specified cost component ceiling.

1. FY-96 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1995, shall be granted an increase to their per diem effective October 1, 1995, of four and six-tenths percent (4.6%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection

(3)(S) of 13 CSR 70-10.015.

2. FY-97 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1996, shall be granted an increase to their per diem effective October 1, 1996, of three and seven-tenths percent (3.7%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

3. Nursing Facility Reimbursement Allowance (NFRA). Effective October 1, 1996, all facilities with either an interim rate or a prospective rate shall have its per diem adjusted to include the current NFRA as an allowable cost in its reimbursement rate calculation.

4. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on November 1, 1996, shall be granted an increase to their per diem effective November 1, 1996, of two dollars and forty-five cents (\$2.45) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the fifty-cent (50¢) increase, divided by the patient days for the facilities reporting hours for that payroll category, and factored up by eight and sixty-seven hundredths percent (8.67%) to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator, and assistant administrator.

5. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on September 1, 1997, shall be granted an increase to their per diem effective September 1, 1997, of one dollar and ninety-eight cents (\$1.98) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the forty-cent (40¢) increase, divided by the patient days for the facilities reporting hours for that payroll category, and factored up by eight and sixty-seven hundredths percent (8.67%) to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator, and assistant administrator.

6. FY-98 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1997, shall be granted an increase to their per diem effective October 1, 1997, of three and four-tenths percent (3.4%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

7. FY-99 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1998, shall be granted an increase to their per diem effective October 1, 1998, of two and one-tenth percent (2.1%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities, and the minimum wage adjustments detailed in paragraphs (3)(A)4. and (3)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1998, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

8. FY-2000 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem

effective July 1, 1999, of one and ninety-four hundredths percent (1.94%) of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities, and the minimum wage adjustments detailed in paragraphs (3)(A)4. and (3)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

9. FY-2004 nursing facility operations adjustment—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2003, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2003, through June 30, 2004, of four dollars and thirty-two cents (\$4.32) for the cost of nursing facility operations. Effective for dates of service beginning July 1, 2004, the per diem adjustment shall be reduced to three dollars and seventy-eight cents (\$3.78); and

B. The operations adjustment shall be added to the facility's current rate as of June 30, 2003, and is effective for payment dates after August 1, 2003.

10. FY-2007 quality improvement adjustment—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2006, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2006, of three dollars and seventeen cents (\$3.17) to improve the quality of life for nursing facility residents; and

B. The quality improvement adjustment shall be added to the facility's current rate as of June 30, 2006, and is effective for dates of service beginning July 1, 2006, and after.

11. FY-2007 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on February 1, 2007, shall be granted an increase to their per diem rate effective for dates of service beginning February 1, 2007, of three dollars and zero cents (\$3.00) to allow for a trend adjustment to ensure quality nursing facility services; and

B. The trend adjustment shall be added to the facility's reimbursement rate as of January 31, 2007, and is effective for dates of service beginning February 1, 2007, for payment dates after March 1, 2007.

12. FY-2008 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2007, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2007, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services; and

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2007, and is effective for dates of service beginning July 1, 2007.

13. FY-2009 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2008, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2008, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services; and

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2008, and is effective for dates of service beginning July 1, 2008.

14. FY-2010 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2009, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2009, of five dollars and fifty cents (\$5.50) to allow for a trend adjustment to ensure quality nursing facility services; and

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2009, and is effective for dates of service beginning July 1, 2009.

15. FY-2012 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on October 1, 2011, shall be granted an increase to their per diem rate effective for dates of service beginning October 1, 2011, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services;

B. The trend adjustment shall be added to the facility's current rate as of September 30, 2011, and is effective for dates of service beginning October 1, 2011; and

C. This increase is contingent upon the federal assessment rate limit increasing to six percent (6%) and is subject to approval by the Centers for Medicare and Medicaid Services.

16. FY-2013 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2012, shall be granted an increase to their per diem rate effective for dates of services beginning July 1, 2012, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services;

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2012, and is effective for dates of service beginning July 1, 2012; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

17. FY-2014 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2013, shall be granted an increase to their per diem rate effective for dates of services beginning July 1, 2013, of three percent (3.0%) of their current rate, less certain fixed cost items. The fixed cost items are the per diem amounts included in the facility's current rate from the following: subsection (2)(O) of 13 CSR 70-10.110, paragraphs (11)(D)1., (11)(D)2., (11)(D)3., (11)(D)4., (13)(B)3., and (13)(B)10. of 13 CSR 70-10.015;

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2013, and is effective for dates of service beginning July 1, 2013; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

18. FY-2015 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2014, shall be granted an increase to their per diem rate effective for dates of services beginning July 1, 2014, of one dollar and twenty-five cents (\$1.25) to allow for a trend adjustment to ensure quality nursing facility services;

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2014, and is effective for dates of service beginning July 1, 2014; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

19. January 1, 2016 – June 30, 2016 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on January 1, 2016, shall be granted an increase to their per diem rate effective for dates of services beginning January 1, 2016, of two dollars and nine cents (\$2.09) to allow for a trend adjustment to ensure quality nursing facility services;

B. The trend adjustment will not be added to the facility's rate after June 30, 2016; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services and sufficient funding available through the Tax Amnesty Fund.

20. Continuation of FY-2016 trend adjustment and FY-2017 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2016, shall continue to be granted an increase to their per diem rate effective for dates of service beginning July 1, 2016, of two dollars and nine cents (\$2.09);

B. Facilities with either an interim rate or a prospective rate in effect on July 1, 2016, shall be granted an increase to their per diem rate effective for dates of services beginning July 1, 2016, of

two dollars and eighty-three cents (\$2.83) to allow for a trend adjustment to ensure quality nursing facility services;

C. The trend adjustment of two dollars and eighty-three cents (\$2.83) shall be added to the facility's rate as of June 30, 2016, which includes the two dollars and nine cents (\$2.09) increase, and is effective for dates of service beginning July 1, 2016; and

D. These increases are contingent upon approval by the Centers for Medicare and Medicaid Services.

21. FY-2018 per diem adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on August 1, 2017, shall be subject to a decrease in their per diem rate effective for dates of services August 1, 2017 through June 30, 2018, of five dollars and thirty-seven cents (\$5.37);

B. The per diem adjustment of five dollars and thirty-seven cents (\$5.37) shall be deducted from the facility's current rate as of July 31, 2017, and is effective for dates of service beginning August 1, 2017;

C. Effective for dates of service beginning July 1, 2018, the per diem decrease shall be reduced to four dollars and eighty-three cents (\$4.83). A per diem adjustment of fifty-four cents (\$0.54) shall be added to the facilities current rate as of June 30, 2018, which includes the five dollars and thirty-seven cents (\$5.37) decrease, and is effective for dates of service beginning July 1, 2018; and

D. This decrease is contingent upon approval by the Centers for Medicare and Medicaid Services.

22. FY-2019 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2018, shall be granted an increase to their per diem rate effective for dates of services beginning July 1, 2018, of seven dollars and seventy-six cents (\$7.76) to allow for a trend adjustment to ensure quality nursing facility services;

B. The rate to which the FY-2019 trend adjustment of seven dollars and seventy-six cents (\$7.76) shall be added is the facility's rate as of July 1, 2018 set forth in subparagraph (3)(A)21.C. and is effective for dates of service beginning July 1, 2018. This trend adjustment shall result in a rate no greater than eight dollars and thirty cents (\$8.30) higher than the rate in effect on January 1, 2018; and

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

23. FY-2019 additional trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on February 1, 2019, shall be granted an increase to their per diem rate effective for dates of service February 1, 2019 through June 30, 2019, of one dollar and twenty-nine cents (\$1.29) to allow for a trend adjustment to ensure quality nursing facility services;

B. The per diem adjustment of one dollar and twenty-nine cents (\$1.29) shall be added to the facility's rate as of January 31, 2019, and is effective for dates of service beginning February 1, 2019 through June 30, 2019;

C. Effective for dates of service beginning July 1, 2019, the per diem increase shall be reduced to fifty-four cents (\$0.54). A per diem adjustment of seventy-five cents (\$0.75) shall be deducted from the facility's rate as of June 30, 2019, which includes the one dollar and twenty-nine cents (\$1.29) increase, and is effective for dates of service beginning July 1, 2019.

D. These per diem adjustments are contingent upon approval by the Centers for Medicare and Medicaid Services.

24. FY-2020 trend adjustment—

A. Facilities with either an interim rate or a prospective rate in effect on August 1, 2019, shall be granted an increase to their per diem rate effective for dates of service August 1, 2019 through June 30, 2020, of one dollar and sixty-one cents (\$1.61) to allow for a trend adjustment to ensure quality nursing facility services;

B. The rate to which the FY-2020 trend adjustment of one dollar and sixty-one cents (\$1.61) shall be added is the facility's rate as of July 31, 2019 set forth in subparagraph (3)(A)23.C.

The FY-2020 trend adjustment shall be effective for dates of service beginning August 1, 2019 through June 30, 2020;

C. Effective for dates of service beginning July 1, 2020, the per diem increase shall be reduced to one dollar and forty-nine cents (\$1.49). A per diem adjustment of twelve cents (\$0.12) shall be deducted from the facility's rate as of June 30, 2020, which includes the one dollar and sixty-one cents (\$1.61) increase, and is effective for dates of service beginning July 1, 2020; and

D. These per diem adjustments are contingent upon approval by the Centers for Medicare and Medicaid Services.

AUTHORITY: sections 208.153, 208.159, 208.201, and 660.017, RSMo 2016. Original rule filed July 1, 2008, effective Jan. 30, 2009. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Jan. 16, 2020, effective Jan. 31, 2020, expires July 28, 2020. Amended: Filed Jan. 16, 2020.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately \$14.3 million in SFY 2020.

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 Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.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.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 10 - Nursing Home Program

Rule Number and Name:	13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services MO HealthNet Division	Estimated Cost for SFY ¹ 2020 = \$14,340,604
Non-State Government Owned Nursing Facilities (49)	No estimated costs of compliance for SFY 2020.

III. WORKSHEET

Description	Nursing Facility Rate Increase	Hospice Nursing Home Room & Board	Total Impact
Estimated Paid Days – SFY 2020	8,025,724	927,574	
Per Diem Increase – Effective August 1, 2019	\$1.61	\$1.53	
Estimated Impact – SFY 2020	\$12,921,416	\$ 1,419,188	\$ 14,340,604
State Share (34.412%)	\$ 4,446,518	\$ 488,371	\$ 4,934,889
Federal Share (65.688%)	\$ 8,474,898	\$ 930,817	\$ 9,405,715

IV. ASSUMPTIONS

The Department of Social Services (DSS), MO HealthNet Division (MHD): The above impact to DSS, MHD was calculated using the following assumptions:

Estimated Paid Days:

Nursing Facility:

The estimated paid days for SFY 2020 for nursing facilities are based on the Medicaid days paid for nursing facility services during SFY 2019 increased by 0.5% for SFY 2020 and prorated for August 2019 – June 2020.

¹ State Fiscal Year

Hospice:

The estimated paid days for SFY 2020 for hospice are based on the actual hospice days provided in nursing facilities from January 2018 through December 2018 and prorated for August 2019 – June 2020.

Non-State Government Owned Nursing Facilities (49): This proposed amendment provides for a per diem increase to nursing facility and HIV nursing facility per diem reimbursement rates of one dollar and sixty-one cents (\$1.61) effective for dates of service beginning August 1, 2019, through June 30, 2020. The per diem increase is reduced to one dollar and forty-nine cents (\$1.49) effective for dates of service beginning July 1, 2020, so there are no costs of compliance to Medicaid enrolled non-state government owned nursing facilities.

Hospice: Hospice providers may be impacted by this regulation because reimbursement for hospice services provided in nursing facilities is based on the nursing facility per diem rate. MHD conducted a fiscal analysis using 13 CSR 70-50.010 to estimate the impact to hospice. Please note this is an estimated analysis with the assumption of hospice appropriation authority.

Hospice Nursing Home Room and Board services are reimbursed 95% of the nursing facility per diem rate. The per diem increase of \$1.61 to the nursing facility rate effective for dates of service beginning August 1, 2019 through June 30, 2020 computes to an increase to hospice reimbursement rates resulting from this amendment of \$1.53 ($\$1.61 \times 95\%$).

Impact on Home and Community Based Services (HCBS):

HCBS provided on a monthly basis are limited to a percentage of the average monthly nursing facility payment (referred to as the HCBS cost cap). The HCBS cost cap for a given SFY is based on the average monthly nursing facility payments for the 12 months ending in April of the previous SFY. Therefore, the per diem increase of \$1.61 to the nursing facility rate effective for dates of service beginning August 1, 2019 through June 30, 2020 will not impact the HCBS cost cap for SFY 2020 but may impact the HCBS cost cap for SFY 2021. For SFY 2021, the HCBS cost cap is estimated to increase by approximately 3.42% as a result of this amendment. This may increase the amount of services, and the payments, for MO HealthNet participants that are at the cap.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 20—Pharmacy Program

PROPOSED AMENDMENT

13 CSR 70-20.340 National Drug Code Requirement. The division is amending section (1), removing section (2), and renumbering as necessary.

PURPOSE: The purpose of this amendment is remove the reference to J-Code and expand the National Drug Code (NDC) requirement to all drug HCPCS procedure codes.

(1) Drug charges submitted by providers on an electronic Professional or Institutional ASC X12 837 Health Care claim transaction or manually entered on a medical or outpatient claim into MHD's billing website eMOMED (www.emomed.com), are to be billed with a valid *[J-Code]* **Healthcare Common Procedure Coding System (HCPCS) procedure code** and a valid NDC for each medication, including injections, provided to the participant. Medical or outpatient claim lines submitted with a *[J-Code]* **HCPCS procedure code** without the corresponding NDC will be denied. For medical or outpatient claims correctly submitted with the appropriate *[J-Code]* **HCPCS procedure code** and the corresponding NDC, the system will automatically generate a separate drug claim for the NDC to process as a pharmacy claim, and will appear as a separate claim on your Remittance Advice. The corresponding line with *[J-Code]* **HCPCS procedure code** and NDC will be dropped from the medical or outpatient claim. If an NDC is not provided, the *[J-Code]* **HCPCS procedure code** will remain on the claim to report the denied line. *[If the drug being provided does not have a J-Code associated with it, the appropriate Healthcare Common Procedure Coding System (HCPCS) procedure code should be submitted with an NDC.]* For drugs without a valid HCPCS procedure code, revenue code 0250 "General Classification: Pharmacy" must be used with the appropriate NDC. Only drugs and items used during outpatient care in the hospital are covered. Take-home medications and supplies are not covered by MHD under the Hospital Program.

[(2) A critical component to submitting claims with an NDC is to ensure that the appropriate HCPCS procedure code is billed with each NDC. To ensure accurate billing of drug charges, MHD will use the Noridian Crosswalk (www.dmepdac.com) to determine whether the appropriate HCPCS procedure code is billed for the submitted NDC. Claims will be denied if the NDC submitted is not valid for the HCPCS procedure code submitted.]

[(3)](2) Effective for dates of service on or after April 1, 2016, the MO HealthNet Division (MHD) will require the National Drug Code (NDC) for all medications administered in the clinic or outpatient hospital setting, to comply with federal law. MHD must collect the eleven-(11-) digit NDC on all outpatient drug claims submitted to MHD from all providers for rebate purposes in order to receive federal financial participation. Providers are required to submit their claims with the exact NDC that appears on the product dispensed or administered to receive payment from MHD. The NDC is found on the medication's packaging and must be submitted in the five (5) digit – four (4) digit – two (2) digit format. If the NDC does not appear in the five (5) digit – four (4) digit – two (2) digit format on the packaging, zero(s) (0) may be entered in front of the section that does not have the required number of digits.

[(4)](3) All drug claims shall be routed through an automated computer system to apply edits specifically designed to ensure effective drug utilization. The Preferred Drug List (PDL) and clinical edits

are designed to enhance patient care and optimize the use of program funds through therapeutically prudent use of pharmaceuticals. The edits are based on evidence-based clinical criteria and nationally recognized peer-reviewed information. This clinical information is paired with fiscal evaluation and then developed into a therapeutic class PDL recommendation. The PDL process incorporates clinical edits, including step therapies, into the MHD pharmacy program. Claims for drugs will automatically and transparently be approved for those patients who meet any of the system approval criteria. For those patients who do not meet the system approval criteria, the drugs will require a call to the MHD Drug Prior Authorization hotline at (800) 392-8030 to initiate a review and potentially authorize payment of claims. Providers may also use the CyberAccess tool to prospectively determine if a drug is a preferred agent or requires edit override, electronically initiate an edit override review, and to review a participant's MHD paid claim history.

[(5)](4) The quantity to be billed for injectables and other types of medications dispensed to MHD participants must be calculated as follows:

(A) Containers of medication in solution (for example, ampoules, bags, bottles, vials, syringes) must be billed by exact cubic centimeters or milliliters (cc or mL) dispensed, even if the quantity includes a decimal (e.g., if three (3) 0.5 mL vials are dispensed, the correct quantity to bill is 1.5 mL);

(B) Single dose syringes and single dose vials must be billed per cubic centimeters or milliliters (cc or mL), rather than per syringe or per vial;

(C) Ointments must be billed per number of grams even if the quantity includes a decimal;

(D) Eye drops must be billed per number of cubic centimeters or milliliters (cc or mL) in each bottle even if the quantity includes a decimal;

(E) Powder filled vials and syringes that require reconstitution must be billed by the number of vials;

(F) Combination products, which consist of devices and drugs, designed to be used together, are to be billed as a kit. Quantity will be the number of kits used;

(G) The product Herceptin, by Genentech, must be billed by milligram rather than by vial due to the stability of the drug; and

(H) Non-Vaccines for Children (VFC) Immunizations and vaccines must be billed by the cubic centimeters or milliliters (cc or mL) dispensed, rather than per dose.

[(6)](5) Radiopharmaceuticals used in radiologic procedures may be billed separately using the appropriate HCPCS code and/or the NDC representing the materials or agent used in the procedure. If available, MHD would prefer the NDC for reporting purposes. If the material or agent used does not have an NDC, the appropriate HCPCS code alone is acceptable. All HCPCS codes for radiopharmaceuticals are manually priced and must be billed with the manufacturer's invoice of cost attached to the claim.

AUTHORITY: sections 208.201 and 660.017, RSMo 2016. Emergency rule filed June 19, 2015, effective July 1, 2015, expired Dec. 28, 2015. Original rule filed July 1, 2015, effective Feb. 29, 2016. Amended: Filed Sept. 27, 2018, effective May 30, 2019. Amended: Filed Jan. 16, 2020.

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 Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.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 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 60—Durable Medical Equipment Program**

PROPOSED AMENDMENT

13 CSR 70-60.010 Durable Medical Equipment Program. The division is amending sections (1), (2), (4), (6), (7), adding a new section (9), and renumbering existing sections (9) through (11).

PURPOSE: This amendment incorporates the requirements of federal regulation, 42 CFR 440.70. These changes include a definition of where durable medical equipment (DME) services may be provided, and adds face-to-face encounter and documentation requirements. In addition, this amendment updates terminology, the MO HealthNet Division website address, and the incorporated by reference date.

(1) Administration. The MO HealthNet Durable Medical Equipment (DME) program shall be administered by the Department of Social Services, MO HealthNet Division. The services and items covered and not covered, the program limitations, and the maximum allowable fees for all covered services shall be determined by the Department of Social Services, MO HealthNet Division and shall be included in the DME provider manual [and bulletins], which [are] is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO [65102] **65109**, at its website at [www.dss.mo.gov/mhd] http://manuals.momed.com/collections/collection_dme/print.pdf, [November 1, 2013] **September 6, 2019**. This rule does not incorporate any subsequent amendments or additions.

(2) Persons Eligible. Any person who is eligible for MO HealthNet benefits as determined by the Family Support Division is eligible for DME when the DME is medically necessary [as determined]. DME must be prescribed by the [treating] participant's physician [or advanced practice nurse in a collaborative practice arrangement] and reviewed by the physician annually. Covered services are limited as specified in the DME provider manual [and bulletins].

(4) Definition for Durable Medical Equipment and appliances. DME is equipment and appliances that can withstand repeated use, can be reusable or removable, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of [an] a disability, illness, or injury, and is appropriate for use in [the home] any setting in which normal life activities take place as defined in 42 CFR 440.70(c)(1). All requirements of the definition must be met in order for the equipment to be covered by MO HealthNet. 42 CFR 440.70 is published by the Federal Register, at <https://www.ecfr.gov/>. A copy of 42 CFR 440.70 as of January 3, 2020, is incorporated by reference and made part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at <https://dssruletracker.mo.gov/dss-proposed-rules/welcome.action>. This rule does not incorporate subsequent amendments or additions.

(6) Covered Services. It is the provider's responsibility to determine the coverage benefits for a MO HealthNet eligible participant based

on his or her type of assistance as outlined in the DME manual [and bulletins]. Reimbursement will be made to qualified participating DME providers only for DME items, [determined] prescribed by the participant's [treating] physician [or advanced practice nurse in a collaborative practice arrangement] to be medically necessary. Specific procedure codes that are covered under the DME program are listed in Section 19 of the DME provider manual [and bulletins], which [are] is incorporated by reference and made a part of this rule [as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65102, at its website at www.dss.mo.gov/mhd, November 1, 2013. This rule does not incorporate any subsequent amendment or additions]. These items must be suitable for use in [the participant's home] any setting in which normal life activities take place, as defined in 42 CFR 440.70(c)(1) when ordered in writing by the participant's physician [or advanced practice nurse in a collaborative practice arrangement]. Although an item is classified as DME, it may not be covered in every instance. Coverage is based on the fact that the item is reasonable and necessary for treatment of the illness or injury, or to improve the functioning of a malformed or permanently inoperative body part, and the equipment meets the definition of DME. Even though a DME item may serve some useful[,] medical purpose, consideration must be given by the physician [or advanced practice nurse in a collaborative arrangement] and the DME supplier to what extent, if any, it is reasonable for MO HealthNet to pay for the item as opposed to another realistically feasible alternative pattern of care. Consideration should be given by the physician [or advanced practice nurse in a collaborative practice arrangement] and the DME supplier as to whether the item serves essentially the same purpose as equipment already available to the participant. If two (2) different items each meet the need of the participant, the less expensive item must be employed, all other conditions being equal.

(7) Documentation. The DME provider and physician [or advanced practice nurse in a collaborative practice arrangement] shall document how they determined [what was] the least expensive, feasible alternative for treatment of the disability, illness or injury, or to improve the functioning of a malformed or permanently inoperative body part and maintain documentation in compliance with 13 CSR 70-3.030.

(9) Face-to-face encounter and documentation requirements.

(A) For certain items of DME, a face-to-face encounter is required, as indicated in 42 CFR 440.70(g)(1). A list of DME items subject to face-to-face encounter requirements may be found at <https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Medical-Review/FacetoFaceEncounterRequirementforCertainDurableMedicalEquipment.html>, revised March 26, 2015. A copy of the list of DME items subject to face-to-face encounter requirements as of January 3, 2020, is incorporated by reference and made part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at <https://dssruletracker.mo.gov/dss-proposed-rules/welcome.action>. This rule does not incorporate subsequent amendments or additions.

(B) No Medicaid payment for items of DME for which a face-to-face encounter is required shall be made unless there is documentation of a face-to-face encounter that meets the following criteria:

1. Related to the primary reason the beneficiary requires medical equipment;
2. Occurs no more than six (6) months prior to the written order;
3. Occurs prior to the date of service delivery; and
4. Conducted by a physician (M.D. or D.O.) or one (1) of the

following non-physician practitioners (NPP):

A. A nurse practitioner working in collaboration with a physician;

B. A clinical nurse specialist working in collaboration with a physician; or

C. A physician assistant, under the supervision of a physician.

(C) The physician responsible for ordering the DME service must document the face-to-face encounter which is related to the primary reason the participant requires the DME. If an allowed NPP performs the face-to-face encounter, the clinical findings of that face-to-face encounter must be communicated to the enrolled ordering physician and be incorporated into the ordering physician's medical record for the participant.

(D) The DME provider must ensure that it has received the face-to-face documentation for each item of DME and for each participant for whom it is required. The DME provider must maintain the documentation in the participant's record or files at their own location. The documentation must include the following:

1. The clinical findings of the face-to-face encounter substantiating the need for the DME;
2. The primary reason that the DME is required;
3. The name, signature, and credentials of the practitioner who conducted the face-to-face encounter; and
4. The date of the face-to-face encounter; or
5. The documentation requirements in paragraph (D)1.-4. above may be met when incorporated into the pre-certification process, as approved by MHD.

(E) If a Medicare face-to-face encounter document has already been provided for the same participant episode of care, it will also suffice as the MO HealthNet face-to-face documentation requirement.

~~/(9)/~~(10) Non-Covered Items. MO HealthNet does not cover items which primarily serve the following purposes: personal comfort, convenience, education, hygiene, safety, cosmetic, new equipment of unproven value, and equipment of questionable current usefulness or therapeutic value. Specific items which are generally not covered can be found in Section 13.32 of the DME manual. Examples of non-covered items are: air conditioners, computers (unless determined to be used for an augmentative communication device), electric bathtub lifts, elevators, furniture, toys, home modifications, refrigerators, seat lift chairs, stair lifts or glides, treadmill, water softening systems, wheelchair lifts, wheelchair ramps, whirlpool tubs, or pumps.

~~/(10)/~~(11) Medicare/Medicaid Crossovers. For participants having both Medicare and MO HealthNet eligibility, the MO HealthNet program pays the lesser of the amounts indicated by Medicare to be deductible and/or coinsurance due on the Medicare allowed amount or the difference between the amount paid by Medicare and the MO HealthNet allowed amount.

~~/(11)/~~(12) Records Retention. Sanctions may be imposed by the MO HealthNet Division against a provider for failing to make available, and disclosing to the MO HealthNet Division or its authorized agents, all records relating to services provided to MO HealthNet participants or records relating to MO HealthNet payments, whether or not the records are commingled with non-Title XIX (Medicaid) records in compliance with 13 CSR 70-3.030. These records must be retained for five (5) years from the date of service. Fiscal and medical records coincide with and fully document services billed to the MO HealthNet agency. Providers must furnish or make the records available for inspection or audit by the Department of Social Services or its representative upon request. Failure to furnish, reveal, or retain adequate documentation for services billed to the MO HealthNet program, as specified above, is a violation of this regulation.

AUTHORITY: sections 208.153 [and], 208.201, and 660.017, RSMo [Supp. 2013] 2016. Original rule filed Nov. 1, 2002, effective April 30, 2003. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 16, 2020.

PUBLIC COST: The proposed amendment will cost state agencies or political subdivisions two hundred sixty-one thousand five hundred forty-seven dollars and seventy-nine cents (\$261,547.79) annually.

PRIVATE COST: The proposed amendment will cost private entities six hundred ninety-nine thousand two hundred seventy-five dollars and fifty-eight cents (\$699,275.58) annually.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.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.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Title 13 – Department of Social Services
Division Title: Division 70 – MO HealthNet Division
Chapter Title: Chapter 60 – Durable Medical Equipment Program**

Rule Number and Name:	13 CSR 70-60.010 Durable Medical Equipment Program
Type of Rulemaking:	Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services, MO HealthNet Division	\$261,547.79

III. WORKSHEET

The MO HealthNet Division (MHD) anticipates that there will be an overall 2% increase in expenditures pertaining to mobility Durable Medical Equipment (DME) items due to an increase in places of service where DME services may be provided. To determine this, expenditures from FY 2016, 2017, 2018, and 2019 were averaged, then multiplied by .02 to determine an amount of **\$261,547.79**.

FY 16 expenditures	\$12,014,502.26
FY 17 expenditures	\$13,205,656.37
FY 18 expenditures	\$13,335,085.78
FY 19 expenditures	\$13,754,314.41
Total expenditures for FY16-FY19	\$52,309,558.82
Average expenditures (Total divided by 4 years)	\$13,077,389.71
2% increase (2% of Average)	\$ 261,547.79

IV. ASSUMPTIONS

MHD has engaged the DME industry throughout the process of drafting this proposed amendment to keep stakeholders involved and to solicit feedback. One way in which MHD achieves stakeholder engagement is by hosting quarterly DME Advisory Committee meetings, in which this proposed amendment has been a topic of discussion.

This feedback is what drives the MHD assumptions when determining fiscal impact. MHD anticipates that there will be a minimal change (increase of 2%) in utilization of services due to the addition of places of services outside of the home. Items expected to see an increase in utilization are those used for mobility, such as crutches, canes, walkers, wheelchairs, and wheelchair accessories.

MHD does not expect to see a substantial increase in utilization of mobility items due to the addition of places of service outside of the home, as most participants in need of mobility items will already utilize them inside the home.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: Title 13 – Department of Social Services
Division Title: Division 70 – MO HealthNet Division
Chapter Title: Chapter 60 – Durable Medical Equipment Program**

Rule Number and Title:	13 CSR 70-60.010 Durable Medical Equipment Program
Type of Rulemaking:	Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
1,214	DME providers	\$534,999.75
34,542	Practitioners (Physicians, Physician Assistants, and Nurse Practitioners)	\$164,275.83

III. WORKSHEET

The MO HealthNet Division (MHD) estimated the number of entities likely to be affected by adoption of this proposed rule by calculating utilization data using the Missouri Medicaid Audit and Compliance (MMAC) Provider Enrollment Unit’s report of active MO HealthNet Providers. As of March 29, 2019, the MMAC Enrollment Unit reported that there were 1,214 Durable Medical Equipment (DME) providers; 845 Physician - D.O.s; 25,246 Physician - M.D.s; 1,172 Physician Assistants; and 7,279 Nurse Practitioners.

The DME provider cost for obtaining documentation of the face-to-face visit is **\$534,999.75**. This was calculated by averaging the number of new referrals for FY 2017, FY 2018, and FY 2019 and multiplying the number of referrals by an estimated cost of \$75 per referral.

	Served	Served in Prior Year	New Referrals
2017	14,764	5,146	9,618
2018	10,537	4,441	6,096
2019	9,882	4,196	5,686
TOTAL			21,400
AVERAGE			7133.33
Cost Per Referral			\$75
TOTAL COST			\$534,999.75

Physician, nurse practitioners, and physician assistant costs for documenting the face-to-face visit is **\$164,275.83**. This was calculated (as indicated in the Federal Register Volume 81, No. 21, which contains the face-to-face requirement) by multiplying the average number of new referrals by the estimated wage for each practitioner, then multiplied by an estimated 10 minutes per new referral. The mean hourly wage per practitioner was based on the U.S. Bureau of Labor Statistics' May 2018 National Occupational Employment and Wage Estimates (the cost of fringe benefits was calculated at 100 percent of the mean hourly wage and added to the mean hourly wage to determine the adjusted hourly wage).

Practitioner	Adjusted Hourly Wage	1/3 of new referrals	10 minutes	Cost
Physician	\$203.64	2,377.78	0.167	\$80,863.26
Nurse Practitioner	\$105.80	2,377.78	0.167	\$42,012.04
Physician Assistant	\$104.26	2,377.78	0.167	\$40,400.53
TOTAL COST				\$164,275.83

IV. ASSUMPTIONS

DME providers enrolled with MO HealthNet will be required to comply with the proposed rule. This change will require those agencies to obtain documentation of the participant's face-to-face visit from the prescribing physician/practitioner. Prescribing physicians will be required to document in the medical record and provide documentation of the participant face-to-face visit.

Cost to DME providers to obtain face-to-face documentation from the practitioner is estimated to be \$75 per new referral.

It is assumed that participants are already seeing their healthcare providers for regular visits, so the proposed changes would not create an increase of utilization to the Physician program above the average number of new referrals.

The number of different practitioners performing the face-to-face documentation is unknown; therefore, the number of new referrals was used as the number of practitioners impacted.

The calculations used were based on the calculations used per the Federal Register Volume 81, Number 21, dated February 2, 2016, that contained the home health final rule requirements.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 15—Initiative, Referendum, New Party, and
Independent Candidate Petition Rules

PROPOSED AMENDMENT

15 CSR 30-15.030 Initiative, Referendum, New Party, and Independent Candidate Petitions Missouri Voter Registration System and Other Computerized Processing Options. The secretary of state is proposing to change the title and purpose, and add a new section (2).

PURPOSE: This amendment authorizes the use of a petitions processing software program that is not a module within the centralized Missouri Voter Registration System (MCVR) but interfaces in real time with MCVR. This amendment will allow local election authorities to use technological advancements that will result in efficiencies and greater quality control in petitions processing.

PURPOSE: The purpose of this rule is to clarify that local election authorities have the option to use the centralized Missouri Voter Registration System (MCVR) or a petition processing software program provided and maintained by the Office of the Secretary of State that interfaces in real time with MCVR for initiative, referendum, new party, and independent candidate petition signature verification as allowed under Chapters 115 and 116, RSMo. MCVR is the official statewide voter registration list which was created and implemented as part of the Help America Vote Act of 2002. This system is maintained and administered by the Office of the Secretary of State and contains the name and registration information of every legally registered Missouri voter. It serves as the official voter registration list for the conduct of all elections in Missouri and allows local election authorities immediate real-time electronic access to the information contained in the system. Currently, local election authorities may use this system for petition signature verification as authorized by Chapter 115, RSMo. The secretary of state may make rules to ensure uniform, complete, and accurate checking of initiative and referendum petition signatures.

(2) Each local election authority has the option to comply with the requirements of 15 CSR 30-15.010 and 15 CSR 30-15.020 through a petition processing software program maintained and administered by the secretary of state. Petition pages will be processed and annotated electronically. Each local election authority shall certify to the secretary of state by means of petition processing summary reports generated by the software program provided by the secretary of state the total of each category enumerated in 15 CSR 30-15.020(1) less the number of duplicate, but otherwise qualified, signatures in 15 CSR 30-15.020(2).

AUTHORITY: section 115.335.7, RSMo [2000] Supp. 2019, and section 116.130.5, RSMo [Supp. 2013] 2016. Original rule filed Aug. 14, 2013, effective Feb. 28, 2014. Amended: Filed Jan. 31, 2020.

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 Secretary of State, Elections Division, PO Box 1767, Jefferson City, MO 65102-1767. 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 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System of
Missouri
Chapter 3—Funds of Retirement System

PROPOSED AMENDMENT

16 CSR 10-3.010 Payment of Funds to the Retirement System. The Public School Retirement System of Missouri is amending section (7).

PURPOSE: This amendment clarifies the treatment of employer contributions to employee Health Savings Accounts (HSAs) as salary rate as defined in section 169.010, RSMo. The amendment also rearranges some existing language and adds subsections to better organize the regulation.

(7) For purposes of determining retirement contributions and benefits, salary rate includes medical insurance premiums (including dental and vision) paid by the employer on behalf of the member and payments made by the employer on behalf of the member to a self-funded medical benefits plan. [Salary, salary rate, or compensation as defined in section 169.010, RSMo, shall not be reduced due to premium rebates or refunds received by the employer as a result of the implementation of the "Patient Protection and Affordable Care Act," Public Law 111-148. Salary rate also includes payments made by the employer on behalf of the member to purchase an annuity, or fund a deferred compensation plan, in lieu of medical insurance or a self-funded medical benefits plan.] The employer shall withhold from the member's salary and remit to the system contributions on any such premiums and payments, along with matching employer contributions. [Premiums and payments for prescription drug, life, and other ancillary benefits determined separately from premiums and payments for general medical benefits are not part of salary rate.] The payment reported for each member covered by a self-funded medical benefits plan shall be determined by the employer.

(A) Salary rate also includes payments made by the employer on behalf of the member to purchase an annuity, or fund a deferred compensation plan, in lieu of medical insurance or a self-funded medical benefits plan.

(B) Premiums and payments for prescription drug, life, and other ancillary benefits determined separately from premiums and payments for general medical benefits are not part of salary rate.

(C) Beginning July 1, 2017, premiums paid by the employer on behalf of the member and payments made by the employer on behalf of the member to a self-funded medical benefits plan for prescription drug coverage shall be included in salary rate as defined in section 169.010, RSMo, whether or not such premiums or payments for prescription drug coverage were determined separately from premiums and payments for general medical benefits. Contributions transmitted to the retirement system before July 1, 2017, based on salary rates which either included or excluded employer-paid premiums or payments to a self-funded medical benefits plan for prescription drug coverage for members shall be deemed to have been in compliance with this section. The retirement system shall not refund or adjust contributions or adjust benefit determinations with respect to any period before July 1, 2017, solely because of the treatment of employer-paid premiums or payments to a self-funded medical benefits plan for prescription drug coverage for members.

(D) Beginning July 1, 2020, certain payments made by the employer on behalf of a member to a Health Savings Account (HSA) shall be included in salary rate as defined in section

169.010, RSMo, whether or not such payments were determined separately from premiums and payments for general medical benefits. Payments made by an employer to a member's HSA shall be included in salary rate up to the amount that is offered to all employer's employees and not to exceed the applicable annual HSA contribution limit set by Internal Revenue Code for single coverage. The annual contribution limit used will be the one in effect for the calendar year in which a plan year begins. Contributions transmitted to the retirement system before July 1, 2020, based on salary rates which either included or excluded employer payments to a member HSA shall be deemed to have been in compliance with this section. The retirement system shall not refund or adjust contributions or adjust benefit determinations with respect to any period before July 1, 2020, solely because of the treatment of employer-paid HSA contributions.

(E) Salary, salary rate, or compensation as defined in section 169.010, RSMo, shall not be reduced due to premium rebates or refunds received by the employer as a result of the implementation of the "Patient Protection and Affordable Care Act," Public Law 111-148.

AUTHORITY: section 169.020, RSMo [Supp. 2013] 2016. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 29, 2020.

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 Public School Retirement System of Missouri, attn: General Counsel, at PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

Division 10—The Public School Retirement System of Missouri

Chapter 6—The Public Education Employee Retirement System

PROPOSED AMENDMENT

16 CSR 10-6.020 Payment of Funds to the Retirement System. The Public School Retirement System of Missouri is amending section (9).

PURPOSE: This amendment clarifies the treatment of employer contributions to employee Health Savings Accounts (HSAs) as salary rate as defined in section 169.600, RSMo. The amendment also rearranges some existing language and adds subsections to better organize the regulation.

(9) For purposes of determining retirement contributions and benefits, salary rate includes medical insurance premiums (including dental and vision) paid by the employer on behalf of the member and payments made by the employer on behalf of the member to a self-funded medical benefits plan. [Salary, salary rate, or compensation as defined in section 169.600, RSMo, shall not be reduced due to premium rebates or refunds received by the employer as a result of the implementation of the "Patient Protection and Affordable Care Act," Public Law 111-148.

Salary rate also includes payments made by the employer on behalf of the member to purchase an annuity, or fund a deferred compensation plan, in lieu of medical insurance or a self-funded medical benefits plan.] The employer shall withhold from the member's salary and remit to the system contributions on any such premiums and payments, along with matching employer contributions. [Premiums and payments for prescription drug, life, and other ancillary benefits determined separately from premiums and payments for general medical benefits are not part of salary rate.] The payment reported for each member covered by a self-funded medical benefits plan shall be determined by the employer.

(A) Salary rate also includes payments made by the employer on behalf of the member to purchase an annuity, or fund a deferred compensation plan, in lieu of medical insurance or a self-funded medical benefits plan.

(B) Premiums and payments for prescription drug, life, and other ancillary benefits determined separately from premiums and payments for general medical benefits are not part of salary rate.

(C) Beginning July 1, 2017, premiums paid by the employer on behalf of the member and payments made by the employer on behalf of the member to a self-funded medical benefits plan for prescription drug coverage shall be included in salary rate as defined in section 169.600, RSMo, whether or not such premiums or payments for prescription drug coverage were determined separately from premiums and payments for general medical benefits. Contributions transmitted to the retirement system before July 1, 2017, based on salary rates which either included or excluded employer-paid premiums or payments to a self-funded medical benefits plan for prescription drug coverage for members shall be deemed to have been in compliance with this section. The retirement system shall not refund or adjust contributions or adjust benefit determinations with respect to any period before July 1, 2017, solely because of the treatment of employer-paid premiums or payments to a self-funded medical benefits plan for prescription drug coverage for members.

(D) Beginning July 1, 2020, certain payments made by the employer on behalf of the member to a Health Savings Account (HSA) shall be included in salary rate as defined in section 169.600, RSMo, whether or not such payments were determined separately from premiums and payments for general medical benefits. Payments made by an employer to a member's HSA shall be included in salary rate up to the amount that is offered to all employer's employees and not to exceed the applicable annual HSA contribution limit set by Internal Revenue Code for single coverage. The annual contribution limit used will be the one in effect for the calendar year in which a plan year begins. Contributions transmitted to the retirement system before July 1, 2020, based on salary rates which either included or excluded employer payments to a member's HSA shall be deemed to have been in compliance with this section. The retirement system shall not refund or adjust contributions or adjust benefit determinations with respect to any period before July 1, 2020, solely because of the treatment of employer-paid HSA contributions.

(E) Salary, salary rate, or compensation as defined in section 169.600, RSMo, shall not be reduced due to premium rebates or refunds received by the employer as a result of the implementation of the "Patient Protection and Affordable Care Act," Public Law 111-148.

AUTHORITY: section 169.610, RSMo [Supp. 2013] 2016. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 29, 2020.

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 Public School Retirement System of Missouri, attn: General Counsel, at PO Box 268, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

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

PROPOSED AMENDMENT

19 CSR 20-20.020 Reporting Infectious, Contagious, Communicable, or Dangerous Diseases. The department is amending section (1) to add the 2019 Novel Coronavirus (2019-nCoV) to the list of diseases or findings that must be reported immediately.

PURPOSE: This amendment adds the 2019 Novel Coronavirus (2019-nCoV) to the list of diseases or findings that must be reported immediately.

(1) The diseases within the immediately reportable disease category pose a risk to national security because they: can be easily disseminated or transmitted from person to person; result in high mortality rates and have the potential for major public health impact; might cause public panic and social disruption; and require special action for public health preparedness. Immediately reportable diseases or findings shall be reported to the local health authority or to the Department of Health and Senior Services immediately upon knowledge or suspicion by telephone (1 (800) 392-0272), facsimile, or other rapid communication. Immediately reportable diseases or findings are—

(A) Selected high priority diseases, findings or agents that occur naturally, from accidental exposure, or as the result of a bioterrorism event:

2019 Novel Coronavirus (2019-nCoV)

Anthrax

Botulism

Paralytic poliomyelitis

Plague

Rabies (Human)

Ricin toxin

Severe Acute Respiratory syndrome-associated Coronavirus

(SARS-CoV) Disease

Smallpox

Tularemia (suspected intentional release)

Viral hemorrhagic fevers, suspected intentional (e.g., Viral hemorrhagic fever diseases: Ebola, Marburg, Lassa, Lujo, new world Arenavirus (Guanarito, Machupo, Junin, and Sabia viruses), or Crimean-Congo);

AUTHORITY: sections 192.006, 192.020, 210.040, and 210.050, RSMo 2016. This rule was previously filed as 13 CSR 50-101.020. Original rule filed July 15, 1948, effective Sept. 13, 1948. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed June 28, 2019, effective July 8, 2019, [expired Feb. 27,] terminated Jan. 30, 2020. Amended: Filed June 28, 2019, effective Jan. 30, 2020. Emergency amendment filed Jan. 27, 2020, effective Feb. 10, 2020, expires Aug. 7, 2020. Amended: Filed Jan. 27, 2020.

PUBLIC COST: This proposed amendment will not cost state agen-

cies 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 Adam Crumbliss, Director, Department of Health and Senior Services, Division of Community and Public Health, PO Box 570, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 20—DEPARTMENT OF COMMERCE AND INSURANCE

Division 400—Life, Annuities and Health Chapter 5—Advertising and Material Disclosures

PROPOSED AMENDMENT

20 CSR 400-5.600 Missouri Life and Health Insurance Guaranty Association. The director is amending the purpose statement and Appendix One (1) in accordance with Executive Order 17-03 and House Bill 1690 (Laws 2018) and the National Association of Insurance Commissioners (NAIC) Guideline for Notice of Protection Provided by Life and Health Insurance Guaranty Association, as adopted by the NAIC 4th Quarter 2018.

PURPOSE: This amendment updates the name and mailing address for the Missouri Life and Health Insurance Guaranty Association, and implements changes made to the Life and Health Insurance Guaranty Association Act by House Bill 1690 (Mo. Laws 2018).

PURPOSE: This rule sets forth the forms [required by section 376.756, RSMo] for use in connection with the sale of policies or contracts which either are or are not covered by the Missouri Life and Health Insurance Guaranty [Fund] Association.

**APPENDIX ONE
NOTICE OF PROTECTION PROVIDED BY
MISSOURI LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION**

This notice provides a *brief summary* of the Missouri Life and Health Insurance Guaranty Association (“the Association”) and the protection it provides for policyholders. This safety net was created under Missouri law, which determines who and what is covered and the amounts of coverage.

The Association was established to provide protection in the unlikely event that your life, annuity, or health insurance company becomes financially unable to meet its obligations and is taken over by its insurance department. If this should happen, the Association will typically arrange to continue coverage and pay claims, in accordance with Missouri law, with funding from assessments paid by other insurance companies. **(For purposes of this notice, the terms “insurance company” and “insurer” include health maintenance organizations (HMOs).)**

The basic protections provided by the Association are as follows:

- Life Insurance
 - \$300,000 in death benefits [•], **but not more than \$100,000 in net cash surrender and net cash withdrawal values**
- Health Insurance
 - \$500,000 [*in hospital, medical, and surgical insurance benefits*] **for health benefit plans**
 - \$300,000 in disability insurance benefits
 - \$300,000 in long-term care insurance benefits
 - \$100,000 in other types of health insurance benefits
- Annuities
 - \$250,000 **in the present value of annuity benefits, including net cash surrender and net cash withdrawal [and cash] values**

The maximum amount of protection for each individual, regardless of the number of policies or contracts, is as follows:

- \$300,000 in aggregate for all types of coverage listed above, with the exception of [*basic hospital, medical, and surgical insurance or major medical insurance*] **health benefit plans**
- \$500,000 in aggregate for [*basic hospital, medical, and surgical insurance or major medical insurance*] **health benefit plans**
- \$5,000,000 to one policy owner of multiple nongroup policies of life insurance, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons

“Health benefit plan” is defined in section 376.718, RSMo.

Note: Certain policies and contracts may not be covered or fully covered. For example, coverage does not extend to any portion(s) of a policy or contract that the insurer does not guarantee, such as certain investment additions to the account value of a variable life insurance policy or a variable annuity contract. There are also various residency requirements and other limitations under Missouri law.

Benefits provided by a long-term care (LTC) rider to a life insurance policy or annuity contract will be considered the same type of benefits as the basic life insurance policy or annuity contract to which it relates.

To learn more about the above protections, as well as protections relating to group contracts or retirement plans, please visit the Association’s website at www.mo-iga.org, or contact:

Missouri Life and Health Insurance Guaranty Association [994 Diamond Ridge, Suite 102] 2210 Missouri Boulevard Jefferson City, Missouri 65109 Ph.: 573-634-8455 Fax: 573-634-8488	Missouri Department of Commerce and Insurance 301 West High Street, Room 530 Jefferson City, Missouri 65101 Ph.: 573-522-6115
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Insurance companies and agents are not allowed by Missouri law to use the existence of the Association or its coverage to encourage you to purchase any form of insurance or **HMO coverage**. When selecting an insurance company, you should not rely on Association coverage. If there is any inconsistency between this notice and Missouri law, then Missouri law will control.

AUTHORITY: section 374.045.1(2), RSMo [Supp. 2013] 2016, and section 376.756, RSMo [2000] Supp. 2019. This rule was previously filed as 4 CSR 190-13.290. Original rule filed Sept. 6, 1988, effective April 1, 1989. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Jan. 27, 2020.

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 Commerce and Insurance, Attention: Shelley Forrest, 301 West High Street, Room 530, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for April 2, 2020, at 1:00 p.m., at the Missouri Department of Commerce and Insurance, 301 West High Street, Room 530, Jefferson City, MO 65101.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE
Division 500—Property and Casualty
Chapter 6—Workers’ Compensation and Employers’
Liability**

PROPOSED AMENDMENT

20 CSR 500-6.100 Policy and Endorsement Forms. The director is amending section (1).

PURPOSE: This amendment corrects a drafting error present in the rule by removing a reference to an obsolete endorsement form.

(1) All insurers issuing Workers’ Compensation and employers’ liability policies in this state shall—

(C) Employ the use of the standard provisions for Workers’ Compensation and employers’ liability policies **or such other policy form provisions, not less favorable to the insured employer and which have been approved by the director prior to use; and**

[(D) Attach an approved form entitled “Application of Limits of Liability Endorsement—Missouri” to all policies of Workers’ Compensation and employers’ liability insurance issued in Missouri; and]

[(E)](D) Exclude any agreement, warranty, or representation by the insured pertaining to prior cancellation or refusal to renew coverage by a previous insurance carrier.

AUTHORITY: sections 287.310 and 374.045, RSMo 2016. This rule was previously filed as 4 CSR 190-18.010. This version of rule filed July 27, 1964, effective Aug. 6, 1964. Amended: Filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed Oct. 30, 1974, effective Nov. 9, 1974. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Amended: Filed March 8, 2019, effective Oct. 30, 2019. Amended: Filed Jan. 27, 2020.

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 Commerce and Insurance, Attention: Josh Wille, PO Box 690, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 1:00 p.m. on April 2, 2020, at the Missouri Department of Commerce and Insurance, Room 530, 301 West High Street, Jefferson City, Missouri 65101.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE
Division 500—Property and Casualty
Chapter 7—Title**

PROPOSED AMENDMENT

20 CSR 500-7.020 [Scope and] Definitions. The director is amending the title of the rule, removing section (1), and amending section (2).

PURPOSE: This amendment removes the statement of scope, revises the definitions of “material transaction,” and “Residential real estate transaction,” and provides a printed definition for “title plant.”

[(1) Applicability of Rules. The rules in this chapter apply to title insurers, title agencies and title agents transacting the business of insurance in this state under Chapter 381, RSMo. The rules shall be read together with Chapter 536, RSMo.]

[(2)](1) Definitions. As used in this chapter, the following terms *[shall]* mean:

(A) “Closing protection letter,” a letter issued on behalf of a title insurer, which indemnifies a buyer, lender, or seller solely against losses not to exceed the amount of settlement funds because of the acts set forth in section 381.058, RSMo;

(B) “Closing protection fee,” the consideration paid by or on behalf of the buyer, borrower, lender, or seller for a closing protection letter calculated from the rate filed with the director;

(C) “Director,” the director of the department;

(D) “Department,” the Department of Commerce and Insurance;

(E) “Material transaction,” a single transaction with a monetary value of one hundred dollars (\$100) or more, or any series of transactions with a monetary value of six hundred dollars (\$600) or more[,] during the reporting period, and which are between the agency and a party with a financial interest in the agency or in which the agency holds a financial interest. ***[Material]*** For the purposes of section 381.029, RSMo, the following transactions are not considered to be material transactions *[shall not include]*:

1. Employee salaries or bonuses; or

2. Profit distributions in proportion to financial interests; or

3. Any payment reflected on a settlement statement or pursuant to an escrow agreement; or

4. Any payment to a realtor for commission;

(F) “Residential real estate transaction,” the sale, purchase, financing, or refinancing of a house or other dwelling designed principally for the occupancy of *[from]* one to four (1–4) families in Missouri, but does not include transactions involving real estate designed for business, commercial, or agricultural purposes;

(G) “Title insurance premium,” the premium in a title insurance transaction;

(H) “Title Plant,” means an index of records which—

1. Imparts constructive notice to purchasers of real property;

2. Encompasses at least the most recent forty-five (45) years;

3. Is geographically indexed as to all documents containing a legal description of affected land; and

4. Is indexed by the name of the affected person as to all other documents.

[(H)](I) "Title service charge," any charge as defined in 20 CSR 500-7.100, except for any closing protection fee or any fee for the handling of escrows, settlements, or closing;

[(I)](J) "Premium," as defined in section 381.031.14, RSMo 1994, and reviewed under section 381.171, RSMo 1994; and

[(J)](K) "Price estimate," a good faith estimate or prediction of prices based upon information presented at the time of the estimate.

AUTHORITY: sections 374.045[, RSMo 2000] and [section] 381.042, RSMo [Supp. 2007] 2016. Emergency rule filed Jan. 16, 2008, effective Jan. 28, 2008, expired July 14, 2008. Original rule filed Jan. 16, 2008, effective Sept. 30, 2008. Non-substantive change filed Sept. 11, 2019, published Oct. 31, 2019. Amended: Filed Jan. 27, 2020.

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 Commerce and Insurance, Attention: Josh Wille, PO Box 690, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 1:00 p.m. on April 2, 2020, at the Missouri Department of Commerce and Insurance, Room 530, 301 West High Street, Jefferson City, Missouri 65101.

**Title 20—DEPARTMENT OF COMMERCE AND INSURANCE
Division 500—Property and Casualty
Chapter 7—Title**

PROPOSED AMENDMENT

20 CSR 500-7.030 General Instructions. The director is amending the publisher's note, sections (1), (2), and (3), and incorporating new versions of Forms T-1, T-3, T-5A and T-5B, and T-6A and T-6B by reference.

PURPOSE: This amendment modifies which forms may be used to satisfy filing requirements and the applicable filing fees.

(1) Filing and Report Forms. The following forms are incorporated by reference and approved for filing with the department. The forms contain no later amendments or additions and are available to the public for inspection and copying at the department's website at www.insurance.mo.gov or at the department offices at 301 West High Street, Room 530, Jefferson City, MO 65101.

(A) The Title Insurance Premium and Title Service Charge Disclosure form (Form T-1), revised on [June 25, 2008] January 27, 2020, or any form which substantially comports with the specified form.

(C) The Notice of Closing or Settlement Risk form (Form T-3), revised on [June 25, 2008] January 27, 2020, or any form which substantially comports with the specified form.

(E) The Agency Financial Interest Report form (Form T-5A), revised on [June 26, 2008] January 27, 2020, or any form which substantially comports with the specified form.

(F) The Affiliated Business Arrangement Report form (Form T-5B), revised on [June 26, 2008] January 27, 2020, or any form

which substantially comports with the specified form.

(G) The Insurer's On-site Review Report form (Form T-6A [and Form T-6B]), revised [February 26, 2009,] on January 26, 2012 or any form which substantially comports with the specified form.

(H) The Insurer's On-site Review Sampling Methods form (Form T-6B) revised on February 26, 2009 or any form which substantially comports with the specified form.

[(H)](I) The Uniform Premium (Risk Rate) Report form (Form T-7), revised January 1, 2008, or any form which substantially comports with the specified form.

[(I)](J) The Seller's Closing Protection Letter form (Form T-8 and Form T-8alt), revised on January 17, 2008, or any form which substantially comports with the specified form.

[(J)](K) The Buyer's or Lender's Closing Protection Letter form (Form T-9 and Form T-9alt), revised on January 17, 2008, or any form which substantially comports with the specified form.

[(K)](L) The Title Plant Registration form (Form T-12), revised on May 21, 2008, or any form which substantially comports with the specified form, **including any substantially similar online or web-based version which may be approved by the director for registration in the future.**

(2) Location. Reports and filings [required] made under this chapter [shall] may be delivered to the Insurance Market Regulation Division, Room 530, 301 W. High Street, Jefferson City, Missouri 65101.

(3) Filing. Fees. All reports, filings, or amendments to reports required to be filed by title insurers under this chapter shall be accompanied by a filing fee of fifty dollars (\$50) as required by section 374.230(5), RSMo described in section 374.230, RSMo will be applied to all filings required under this chapter.

AUTHORITY: sections 374.045, [RSMo 2000] and [section] 381.042, RSMo [Supp. 2008] 2016. Emergency rule filed Jan. 16, 2008, effective Jan. 28, 2008, expired July 14, 2008. Original rule filed Jan. 16, 2008, effective Sept. 30, 2008. Emergency amendment filed Oct. 15, 2008, effective Jan. 1, 2009, expired June 29, 2009. Amended: Filed Oct. 15, 2008, effective June 30, 2009. Amended: Filed Jan. 27, 2020.

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 Commerce and Insurance, Attention: Josh Wille, PO Box 690, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 1:00 p.m. on April 2, 2020, at the Missouri Department of Commerce and Insurance, Room 530, 301 West High Street, Jefferson City, Missouri 65101.

**Title 20—DEPARTMENT OF COMMERCE AND INSURANCE
Division 500—Property and Casualty
Chapter 7—Title**

PROPOSED AMENDMENT

20 CSR 500-7.050 Disclosure of Premiums and Charges. The

director is amending sections (1)-(3) of this rule.

PURPOSE: This amendment updates and clarifies instructions for making statutory disclosure of material price information pursuant to sections 381.019 and 375.144, RSMo. The rule also allows for the use of different and generic real estate closing forms so long as they comply with statutory disclosure requirements.

(1) Disclosure with Title Order.

(D) Upon further inquiry or request by a prospective purchaser of title insurance or other party to the residential real estate transaction for explanation, the title insurer, title agency, or title agent may disclose orally that title premium and closing protection fee are determined by rate schedules filed with the state, but *[if so disclosed shall at the same time also disclose]* **only if it is also disclosed** that the title service charges, closing charges, and other charges are not filed with the state.

(E) If the insurer, title agency, or title agent discloses the above information in writing when giving a price estimate, the *[following disclosure statement]* **Title Insurance Premium and Title Service Charge Disclosure Form (Form T-1) as provided by the department** or a statement that substantially comports with the *[following] Form T-1* is acceptable*[:]*. **It is also acceptable if such disclosure is made upon a form other than the Form T-1, or upon a Form T-1 which has been modified by the insurer, title agency, or title agent, so long as the disclosure form used clearly, conspicuously, and distinctly discloses fees and charges in compliance with section 381.019, RSMo.**

[Title Insurance Premium and Title Service Charge Disclosure Statement

To: _____

Based upon the information available to us at this time, we estimate that you will pay, as part of your residential real estate transaction, the following premiums, charges, and/or fees:

- 1) Title insurance premium _____
- 2) closing protection fee(s) _____
- 3) Title service charge(s) (i.e., search and examination, clearing items, etc.) _____
- 4) Closing charge(s) _____

Title insurance premium and a closing protection fee have been calculated according to rates filed with the Missouri Department of Commerce and Insurance. However, title service charges, closing charges, and other fees are not limited by state law.

For further general information regarding title insurance, you may visit the Missouri Insurance website at www.insurance.mo.gov, or call the Missouri Department of Commerce and Insurance at (800) 726-7390.

Date

Title Agent

(2) Disclosure at a Residential Real Estate Closing. *[Title insurance premium, fee and charge disclosure at the closing of a residential real estate transaction shall be made in the following manner:]*

(A) In [C]losings that involve use of a HUD-1 form[.] or settlement statement,

[1. P]premium should be *[the only amount totaled on the "Title Insurance" line, usually line 1108. If multiple title insurance policies are reflected in the "Title Insurance" line, the premium amounts associated with each title insurance policy shall be distinguished],* on *[the HUD-1 form on a line] listed separately. Disclosures pursuant to the requirements of section 381.019, RSMo should be clear, conspicuous, and distinct with each of the following items, listed separately, on lines other than the ["title Insurance"] "premium" line[.]:*

[2.]1. *[Other charges including, but not limited to, the] Each closing protection fee[, abstract or title search and examination fees, escrow, settlement or closing fees, or other associated charges or fees shall be listed on lines other than the "Title Insurance" line]; [or]*

2. Each abstract or title search and examination fee;
3. Escrow fees;
4. Settlement or closing fees; and
5. Other charges or fees.

(B) In [C]losings that do not *[require]* involve use of *[a]* the HUD-1 form[. *Disclosure shall]* or settlement statements disclosures pursuant to the requirements of section 381.019, RSMo should be made on a disclosure form in substantially the same format as the form set forth in subsection (1)(E) of this rule or the Form T-1 provided by the department, but with final price detail and an acknowledgement of receipt by the purchaser.

(3) Misleading or Confusing Terms in Marketing Materials.

(A) Title insurers, title agencies, and title agents shall not use the terms "rate," "card rate," "premium," or other terms of similar import in marketing materials to describe an all-inclusive title insurance price, which aggregates both[.]:—

1. Premium; and
2. Charges that may be negotiable in the particular transaction.

(B) The total amount in subsection (1)(C) of this rule may be described in terms which convey both premium and charges, such as "total cost for title insurance and services" or "total cost for title insurance and charges.

AUTHORITY: sections 374.045, [RSMo 2000 and sections] 381.019, and 381.042, RSMo [Supp. 2007] 2016. Emergency rule filed Jan. 16, 2008, effective Jan. 28, 2008, expired July 14, 2008. Original rule filed Jan. 16, 2008, effective Sept. 30, 2008. Non-substantive change filed Sept. 11, 2019, published Oct. 31, 2019. Amended: Filed Jan. 27, 2020.

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 Commerce and Insurance, Attention: Josh Wille, PO Box 690, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 1:00 p.m. on April 2, 2020, at the Missouri Department of Commerce and Insurance, Room 530, 301 West High Street, Jefferson City, Missouri 65101.

**Title 20—DEPARTMENT OF COMMERCE AND INSURANCE
Division 500—Property and Casualty
Chapter 7—Title**

PROPOSED AMENDMENT

20 CSR 500-7.060 Disclosure of Coverage Limitation. The director is amending sections (1) and (2) of this rule.

PURPOSE: This amendment removes outdated information from section (1) and more clearly designates the forms to be used for disclosures required under sections 381.015 and 381.022.

(1) Lender's Title Insurance Limitation. *[Pursuant to] Agencies and agents making disclosure under section 381.015.2, RSMo, [in those purchase transactions where a lender's title insurance policy is to be issued simultaneously with the purchase of all or part of the real estate securing the loan and where no owner's title insurance policy has been requested, a title insurer, title agency, or title agent shall give written notice that the lender's title insurance policy does not provide title insurance protection to the purchaser-mortgagor, and that the purchaser-mortgagor may obtain an owner's title insurance policy within sixty (60) days of closing at a specified or approximate cost. The disclosure] shall [be made] make such disclosure using a Notice of Availability of Owner's Title Insurance form provided by the director (Form T-2), or any form that substantially comports with the specified form.*

(2) Closing and Settlement Risk.

(A) Title insurers, agencies, and agents making disclosure under subsections 5 and 6 of section 381.022, RSMo, may make this disclosure to the unprotected person with a Notice of Closing or Settlement Risk form provided by the director (Form T-3), or any form that substantially comports with the specified form.

AUTHORITY: sections 374.045, [RSMo 2000 and sections] 381.015, 381.022, and 381.042, RSMo [Supp. 2007] 2016. Emergency rule filed Jan. 16, 2008, effective Jan. 28, 2008, expired July 14, 2008. Original rule filed Jan. 16, 2008, effective Sept. 30, 2008. Amended: Filed Jan. 27, 2020.

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 Commerce and Insurance, Attention: Josh Wille, PO Box 690, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 1:00 p.m. on April 2, 2020, at the Missouri Department of Commerce and Insurance, Room 530, 301 West High Street, Jefferson City, Missouri 65101.

**Title 20—DEPARTMENT OF COMMERCE AND INSURANCE
Division 500—Property and Casualty
Chapter 7—Title**

PROPOSED AMENDMENT

20 CSR 500-7.070 Affiliated Business Arrangements. The director

is amending sections (1) and (2).

PURPOSE: The amendment allows filings under section 381.029 to be made electronically.

(1) Disclosure to Customer.

(A) It is unlawful for a title insurer, title agency, or title agent to accept an order for title services from any producer with an affiliated business arrangement, unless contemporaneous with the referral, the title insurer, title agency, or title agent discloses the affiliated business arrangement or has taken reasonable steps to verify that the producer has disclosed the arrangement. Disclosure to its customer of the existence of the affiliated business arrangement may be made by using the Affiliated Business Disclosure form (Form T-4), or any form that substantially comports with the specified form.

(B) The disclosure required by this rule may be made in combination with all disclosures made under rule 20 CSR 500-7.050.

(2) Annual Reports.

(A) *[The] Title Agency Financial Interest Report.*

1. Title agencies are required under section 381.029.3, RSMo, to report the agency's owners, the agency's ownership interests in other persons or businesses, and material transactions between the parties. Such report shall be filed with the department by March 31 of each year using The Agency Financial Interest Report (Form T-5A). Title agencies shall update and resubmit this Form T-5A within thirty (30) days of any material change to the information submitted regarding the agency's financial interests, parties with financial interests in the agency, or parties with financial interests in the insurer, agency, or agent who are producers or associates of producers.

2. Information related to material transactions collected pursuant to Form T-5A will be treated by the department as a trade secret as defined by section 417.453(4), RSMo, inasmuch as such information possesses economic value by virtue of its confidential status; the same or like information is unavailable through other sources; and insurers have made reasonable efforts to maintain the confidentiality of the data. As such, all information submitted pursuant to **the requirements of this rule, upon a Form T-5A**, shall be considered confidential communications and immune from requests made under Chapter 610, RSMo, nor shall such information otherwise be made available to the public or unauthorized individuals except in response to a valid court order.

(B) The Affiliated Business Arrangement Report. Title insurers, agencies, and agents are required under section 381.029.4, RSMo, to file reports with the director setting forth the names and addresses of any persons with a financial interest in the insurer, agency, or agent, which the insurer, agency, or agent knows to be producers or associates of producers, except the duty to report shall not include shareholders of record of any publicly-traded insurer. Such report shall be filed with the department by March 31 of each year using The Affiliated Business Arrangement Report (Form T-5B).

(C) **Reports and filings made under this rule may be delivered to the department, at Room 530, 301 W. High Street, Jefferson City, Missouri 65101. Such reports may also be delivered electronically, in either a Word or PDF format, or in such other electronic format as may be permitted by the director, to the Consumer Affairs Division at consumeraffairs@insurance.mo.gov. Electronically filed T-5As may indicate in the subject line of the email whether such email or attachments are entitled to confidential treatment under section 417.453(4), RSMo.**

AUTHORITY: sections 374.045, [RSMo 2000 and sections] 381.029.3, and 381.042, RSMo [Supp. 2007] 2016. Emergency rule filed Jan. 16, 2008, effective Jan. 28, 2008, expired July 14, 2008. Original rule filed Jan. 16, 2008, effective Sept. 30, 2008. Amended: Filed Jan. 27, 2020.

PUBLIC COST: This proposed amendment will not cost state agen-

cies 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 Commerce and Insurance, Attention: Josh Wille, PO Box 690, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 1:00 p.m. on April 2, 2020, at the Missouri Department of Commerce and Insurance, Room 530, 301 West High Street, Jefferson City, Missouri 65101.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE
Division 500—Property and Casualty
Chapter 7—Title**

PROPOSED AMENDMENT

20 CSR 500-7.090 Special Circumstances for Policy Delay. The director is amending sections (1) and (3) of the rule and adding new sections (4) and (5).

PURPOSE: This amendment clarifies disclosure and documentation requirements which must be met prior to the issuance of a title insurance policy.

(1) "Meeting the requirements," means the receipt of documents or completion of tasks set out in the requirements section of the commitment or Schedule B-1; or, if the commitment does not have requirements, then receipt of documents and/or completion of **all tasks [required by] included in** the closing instructions **which are necessary** to create the estate to be insured.

(2) A title policy must be issued within forty-five (45) days after meeting the requirements of the commitment, except in the following circumstances:

(A) The title insurer, title agency, or title agent has filed, in the office of the recorder of deeds, the deed and/or security instruments, but the deed and/or security instruments have not yet been recorded; or

(3) *[A] The title insurer, title agency [or], and title agent [has] have* the burden of proving **compliance with section (2) and of proving** any exception under *[this rule] subsection (2)(A), (B), or (C).*

(4) A contemporaneous record of policy issuance submitted to the insurer evidencing compliance with section (2) shall establish a rebuttable presumption that the policy was issued in compliance with the requirements of section 381.038.3, RSMo.

(5) To document timely issuance of each title insurance policy, title agents and agencies shall transmit and insurers shall retain evidence of each policy issued to its insureds. Such evidence shall include:

(A) Earliest date on which all requirements of the commitment were met;

(B) The date the policy was issued and delivered to the insured;

(C) A copy of the policy or information sufficient to identify or reproduce the policy; and

(D) Any applicable circumstances under subsection (2)(A), (B), or (C) which are relied upon to excuse timely issuance.

AUTHORITY: sections 374.045, [RSMo 2000 and sections] 381.038, and 381.042, RSMo [Supp. 2007] 2016. Emergency rule filed Jan. 16, 2008, effective Jan. 28, 2008, expired July 14, 2008. Original rule filed Jan. 16, 2008, effective Sept. 30, 2008. Amended: Filed Jan. 27, 2020.

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 Commerce and Insurance, Attention: Josh Wille, PO Box 690, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 1:00 p.m. on April 2, 2020, at the Missouri Department of Commerce and Insurance, Room 530, 301 West High Street, Jefferson City, Missouri 65101.

Title 20—DEPARTMENT OF COMMERCE AND INSURANCE
Division 500—Property and Casualty
Chapter 7—Title

PROPOSED AMENDMENT

20 CSR 500-7.200 Standards for Policy Issuance. The director is amending sections (1) through (3) and adding a new section (4) to this rule.

PURPOSE: This amendment clarifies standards and exceptions applicable to title searches and examinations conducted pursuant to the requirements of section 381.071, RSMo; the amendment also provides needed guidance on title plant registration.

(1) Examination of Title.

(A) *[Before a title insurance policy is written,] Pursuant to the requirements of section 381.071, RSMo no title insurance policy may be written until the title insurer or its licensed agent [shall cause] has caused a search of the title which is to be insured. The search of the title shall be based upon evidence prepared from a current set of records maintained in order to show all matters affecting the title to the property or interest which is to be insured for a continuous period of not less than the immediate past forty-five (45) years, [except for the time table allowed by section 381.071.1(1), RSMo (Cum. Supp. 1989) for a gradual compliance. The set of records used in the search of the title shall be indexed geographically and shall encompass all properties in the county for which the set of records is maintained.] to be made at a title plant containing records of the county in which the property is located. The examiner shall conduct a thorough search and document all matters affecting the title and interest to be insured for a continuous period of time in accordance with sound underwriting practices.*

(2) Exceptions.

(B) *[If a set of records geographically indexed is not in existence in the county where the property subject to examination of title is located, the title insurance policy shall be based upon] no title plant of the county where the property is located exists, or the title plant refuses to furnish title evidence at a reasonable charge and within a reasonable period of time, then a search of the best title evidence available[.] will suffice, provided*

the examination of title is based on a thorough search of available records, documents all matters affecting the title, and interest to be insured for a continuous period of time, and is in accordance with sound underwriting practices.

[(C) If evidence for an examination of title cannot be obtained from a set of records geographically indexed at a reasonable charge or within a reasonable period of time, the title insurance policy shall be based upon the best title evidence available.

(D) The best title evidence available is that evidence which a reasonable and prudent person would depend upon in the conduct of his/her own affairs as determined by the circumstances in existence in the county where the subject property is located.]

(3) Documentation.

(A) **The evidence of the examination of title prepared and retained pursuant to the requirements of section 381.071, RSMo shall include the following:**

[(A)]1. [The individual who performed the examination of title on behalf of the title insurer shall verify in a]A written statement indicating the individual who performed the title search and examination on behalf of the title insurer which shall verify where s/he obtained the evidence used in the examination of title[. If]; and

2. A written statement as to whether the title examiner [followed] relied upon any of the exceptions as stated in section (2) of this regulation, [s/he shall state in the written statement,] and if so, a statement in clear and specific terms, the reasons for [following any] relying upon the exception.

(B) *The written statement [required by subsection (3)(A) of this regulation] shall be placed in and made a part of the title insurance company's files or that of its agent or agency for a period of not less than fifteen (15) years after the title insurance policy has been issued.*

[(C) The director shall maintain a Missouri title plant registry. Any entities which can be defined as a title plant pursuant to section 381.031(22), RSMo Cum. Supp. 1989, shall annually file with the director a registration statement in a Title Plant Registration form (Form T-12), or any form that substantially comports with the specified form. No filing fee is mandated. Form T-12 can be accessed at the department's website at www.insurance.mo.gov or at the department offices.]

(4) Title plant Registration.

(A) **Any title plant may register with the director by filing an annual registration statement with the department upon a Title Plant Registration Form (Form T-12), or any form that substantially comports with the specified form or any form may be allowed by the director. Form T-12 can be accessed at the department's website at www.insurance.mo.gov or at the department's offices.**

(B) **To maintain a registration with the department, each Title Plant will re-submit the Title Plant Registration Form by March 31 of each year.**

(C) **No fees will be associated with submission Title Plant Registration forms pursuant to this section.**

AUTHORITY: sections 374.045[, RSMo 2000] and [section] 381.042, RSMo [Supp. 2007] 2016. This rule was previously filed as 4 CSR 190-20.060. Original rule filed Dec. 1, 1989, effective June 29, 1990. Amended: Filed April 23, 1999, effective Nov. 30, 1999. Emergency amendment filed Jan. 16, 2008, effective Jan. 28, 2008, expired July 14, 2008. Amended: Filed Jan. 16, 2008, effective Sept. 30, 2008. Amended: Filed Jan. 27, 2020.

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 Commerce and Insurance, Attention: Josh Wille, PO Box 690, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 1:00 p.m. on April 2, 2020, at the Missouri Department of Commerce and Insurance, Room 530, 301 West High Street, Jefferson City, Missouri 65101.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE
Division 700—Insurance Licensing
Chapter 4—Utilization Review**

PROPOSED AMENDMENT

20 CSR 700-4.100 Utilization Review. The director is amending the purpose, sections (1) through (3), (5) and (6), and updating the form incorporated by reference.

PURPOSE: This amendment modifies the purpose statement appearing in the *Code of State Regulations* to more accurately reflect the content of the rule. The amendment also reformats filing and other requirements, clarifies that late renewal penalties are discretionary, and removes a restriction limiting registered entities to the use of one (1) fictitious name.

PURPOSE: This rule sets forth the procedure for a utilization review agent to obtain and maintain a certificate of registration [and prescribes], and establishes fees and forms pursuant to the requirements of section 374.505, RSMo. The rule also clarifies the standards [to which the] applicable to utilization review [agent must adhere in order to conduct] agents conducting utilization review in this state. [This rule is adopted pursuant to section 374.515, RSMo and implements sections 374.500–374.515, RSMo.]

(1) [A utilization review agent may not conduct utilization review in this state without a certificate of registration issued by the director of the department. The] Pursuant to the requirements of section 374.505, RSMo, each application for a certificate of registration as a utilization review agent shall—

(A) [b/Be submitted to the department on [the form approved by this rule. The application shall] a form provided by the department;

(B) [b/Be signed by the applicant or, if the applicant is a corporation, by an officer or, if the applicant is a partnership, by one (1) of the partners]. The application shall];

(C) [b/Be accompanied by an [application] initial registration fee of one thousand dollars (\$1,000)].;

(D) Disclose all fictitious names under which the applicant entity will operate as a utilization review agent in this state; and

(E) Provide any other reasonably related supporting documentation necessary to process the utilization review agent's registration.

(2) Each recipient of a certificate of registration may maintain their registration by filing for renewal annually on or before the anniversary date of the initial certificate as shown on the original certification. Each application for renewal shall—

(A) Be submitted on [the form approved by this rule] a form provided by the department;

(B) Be accompanied by a renewal fee of five hundred dollars (\$500). The certificate of registration issued to a utilization review agent shall be renewed annually on or before the anniversary date of the initial certificate as shown on the original certification]; [and]

(C) Be accompanied by a list of the utilization review agent's current health plan clients with contact information for each such health plan client. A list of the health plan's clients is not [required to accompany the application.] necessary;

(D) Disclose all fictitious names under which the applicant entity has and will operate as a utilization review agent in this state; and

(E) Provide any other reasonably related supporting documentation necessary to maintain the utilization review agent's registration.

(3) Failure to renew a certificate of registration [in a timely manner shall] may result in a fine as set forth in section 374.280, RSMo.

(5) Any utilization review agent doing business in this state under a name other than its true name shall file with the director a copy of all documents, including the authorization from the Missouri Secretary of State which shows the legal authority for the utilization review agent to use such other name. [Even though multiple names may be registered with the Missouri Secretary of State, the utilization review agent must choose only one (1) authorized name a certificate of authority to conduct business as a utilization review agent.]

(6) [Per] Pursuant to section 374.510, RSMo, the minimum requirements [for] of sections 376.1350 to 376.1399, RSMo, [shall apply] as applied to utilization review agents. Such requirements include, but are not limited to, the following:

(A) [Any] That any medical director who administers the utilization review program or oversees the review decisions [shall] be a qualified health care professional licensed in the state of Missouri].;

(B) That [A/a licensed clinical peer [shall] evaluate the clinical appropriateness of adverse determinations;

[(B)](C) That [U]utilization review decisions [shall] be made and issued in a timely manner pursuant to the requirements of sections 376.1363, 376.1365, and 376.1367, RSMo;

[(C)](D) That [A/a utilization review agent [shall] provide health plan enrollees and health plan participating providers with timely access to its review staff by a toll-free number;

[(D)](E) That [W/when conducting utilization review, the utilization review agent shall collect only the information necessary to certify the admission, procedure or treatment, length of stay, frequency, and duration of services]. No utilization review agent shall] and not require or request a Federal Drug Enforcement Administration Number or a Missouri Controlled Substance Registration Number from any provider;

[(E)](F) That [C/compensation to persons providing utilization review services for a utilization review agent [shall] not contain direct or indirect incentives for such persons to make medically inappropriate review decisions]. Compensation to any such persons may not] or be directly or indirectly based on the quantity or type of adverse determinations rendered;

[(F)](G) [If] That a utilization review agent [is] responsible for pre-approving any covered benefits or services[, then the utilization review agent shall] issue a confirmation number to the enrollee when it authorizes the provision of health care services; and

[(G)](H) That [If]if a utilization review agent authorizes the provision of health care services, the utilization review agent [shall] not subsequently retract its authorization after the health care services have been provided, or reduce payment for an item or service furnished in reliance on approval, unless[:]—

1. Such authorization is based on a material misrepresentation or omission about the treated person's health condition or the cause of the health condition; or

2. The health benefit plan terminates before the health care services are provided; or

3. The covered person's coverage under the health benefit plan terminates before the health care services are provided.

AUTHORITY: section 374.515, [RSMo 2000 and section 376.1399,] RSMo [Supp. 2007] 2016. Emergency rule filed Nov. 1, 1991, effective Nov. 11, 1991, expired March 10, 1992. Original rule filed Nov. 1, 1991, effective May 14, 1992. For intervening history, please consult the Code of State Regulation. Amended: Filed Jan. 27, 2020.

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 Commerce and Insurance Attention: Megan VanAusdall, PO Box 690, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for April 2, 2020 at 1 p.m. at the Missouri Department of Commerce and Insurance, Room 530, 301 West High Street, Jefferson City, Missouri 65101.

Title 20—DEPARTMENT OF COMMERCE AND INSURANCE

Division 700—Insurance Licensing Chapter 8—Title Agencies and Title Agents

PROPOSED AMENDMENT

20 CSR 700-8.005 Scope and Definitions. The director is amending sections (1) and (2) of this rule.

PURPOSE: This amendment removes an unnecessary reference to chapter 536, RSMo and clarifies definitions applicable to title insurance agents and agencies.

(1) Applicability of Rules. The rules in this chapter apply to title agents and title agencies transacting the business of insurance in this state under [C]chapter 381, RSMo, including those licensed as insurance producers under section 375.018, RSMo. [The rules shall be read together with chapter 536, RSMo.]

(2) Definitions.

(A) "Director," the director of the department;

(B) "Department," the Department of Commerce and Insurance;

(E) "Licensee," [a] the person or entity authorized under an insurance producer license by this state to act as a title agent or title agency;

(H) "Title agency," any partnership, corporation, association, sole proprietorship, or any other legal entity [not an individual] other than a natural person, which as an agent of a title insurer or representative of the title agent or agency, transacts the business of title insurance; and

(I) "Title agent," any [individual] natural person, who as an agent of a title insurer or representative of the title agent or agency, transacts the business of title insurance.

AUTHORITY: sections 374.045, [RSMo 2000 and sections] 381.042, and 381.115, RSMo [Supp. 2007] 2016. Original rule filed Jan. 17, 2008, effective Sept. 30, 2008. Non-substantive change filed Sept. 11, 2019, published Oct. 31, 2019. Amended: Filed Jan. 27, 2020.

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 Commerce and Insurance, Attention: Josh Wille, PO Box 690, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for 1:00 p.m. on April 2, 2020, at the Missouri Department of Commerce and Insurance, Room 530, 301 West High Street, Jefferson City, Missouri 65101.

Title 20—DEPARTMENT OF COMMERCE AND INSURANCE Division 700—Insurance Licensing Chapter 8—Title Agencies and Title Agents

PROPOSED AMENDMENT

20 CSR 700-8.150 Title Agent and Qualified Principal Examination Requirements. The director is amending the title of this rule and amending sections (1), (2), and (3) and removing section (4), the director is also adding a new section (2) and renumbering sections as necessary.

PURPOSE: The proposed amendment provides clarity regarding expiration of examination results and the title agency qualified principal requirement. The proposed amendment also makes it clear that the qualified principal examination can be used to satisfy the agent examination requirements and explains how the designation of qualified principals operates as a component in title agency registration.

(1) Title Agents. [Before] **Prior to submitting an application for a title agent license to the department and before** an individual may be licensed as a title agent, the applicant must first take and pass either the Missouri Title Agent Examination[, approved by the director, testing both the individual's knowledge regarding title services, title insurance, real estate closings, and title insurance statutes and regulations. The examination must be taken and passed prior to submitting an application for a title agent license to the department] or the **Title Agency Qualified Principal Examination.**

(2) **Time Limitation. For purposes of compliance with this examination requirement, the applicant has one (1) year from the date of the examination to submit an application for licensure to the department.**

[(2)](3) **Title Agency Qualified Principals. [Before a business entity may be licensed as a title agency, the] Pursuant to the requirements of section 381.118, RSMo, prior to submitting an application to become licensed as a title agency, each applicant title agency must designate [a qualified principal who has] at least one (1) authorized title agent to serve as the title agency's qualified principal. The designated qualified principal must have taken and passed the Missouri Title Agency Qualified Principal**

examination[, approved by the director, testing the individual's knowledge regarding title services, title insurance, real estate closings, and title insurance statutes and regulations. The examination must be taken and passed by the qualified principal prior to submitting an application for a title agency license to the department] or be exempt from the qualified principal examination requirement. Each title agency will maintain a current and updated list of title agents who have been designated to act as the title agency's qualified principal, the list will include at least one (1) such title agent but may include any number of title agents so long as each designated agent has taken and passed the Missouri Title Agency Qualified Principal Examination or is exempt from such examination.

[(3)](4) Testing Service. The department contracts with an independent testing service, which administers the examinations referred to in this rule. In order to take an examination, it may be necessary for an individual [must] to register and pay the appropriate fee to the independent testing service designated by the director. Instructions may be obtained from the independent testing service or the department.

[(4) Time Limitation. Once an individual has passed an examination, the applicant has one (1) year from the date of the examination in which to submit an application for licensure to the department. If an applicant fails to submit an application for licensure to the department within this time period, the applicant must take and pass the examination again before the applicant may be licensed.]

AUTHORITY: sections 374.045, [RSMo 2000 and sections] 381.042, and 381.118, RSMo [Supp. 2007] 2016. Emergency rule filed Jan. 16, 2008, effective Jan. 28, 2008, expired July 25, 2008. Original rule filed Jan. 16, 2008, effective Sept. 30, 2008. Amended: Filed Jan. 27, 2020.

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 Commerce and Insurance, Attention: Josh Wille, PO Box 690, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 1:00 p.m. on April 2, 2020, at the Missouri Department of Commerce and Insurance, Room 530, 301 West High Street, Jefferson City, Missouri 65101.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE**
**Division 2120—State Board of Embalmers and Funeral
Directors**
Chapter 3—Preneed

PROPOSED RESCISSION

20 CSR 2120-3.515 Single Premium Annuity Contracts. This rule stated that while only single premium annuity contracts could fund an insurance-funded preneed contract, purchasers could purchase replacement single premium annuity contracts during the contract period.

PURPOSE: This proposed rescission is being made because this language is addressed in statute.

AUTHORITY: sections 333.340, 436.405, and 436.520, RSMo Supp. 2009. Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010. Rescinded: Filed Jan. 30, 2020.

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 State Board of Embalmers and Funeral Directors, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155, or via email to embalm@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 20—DEPARTMENT OF COMMERCE AND
INSURANCE**
**Division 2120—State Board of Embalmers and Funeral
Directors**
Chapter 3—Preneed
PROPOSED RULE

20 CSR 2120-3.530 Confidentiality of Preneed Records Obtained by the Board through Financial Examination, Audit, or Investigation

PURPOSE: The purpose of this rule is to ensure confidentiality of consumer records and confidential data of licensees and registrants.

(1) Upon completion of any financial exam, audit, or investigation involving preneed records, the board members may be provided with a summary of the results of the exam, audit, or investigation and any such summary shall not include information made confidential per section 436.525, RSMo, unless such information is required for the board to evaluate whether the board should take further action.

(2) No individual member of the board shall be given access to review the work papers of the examiners, auditors, or investigator related to the examination, audit, or investigation of preneed records unless such access has been specifically approved by the board, as a body. Work papers shall include any records or information obtained from any licensee, registrant, or any other source that includes any information made confidential by section 436.525, RSMo. Work papers shall also include any compilation, spreadsheet, or other record prepared by the examiner, auditor, or investigator from information and records obtained from the licensee, registrant, or other source that contains information made confidential by section 436.525, RSMo. Work papers shall not include any document that would otherwise be an open record under Missouri law.

AUTHORITY: sections 333.III and 436.525, RSMo 2016. Original rule filed Jan. 30, 2020.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Embalmers and Funeral Directors, Lori Hayes, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155, or via email to embalm@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 20—DEPARTMENT OF COMMERCE AND INSURANCE

Division 2120—State Board of Embalmers and Funeral Directors

Chapter 3—Preneed

PROPOSED RULE

20 CSR 2120-3.540 Financial Examination-Audit Process and Procedures

PURPOSE: This rule provides clarification of the financial examination process and procedures to educate licensees and the public.

(1) The board shall conduct a financial examination of the books and records of each seller at least once every five (5) years, subject to available funding.

(2) The board shall conduct financial examinations or audits as a means to ensure compliance with the provisions of Chapters 333 and 436.400 to 436.525, RSMo, and 20 CSR 2120-3 as those statutes and regulations relate to preneed funeral contracts.

(3) The board will set the scope of financial examinations.

(4) Upon determining that a financial examination or audit of a seller is to be conducted, the board will issue a notice to the assigned examiner that will instruct the examiner as to the scope of the financial examination or audit.

(5) Before the board begins a financial examination or audit, the board may provide notice to the seller that the board will be conducting a financial examination. This notice will contain the following:

(A) Notice to the seller that the board will be conducting a financial examination or audit; and

(B) A request of the seller to submit to the board specified records the board will require to begin the financial examination or audit and a date by which those records are due to the board. The board may request copies of statements showing trust balances and assets, joint account statements, verification of insurance for insurance funded preneed contracts, copies of ledgers or reports detailing all active preneed contracts, copies of agreements with providers, agents, trustees, and any other records the board deems relevant to conduct the financial examination or audit.

(6) Seller will be given opportunity to provide response to the financial examination or audit report.

(7) Upon the board's determination that all exceptions identified in a financial examination or audit have been resolved, the board will provide written notice to the seller that the financial examination or audit has been closed by the board.

AUTHORITY: sections 333.330, 333.340, 436.470, and 436.520, RSMo 2016. Original rule filed Jan. 30, 2020.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Embalmers and Funeral Directors, Lori Hayes, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155, or via email to embalm@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 20—DEPARTMENT OF COMMERCE AND INSURANCE

Division 2120—State Board of Embalmers and Funeral Directors

Chapter 3—Preneed

PROPOSED RULE

20 CSR 2120-3.550 Seller Fees and Charges on Preneed Contracts

PURPOSE: This rule clarifies how optional fees and charges for items other than funeral services and funeral merchandise shall be shown on a preneed contract.

(1) If a seller and purchaser agree to include any optional fees or charges on a preneed contract for items other than funeral services and funeral merchandise, as those terms are defined in these rules and by provisions of Chapters 333 and sections 436.400 to 436.525, RSMo, the contract must include a description of each optional fee or charge as it is shown on the general price list. Examples of optional fees or charges that might be part of a preneed contract include fees for installment payments on the preneed contract, price protection, or price guarantee fees.

(2) With the exception of credit life premiums and the board's state contract fee, as authorized by sections 436.400 to 436.525, RSMo, all optional fees or charges shall be considered as payments on the preneed contract and must be deposited pursuant to sections 436.400 to 436.525, RSMo, into trust or joint account, as per the terms of the preneed contract. For insurance funded preneed contracts, any optional fees shall be considered as part of the preneed contract.

AUTHORITY: sections 333.340, 436.425, 436.430, and 436.520, RSMo 2016. Original rule filed Jan. 30, 2020.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Embalmers and Funeral Directors, Lori Hayes, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155, or via email to embalm@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 20—DEPARTMENT OF COMMERCE AND
INSURANCE**
**Division 2120—State Board of Embalmers and Funeral
Directors**
Chapter 3—Preneed
PROPOSED RULE

20 CSR 2120-3.560 Cemetery Exemption

PURPOSE: The purpose of the rule is to provide clarification regarding what preneed falls within Chapter 436, RSMo and Chapter 214, RSMo.

(1) Pursuant to section 333.310, RSMo, a cemetery is exempt from the licensure requirements of sections 333.315 and 333.320, RSMo, when all of the following conditions are satisfied:

(A) The cemetery has a current and valid license issued pursuant to section 214.275, RSMo;

(B) All sales of merchandise made by the cemetery that would otherwise be defined as a preneed contract for funeral merchandise are made pursuant to a contract whereby such merchandise is either—

1. Purchased in conjunction with an interment right or grave space subject to section 214.320, RSMo; or

2. Made to be delivered to an interment right or grave subject to section 214.320, RSMo, that is owned by the purchaser and identified in the contract;

(C) The cemetery has not been found to be in non-compliance with sections 214.385 or 214.387, RSMo, by the Office of Endowed Care Cemeteries pursuant to a completed examination, audit, decision of the Administrative Hearing Commission, or order of any court; and

(D) The cemetery does not offer funeral services that may only be provided by a Missouri licensed funeral director or embalmer.

AUTHORITY: sections 333.III and 333.310, RSMo 2016. Original rule filed Jan. 30, 2020.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Embalmers and Funeral Directors, Lori Hayes, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423, by facsimile at (573) 751-1155, or via email to embalm@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 20—DEPARTMENT OF COMMERCE AND
INSURANCE**
Division 2245—Real Estate Appraisers
Chapter 3—Applications for Certification and Licensure

PROPOSED AMENDMENT

20 CSR 2245-3.005 Trainee Real Estate Appraiser Registration.
The commission is amending sections (4) and (6).

PURPOSE: The proposed amendment extends the length of time a trainee may hold a trainee license.

(4) On or after July 1, 2013, trainee applicants in addition to the requirements outlined in section (3) of this rule will also be required to submit—

(E) *[Licenses or certificates issued to trainees will be valid for a period of four (4) years from the date of issuance. The holder of a license or certificate as a trainee may request an extension in writing and for just cause at least thirty (30) days prior to the expiration date. The commission may grant one (1) extension for one (1) additional year] Licenses or certificates issued to trainees will be valid for a period of ten (10) years from the date of issuance. Thereafter, the holder of a license or certificate as a trainee may request on an annual basis, a one (1) year extension in writing and for just cause at least thirty (30) days prior to the expiration date; and*

(6) Training.

[(H) A certified appraiser may not serve as the supervising appraiser for an individual trainee for more than five (5) years, unless otherwise approved by the commission for good cause. The “trainee real estate appraiser” registration is not intended as a long-term method of performing appraisal services in the absence of progress toward licensure or certification as an appraiser. A supervising appraiser shall not serve as supervising appraiser for any trainee if the supervisor has knowledge that the trainee does not intend to progress toward licensure or certification or with the intent to evade the appraiser licensing or certification requirements of Chapter 339, RSMo.]

AUTHORITY: section 339.509[(8)], RSMo 2016. Original rule filed Nov. 21, 2006, effective July 30, 2007. For intervening history, please consult the Code of State Regulations. Amended: Filed Jan. 30, 2020.

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 Real Estate Appraisers Commission, Vanessa Beauchamp, Executive Director, PO Box 1335, Jefferson City, MO 65102, by faxing comments to (573) 751-0038, or by emailing comments to reacom@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.