

Table I - Biocriteria Reference Locations

| Streams | Counties | Upstream Location | Downstream Location |
|--------------------------|----------------------|-------------------------|--------------------------|
| Apple Creek | Cape Girardeau/Perry | W ½ Sec. 29 T34N R11E | NW Sec. 3 T33N R11E |
| Big Creek | Shannon | E ½ Sec. 12 T30N R04W | N 1/2 Sec. 36 T30N R04W |
| Big Sugar Creek | McDonald | SE Sec. 1 T21N R30W | NW Sec. 21 T22N R30W |
| Blair Creek | Shannon | SE Sec. 25 T30N R03W | NW Sec. 18 T29N R02W |
| Boeuf Creek | Franklin | SW Sec. 36 T44N R04W | NW Sec. 30 T44N R03W |
| Bryant Creek | Douglas | NW Sec. 10 T25N R14W | E ½ Sec. 15 T25N R14W |
| Bull Creek | Christian/Taney | SE Sec. 25 T25N R21W | NE Sec. 3 T24N R21W |
| Burriss Fork | Moniteau | NW Sec. 6 T43NR15W | NW Sec. 28 T44N R15W |
| Castor River | Madison | NW Sec. 10 T33N R08E | S 1/2 Sec. 16 T33N R08E |
| Cedar Creek | Cedar | E ½ Sec. 29 T34N R27W | N 1/2 Sec. 09 T34N R27W |
| Center Creek | Lawrence | SE Sec. 18 T27N R28W | NE Sec. 24 T27N R29W |
| Deer Creek | Benton | SE Sec. 31 T40N R20W | NE Sec. 30 T40N R20W |
| East Fork Black River | Reynolds | E Sec. 08 T33N R02E | W ½ Sec. 16 T33N R02E |
| East Fork Crooked River | Ray | NE Sec. 02 T52N R27W | SE Sec. 14 T52N R27W |
| East Fork Grand River | Worth | NE Sec. 32 T66N R30W | NW Sec. 13 T65N R31W |
| Grindstone Creek | DeKalb | SW Sec. 10 T58N R30W | NW Sec. 02 T58N R30W |
| Heaths Creek | Saline | SE Sec. 27 T48N R21W | N ½ Sec. 23 T48N R20W |
| Honey Creek | Nodaway | N 1/2 Sec. 12 T65N R34W | SW Sec. 25 T65N R34W |
| Horse Creek | Cedar | SW Sec. 09 T34N R28W | N ½ Sec. 02 T34N R28W |
| Huzzah Creek | Crawford | SE Sec. 29 T36N R02W | NE Sec. 18 T36N R02W |
| Jacks Fork River | Texas/Shannon | SE Sec. 35 T28N R07W | NW Sec. 04 T27N R06W |
| Jones Creek | Jasper | NE Sec. 24 T27N R31W | NW Sec. 12 T27N R31W |
| Little Black River | Ripley | E ½ Sec. 09 T24N R03E | SE Sec. 23 T24N R03E |
| Little Drywood Creek | Vernon | NW Sec. 06 T33N R31W | SE Sec. 30 T35N R31W |
| Little Fox River | Clark | S 1/2 Sec. 14 T66N R09W | SE Sec. 24 T66N R09W |
| Little Maries River | Maries | SW Sec. 34 T41N R10W | W ½ Sec. 26 T41N R10W |
| Little Niangua River | Hickory | NE Sec. 26 T37N R20W | SE Sec. 35 T38N R20W |
| Little Piney Creek | Phelps | NE Sec. 05 T35N R08W | NE Sec. 31 T36N R08W |
| Little Whitewater River | Cape Girardeau | NW Sec. 01 T32N R09E | NE Sec. 16 T32N R10E |
| Locust Creek | Putnam | S ½ Sec. 10 T66N R20W | NE Sec. 34 T66N R20W |
| Long Branch Platte River | Nodaway | SE Sec. 30 T63N R34W | NE Sec. 29 T62N R34W |
| Loutre River | Montgomery | E ½ Sec. 17 T48N R06W | SE Sec. 10 T47N R06W |
| Main Ditch | Dunklin | S ½ Sec. 20 T20N R10E | NE Sec. 08 T19N R10E |
| Maple Slough Ditch | Mississippi | NW Sec. 34 T25N R15E | Sec 3 & 4 Line T24N R15E |
| Marble Creek | Madison | E ½ Sec. 24 T32N R04E | E 1/2 Sec. 21 T32N R05E |
| Marrowbone Creek | Daviess | SW Sec. 18 T58N R27W | NE Sec. 08 T58N R27W |
| Meramec River | Dent | SE Sec. 13 T35N R05W | NW Sec. 11 T35N R05W |
| Middle Fabius River | Lewis | NE Sec. 15 T62N R09W | SE Sec. 04 T61N R08W |
| Mikes Creek | McDonald | E ½ Sec. 15 T22N R30W | SW Sec. 16 T22N R30W |
| Mill Creek | Phelps | NE Sec. 08 T36N R09W | NW Sec. 28 T37N R09W |
| Moniteau Creek | Cooper | SW Sec. 20 T46N R16W | E ½ Sec. 23 T46N R16W |
| No Creek | Livingston/Grundy | S ½ Sec. 31 T60N R23W | SE Sec. 01 T59N R24W |
| North Fork River | Douglas | SE Sec. 12 T26N R12W | SW Sec. 19 T26N R11W |
| North River | Marion | NW Sec. 15 T58N R08W | SE Sec. 32 T58N R07W |
| Petite Saline Creek | Cooper | W ½ Sec. 15 T48N R16W | SE Sec. 12 T48N R16W |
| Pomme De Terre River | Polk | NE Sec. 16 T31N R20W | SW Sec. 01 T31N R21W |
| Richland Creek | Morgan | NE Sec. 04 T43N R18W | SE Sec. 28 T44N R18W |
| River Aux Vases | Ste. Genevieve | E ½ Sec. 33 T37N R08E | SW Sec. 26 T37N R08E |
| Saline Creek | Miller | NW Sec. 23 T41N R14W | NW Sec. 25 T41N R14W |
| Saline Creek | Ste. Genevieve | NE Sec. 35 T36N R08E | SW Sec. 32 T36N R09E |
| Sinking Creek | Reynolds | SE Sec. 17 T30N R02E | NE Sec. 35 T30N R02E |
| Sinking Creek | Shannon | SE Sec. 32 T31N R04W | NE Sec. 08 T30N R04W |
| South Fabius River | Marion | SE Sec. 18 T59N R08W | SE Sec. 26 T59N R08W |
| South River | Marion | NW Sec. 06 T57N R05W | SW Sec. 21 T58N R05W |
| Spring Creek | Adair | N ½ Sec. 14 T63N R17W | NE Sec. 30 T63N R16W |
| Spring Creek | Douglas | NW Sec. 26 T25N R11W | NW Sec. 34 T25N R11W |
| Tavern Creek | Miller | NW Sec. 07 T38N R12W | NW Sec. 33 T39N R12W |
| Turnback Creek | Lawrence | S ½ Sec. 29 T29N R25W | SE Sec. 12 T29N R26W |
| West Fork Big Creek | Harrison | NE Sec. 15 T65N R28W | SW Sec. 22 T65N R28W |
| West Locust Creek | Sullivan | SW Sec. 03 T62N R21W | N 1/2 Sec. 23 T62N R21W |
| West Piney Creek | Texas | NW Sec. 20 T30N R10W | SW Sec. 10 T30N R10W |
| White Cloud Creek | Nodaway | NW Sec. 06 T62N R35W | SE Sec. 18 T62N R35W |

Table J - Water Quality Standards Variances

| Facility Name | Permit ID | Effective Permit Date | Facility's Main Discharge Location | | Receiving Stream | WBID | HUC 8 | Highest Attainable Condition (designated use and criterion) | | Variance Expiration (EPA Approval) Date |
|--------------------------|------------|-----------------------|------------------------------------|----------------|----------------------------|------|----------|-------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------|
| | | | Easting (UTM) | Northing (UTM) | | | | | | |
| Fulton WWTP | MO-0103331 | 1/1/15 | 592755.59 | 4299234.181 | Stinson Creek | 710 | 10300102 | AQL | 9 mg/L - CBOD 5 mg/L - TSS 4.0 mg/L - TN 0.10 mg/L - TP | 12/31/35 (2/25/15) |
| Joplin Turkey Creek WWTP | MO-0103349 | *TBD | 361664 | 4109167 | Turkey Creek | 3216 | 11070207 | AQL | Zinc, TR 396 µg/L – daily max 228 µg/L – monthly average | 10 years following EPA approval |
| Bolivar WWTF | MO-0022373 | *TBD | 465817 | 4163555 | Town Branch of Piper Creek | 1444 | 10290107 | AQL | 25 mg/L - 5-Day BOD** 18 mg/L - TN 2.5 mg/L - TP | 12/31/2027 (*TBD) |

* Effective upon issuance of the permit and EPA approval
** Includes CBOD and NBOD

Table K - Site-Specific Criteria.

Site-Specific Criteria established pursuant to 10 CSR 20-7.031(5)(S).

| | | | |
|-------------|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| Parameter: | Dissolved Oxygen | Daily Average Criterion: | 4.4 mg/L |
| Water Body: | Sni-a-bar Creek Class P, WBID 399 | Daily average dissolved oxygen concentrations shall not fall below 4.4 mg/L between July 1 and September 30 as measured by a minimum of 4 samples collected within a 24-hour period. All measurements shall be spaced a minimum of 5 hours apart. | |
| Season: | July – September | | |
| Hydrology: | Baseflow Conditions | | |
| County: | Jackson | | |
| HUC 8 : | 10300101 | Daily Minimum Criterion: | 4.0 mg/L |
| UTM From: | 403598 / 4321954 (Easting / Northing) | Daily minimum dissolved oxygen concentration shall not fall below 4.0 mg/L between July 1 and September 30. | |
| UTM To: | 398010 / 4320907 (Easting / Northing) | | |

Table L: Lake Ecoregion Chl-a Response Impairment Threshold Values (µg/L)

| Lake Ecoregion | Chl-a Response Impairment Thresholds |
|----------------|--------------------------------------|
| Plains | 30 |
| Ozark Border | 22 |
| Ozark Highland | 15 |

Table M: Lake Ecoregion Nutrient Screening Threshold Values (µg/L)

| Lake Ecoregion | Nutrient Screening Thresholds | | |
|----------------|-------------------------------|-----|-------|
| | TP | TN | Chl-a |
| Plains | 49 | 843 | 18 |
| Ozark Border | 40 | 733 | 13 |
| Ozark Highland | 16 | 401 | 6 |

Table N: Site-Specific Nutrient Criteria

| Lake Ecoregion | Lake | County | Site-Specific Criteria (µg/L) | | |
|------------------|----------------------------------------|----------------|-------------------------------|-----|-------|
| | | | TP | TN | Chl-a |
| Plains | Bowling Green Lake | Pike | 21 | 502 | 6.5 |
| | Bowling Green Lake (old) | Pike | 31 | 506 | 5.0 |
| | Forest Lake | Adair | 21 | 412 | 4.3 |
| | Fox Valley Lake | Clark | 17 | 581 | 6.3 |
| | Hazel Creek Lake | Adair | 27 | 616 | 6.9 |
| | Lincoln Lake – Cuivre River State Park | Lincoln | 16 | 413 | 4.3 |
| | Marie, Lake | Mercer | 14 | 444 | 3.6 |
| | Nehai Tonkaia Lake | Chariton | 15 | 418 | 2.7 |
| | Viking, Lake | Daviess | 25 | 509 | 7.8 |
| | Waukomis Lake | Platte | 25 | 553 | 11.0 |
| | Weatherby Lake | Platte | 16 | 363 | 5.1 |
| Ozark Border | Goose Creek Lake | St Francois | 12 | 383 | 3.2 |
| | Wauwanoka, Lake | Jefferson | 12 | 384 | 6.1 |
| Ozark Highland | Clearwater Lake | Wayne-Reynolds | 13 | 220 | 2.6 |
| | Council Bluff Lake | Iron | 7 | 229 | 2.1 |
| | Crane Lake | Iron | 9 | 240 | 2.6 |
| | Fourche Lake | Ripley | 9 | 236 | 2.1 |
| | Loggers Lake | Shannon | 9 | 200 | 2.6 |
| | Lower Taum Sauk Lake | Reynolds | 9 | 203 | 2.6 |
| | Noblett Lake | Douglas | 9 | 211 | 2.0 |
| | St. Joe State Park Lakes | St Francois | 9 | 253 | 2.0 |
| | Sunnen Lake | Washington | 9 | 274 | 2.6 |
| | Table Rock Lake | Stone | 9 | 253 | 2.6 |
| | Terre du Lac Lakes | St Francois | 9 | 284 | 1.7 |
| Timberline Lakes | St Francois | 8 | 276 | 1.5 | |

AUTHORITY: sections 644.021 and 644.026, RSMo 2016. Original rule filed May 13, 1977, effective Dec. 11, 1977. For intervening history, please consult the Code of State Regulations. Amended: Filed June 15, 2021.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Natural Resources, Division of Environmental Quality, Water Protection Program, Attn: John Hoke, PO Box 176, Jefferson City, MO 65102. Comments may also be sent with name and address through e-mail to, Angela.Falls@dnr.mo.gov or online at <https://dnr.mo.gov/proposed-rules/welcome.action#OPEN>.

To be considered, comments must be received no later than August 31, 2021. A public hearing is scheduled to be held at 10 a.m. on August 25, 2021, at the Lewis and Clark State Office Building, LaCharrette/Nightingale Creek Conference Rooms, 1101 Riverside Drive, Jefferson City, MO 65101. Virtual attendance is also available via Webex, meeting number (access code): 177 836 6623, meeting password: DNR. Call-in number toll number (US/Canada): 1-650-479-3207. To join from a video system or application: Dial 1778366623@stateofmo.webex.com.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter [32—Child Care] 35—Alternative Care**

PROPOSED AMENDMENT

13 CSR 35-[32.020]35.120 Foster Care Case Management Contracts. The division is renumbering this rule and moving it to chapter 35. The division is also amending sections (1), (3)-(8), (10), (11), (13), (15), and (16), and is adding section (17).

PURPOSE: This proposed amendment establishes the governing provisions for foster care case management contracts in light of the amendments to section 210.112, RSMo, enacted into law by House Bill 1414 (2020).

PURPOSE: This rule establishes the governing provisions for foster care case management contracts to provide a comprehensive system of service delivery for children and their families as set forth in section 210.112[.8.], RSMo.

(1) This rule shall apply to the foster care case management contracts for the provision of case management services for youth placed in the custody or under the supervision of the Children’s Division (CD) as provided in section 210.112, RSMo, as well as govern the work of contractors and their subcontractors, officers, agents, and employees pursuant to those contracts. **This regulation shall apply to any subcontractors of the contractor which provide foster care case management services. The safety and welfare of the children served under these contracts shall be the paramount consideration in all matters pertaining to these contracts.**

(3) Contractors shall provide a range of child welfare services including case management services for children in out-of-home placements, family-centered services for parents and legal guardians from whose care the child was removed, and community resource development. Family-centered services shall be defined as the family-

focused intervention method utilized by the Children’s Division when working with families to assist them in identifying their strengths and needs and to develop a family plan for change.

(A) Case management services shall include assessments, case planning, placement services, service planning, permanency planning, and concurrent planning. The contractor shall have ongoing contact with the child; the child’s out-of-home care provider; the parents or the guardian of the child in care, if parental/guardianship rights have not been terminated; the children remaining in the home; the court; and the members of the child’s Family Support Team as defined in the Children’s Division’s written policies. The contractor must provide case management services that respect the culture, ethnicity, and religious practices of the children and that of his/her family. The contractor shall document all case management services provided in the case record as well as in the automated case management system within the timeframes outlined in the contract and in the policies of the Children’s Division.

1. Assessments shall be defined as the consideration of all social, psychological, medical, educational, and other factors to determine diagnostic data to be used as a basis for the case plan.

2. Case planning is a process of negotiation between the family case manager, the parent(s) or guardian(s) from whom the child was removed, and the juvenile officer, which describes the services and activities necessary for the purpose of achieving a permanent familial relationship for the child. The case plan shall include the permanency plan as defined in paragraph (3)(A)5. below, the concurrent plan as defined in paragraph (3)(A)6. below, the service plan as defined in paragraph (3)(A)4. below, the timeframes in which services will be delivered, and the timeframes for obtaining reports from service providers, when applicable.

A. Contractors shall develop a case plan no later than *[fourteen (14)] thirty (30)* days after referral of the child’s case to the contractor by the Children’s Division. The contractor shall submit case plans to the court in accordance with local court procedures.

B. The case plan shall be developed in accordance with the written policies of the Children’s Division and applicable federal and state law. In the event that the policies of the Children’s Division conflict with applicable federal and state law, federal and state law shall prevail.

C. The contractor’s case manager shall give careful consideration to the unique needs of each child and family when developing the case plan.

D. As necessary to effectuate the best interests of the subject child, the case plan may be amended from time-to-time *[throughout the contract period]*.

3. Placement services is the selection of, and placement with, the most appropriate resource for children in out-of-home care based on the assessment of the child’s unique needs and personality and the out-of-home care provider’s capacity and skills in meeting those needs.

A. The contractor’s case manager must utilize the least restrictive out-of-home placement for a child.

(I) The best interests of the child in care shall govern all placement decisions. When the placement would not be contrary to the best interest of the child, the contractor must give relatives of the child in care preference and first consideration to serve as the child’s out-of-home care provider. As required by applicable federal and state law, the contractor must conduct an immediate search to locate, contact, and, where appropriate, place the child in care with his/her grandparent(s). Therefore, grandparents of the child in care shall be given first consideration for placement before other relatives of the child in care are considered. Whenever the contractor decides that relative placement is contrary to the best interests of the child, the contractor shall document the reasons for this decision in the case plan.

(II) Placements in residential treatment shall be based on an **individualized, independent** assessment of *[the] each* child’s needs **in the manner required by law, regulation, and CD policy**. Such

placements shall be considered for children in care who need structured and therapeutic intervention. Placement in a residential treatment facility must be of a limited duration and treatment during this time must be focused on enabling the child in care to transition to family and/or community-based care as soon as possible. **The contractor shall prioritize methods of reducing or eliminating a child's need for residential treatment through community-based services and supports.**

(III) In coordination with the child in care's Family Support Team, the contractor shall periodically reassess the placement of the child to determine whether the placement is consistent with the child's permanency plan and is meeting the child's needs.

(IV) As required by the written policies of the Children's Division, the contractor shall convene Family Support Team meetings to discuss any change in placement.

B. The contractor shall exercise reasonable and continuing efforts to preserve, foster, and encourage the relationships between siblings of children under case management with the contractor unless it is contrary to the safety or welfare of one (1) or more of the siblings to do so.

(I) Whenever reasonably possible, the contractor shall place a child in out-of-home care with any siblings who are also removed from their home. The contractor shall make reasonable efforts to place siblings in the same placement unless doing so would be contrary to the safety or welfare of any of the siblings.

(II) The contractor must make arrangements for regular, frequent, and continuing visitation between siblings who are not in the same placement unless it is contrary to the safety or welfare of one (1) or more of the siblings to do so.

(III) Unless it is contrary to the safety or welfare of one (1) or more of the siblings to do so, the contractor shall reunite siblings at the earliest time possible when circumstances change and different caregivers are no longer required.

(IV) The contractor shall document in the case file its efforts to place siblings in the same home and, if not placed in the same home, its efforts to maintain the sibling relationship. If the contractor determines that placement of siblings in the same placement or visitation between the siblings is contrary to the safety or welfare of the siblings, the contractor shall document the reasons therefore in the case file.

C. When an appropriate placement is available and it is in the best interests of the child to do so, placements of children in care shall be made in the child's home community.

D. Unless otherwise ordered or authorized by the court, placement of children in care shall be with a licensed out-of-home care provider.

E. The contractor's case manager shall not place a child in a home in which any person residing in the home has been found guilty of, or pled guilty to, any crimes identified in section 210.117, RSMo.

4. Service planning is the provision of any services indicated and identified as needed through an assessment and case plan, or ordered by the juvenile court.

5. Permanency planning is determining the permanent plan which best meets the needs of the child in care and which complies with the applicable requirements of federal law. Contractors shall provide ninety (90) calendar days of services to the child and family after a child is reunified with their parent(s) to assure a continued successful outcome as defined in the contract. Contractors shall provide ninety (90) calendar days of services to the child and family after a child is reunified with their legal guardian(s), from whom they were removed, to assure a continued successful outcome as defined in the contract. The permanency plan shall consider—

A. The child's need for a continuing relationship with his/her parent(s) or legal guardian(s) prior to the child's removal from the home;

B. The ability and willingness of the child's parent(s) or legal guardian(s) [prior to the child's removal from the home] to actively perform their functions as the child's caregiver with regards to the needs of the child;

C. The interaction and interrelationship of a child with the child's parent(s) or legal guardian(s) from whom they were removed, the child's out-of-home care provider, siblings, and any other person who may have a significant impact upon the child's best interest;

D. The child's adjustment to his/her out-of-home placement, school, and community; [and]

E. The mental and physical health of all individuals involved, including any history of abuse of or by any individuals involved./; and

F. Any other information and factors that may be relevant to the care, safety, and welfare of each child.

6. A permanency plan shall include an individualized primary permanency plan and a concurrent permanency plan for each child. Concurrent permanency planning is a process of pursuing a primary permanency goal for a child in care, such as reunification, while simultaneously establishing and implementing an alternative permanency plan for that child. The contractor shall make active, reasonable efforts to finalize the primary [or] and concurrent permanency plan and shall document those efforts in the case file. The permanency plan shall be developed at the earliest possible opportunity and in no case later than [fourteen (14)] **thirty (30)** days after case referral. The plan shall be submitted to the court in the manner prescribed by law or as otherwise ordered by the court. As required by Children's Division written policies, the permanency plan shall be periodically reviewed and, where appropriate, may be modified if modification is in the best interests of the child as [determined] **recommended** by the child's Family Support Team or as ordered by the court.

(B) Community resource development is the recruitment, assessment, training, maintenance, and retention of out-of-home care providers. It shall also include the development of those services which shall best meet the needs of the child and family.

1. The contractor shall conduct community resource development activities to obtain appropriate out-of-home resource providers to enable the contractor to perform its duties under the contract.

2. Unless such policies conflict with applicable state law, the contractor shall ensure background investigations are conducted on all out-of-home care providers as required by **law, regulation, and** the written policies of the Children's Division.

3. The contractor shall utilize a training curriculum which meets or exceeds the resource development standards set forth in the written policies of the Children's Division. The contractor shall obtain approval from the Children's Division designee prior to finalizing the curriculum and content for the training sessions.

(4) The contractor shall ensure that all children under the age of ten (10) years old referred to the contractor receive a Healthy Children and Youth assessment within thirty (30) days of entering care, **as often as necessary for the provision of follow-up care and treatment, and [every six (6) months] at least annually** thereafter. Such assessments will be utilized to determine treatment services which will meet the child's psychological and social needs. When the assessment indicates intensive twenty-four- (24-)/- hour treatment services, appropriate services will be provided. A written report of the assessments **and documentation that the prescribed treatment has been timely provided to the child (or good cause why the treatment was delayed or not provided)** shall be **documented and** maintained in the case file.

(5) The contractor shall deliver all services through qualified professionals who have substantial, **current** and relevant **training**, education, and experience and who are competent, *as defined by the Council on Accreditation,* to deliver case management services. The contractor's personnel must meet or exceed all of the applicable **accreditation**, licensing and/or certification requirements of their profession set by the state of Missouri, if such licensure or certification is required by their profession for the performance of their specific job function. The contractor's personnel must meet the education and experience expectations outlined in the most current child

placing rules set forth at 13 CSR 40-73.035.

(A) The contractor shall maintain a personnel file for each employee which shall be accessible to the Children's Division upon request for the purpose of verifying compliance with **this regulation and** the requirements of its contract with the Children's Division. At a minimum, the file must include complete and current criminal record checks, background investigations, resumes, degrees or diplomas, date of employment, training records, performance appraisals, commendations, disciplinary actions, and other related actions. Background checks, including **finger print based** criminal background checks, shall be periodically updated as requested by the Children's Division **or otherwise required by law**. Contractors shall immediately notify the Children's Division of any act or occurrence which may impact their employee's ability, qualifications, or certification to provide services under the contract.

(6) The contractors shall deliver all services through professionals who have substantial and relevant training.

[(A)] The contractor's personnel providing case management services or direct supervision of case management services must successfully complete **the same training [which emphasizes—] curriculum as the Children's Division's personnel which provide case management services or direct supervision of case management services. This applies to both pre-service and in-service training as required by the Children's Division. Contractors may provide or require additional training as they deem appropriate, provided that the additional training is consistent with the Children's Division's regulations, policies, and procedures. Contractor's personnel attending Children's Division pre-service training will be scheduled for the first available session with openings.**

1. *A strengths-based assessment of the family;*

2. *Engagement of the family throughout a child's out-of-home placement beginning with the assessment;*

3. *Treatment and service planning for all family members with a commitment to reunifying the child with his/her biological family whenever possible, to preserving a child's connection to his/her family of origin whenever possible, and a commitment to a child's right to belong to a family;*

4. *Family dynamics, including human growth and development;*

5. *A team approach to case planning which draws upon the experience of professionals who are familiar to the members of the child in care's family;*

6. *Advocacy for the families and children served through the child welfare system;*

7. *The relevant legal and due process rights of children, parents, families, and care providers;*

8. *A background in the laws and procedures governing the juvenile courts; and*

9. *Cultural sensitivity.*

(B) *The contractor's personnel providing case management and direct supervision of case management staff must successfully complete pre-service training either by attending the Children's Division pre-service training, or by directly providing or arranging for another entity to provide pre-service training. The training shall include all of the topics listed in subsection (6)(A) above.*

1. *When the contractor plans to provide or arrange for another entity to provide pre-service training for its employees, the contractor must submit the curriculum to the Children's Division for prior approval.*

A. *When the contractor is granted permission to provide the pre-service training, or to arrange for another entity to provide the pre-service training, it shall be the contractor's responsibility to ensure the training is provided. In such instances, employees and/or subcontractors of the contractor will be eligible to attend the pre-service training provided by the Children's Division only if agreed between the chil-*

dren's division and the contractor.

2. *The pre-service training for newly-hired case managers and direct supervisors must be completed within the first ninety (90) calendar days of employment.*

3. *Pre-service training must incorporate skill-based instruction and skill building exercises. For the first ninety (90) days of employment, the contractor must provide case managers with on-the-job support which includes experiential learning techniques.*

4. *Contractor's personnel attending Children's Division pre-service training will be scheduled for the first available session with openings.*

5. *The pre-service training must—*

A. *Clearly identify the case management role;*

B. *Clearly acquaint personnel with federal and state laws relating to child welfare practices; this includes, but is not limited to, the constitutional rights of families and children who are involved in the juvenile justice system, including training on due process, the Fourth Amendment to the U.S. Constitution, the Adoption and Safe Families the requirement that Children's Division exercise reasonable efforts to finalize permanency plans, concurrent planning, termination of parental rights, guardianships, the Missouri Rules of Procedure for Juvenile Courts, and federal and state law governing permanency planning;*

C. *Acquaint personnel with Children's Division's policies relating to out-of-home care, adoption and guardianship subsidy programs, family-centered services, intensive in-home services, and resource development as defined by Children's Division written policies;*

D. *Acquaint personnel with recordkeeping requirements as set forth in the written policies of the Children's Division;*

E. *Acquaint personnel with the automated information system utilized by the Children's Division; and*

F. *Successful completion of pre-service training must be documented in personnel records for all personnel providing case management services and direct supervisors.]*

[(C)](A) The contractor's personnel who recruit, train, and assess foster parents serving children with elevated needs, or who provide ongoing support to such foster parents, must successfully complete specific training which is designed for the elevated needs program. Elevated needs shall be defined as provided in 13 CSR 35-60.070. Training for elevated needs providers must be provided by the Children's Division or by the contractor's staff utilizing curriculum which has been previously approved by the Children's Division.

[(D)](B) The contractor's personnel who train staff who are tasked to recruit, train, and assess foster parents serving children with elevated needs must successfully complete a Train-the-Trainer session provided by the Children's Division or by another entity approved to provide such training by the Children's Division.

(7) The contractor must submit all required information to the family care safety registry on behalf of all professional personnel assigned to provide services under the contract prior to such personnel providing service to children in care. Such information shall be updated on an annual basis thereafter. Any personnel who reside in another state and work in the state of Missouri, or who have relocated to the state of Missouri within the last five (5) years, shall provide documentation of background screening(s) from their state of origin to include, but not limited to, child abuse/neglect and criminal background screening check(s), prior to such personnel providing service. If the employee continues to reside in another state while performing case management services for the contractor, the out-of-state check shall be done annually. The contractor's professional personnel assigned to the contract must have background investigations, **including fingerprint based criminal background checks**, submitted to the Children's Division via a form provided by the Children's Division prior

to such professional personnel providing services under the contract.

(C) When child abuse/neglect or criminal activity is discovered through the background investigation of any professional personnel assigned to provide services under the contract, the contractor must review the information to determine the relevance of such finding to the provision of case management services.

1. The contractor shall not allow individuals to perform case management duties when his/her background investigation reveals that he/she has been found guilty, pled guilty, or has been convicted of—

A. A felony conviction for child abuse or neglect or spousal abuse;

B. A felony or misdemeanor conviction for any crime in which a child was a victim or a crime against children, to include, but not limited to, any offense involving child pornography;

C. Any crime involving violence and/or sexual offenses, including, but not limited to, rape, domestic violence, domestic assault, armed criminal action, sexual assault, or homicide;

D. Failure to report suspected child abuse to the child abuse and neglect hotline as required by section 210.115, RSMo;

E. A felony conviction for physical assault, battery, or a drug-related offense within the past five (5) years; or

F. Any other crime listed in section 210.117, RSMo.

2. The contractor must submit a written request to the Children's Division designee when the contractor desires to hire an individual with a history of child abuse/neglect or criminal activity which does not meet the criteria identified in paragraph (7)(C)1. above. The Children's Division designee shall review the request and provide a written response indicating if the individual may provide case management services.

A. The contractor *[shall]* or the individual or both may request an administrative review no later than thirty (30) days from the date of Children's Division decision *[when]* if they dispute such decision. **If the Children's Division does not receive a timely request for administrative review the Children's Division's decision shall be final.**

B. The request for an administrative review shall be in writing and generally set out the reasons for the request.

C. The Children's Division shall schedule an administrative review within *[three (3)] five (5)* business days of receipt of the request. The administrative review shall take place before the Children's Division designee. The Children's Division shall notify the contractor **and/or the individual** of the date and time of the review. The review may be continued at the request of the contractor **or the individual**, but the employment exclusion shall remain in effect pending the administrative review.

D. The review shall be informal, the rules of evidence shall not apply, and both the contractor and the Children's Division may submit any information relevant to the appealed decision. The purpose of the review will be to determine the potential employee's suitability for employment under the contract.

(I) The contractor's personnel application must include an authorization for the Children's Division to release information which directly relates the employee's suitability for employment under the contract.

(II) Upon completion of the administrative hearing, the Children's Division designee will submit a recommendation to the director of the Children's Division. The director may affirm or reverse the initial decision. Such decision shall be final.

(F) Except for employment and workers' compensation matters, the contractor must disclose any relevant litigation within the past five (5) years involving the contractor, the contractor's employees, officers, agents, and/or subcontractors within five (5) business days from the date the contractor receives a demand or is served with process, whichever takes place first. Individuals and entities who submit a response to an Request for Proposals (RFP) or Invitation for Bid (IFB) shall also disclose this information during the procurement process. The contractor shall dis-

close the names of the parties (initials may be used in lieu of party name for minors); the Court and case number in which the case was filed; and a brief description of the claims or criminal charges brought. The contractor shall include a copy of the complaint or petition if requested by the Department of Social Services or the division.

1. Relevant litigation under this agreement is defined as any civil claims, judgments, or out-of-court settlements and/or criminal charges which are pending or have been disposed of by a finding or plea of guilt, an Alford plea, or a plea of *nolo contendere* regarding the following:

A. Allegations of child abuse or neglect;

B. Personal injury to a client;

C. Violent acts, including but not limited to, domestic violence and other crimes against persons;

D. Acts against the family, which include, but are not limited to Orders of Protection, and criminal charges denominated as offenses against the family;

E. Fraud and/or misrepresentation;

F. Sexual offenses, including pornography, and any registration on a sexual offender registry;

G. Weapons offenses;

H. Controlled substance offenses; or

I. Any other claims or charges which relate to the delivery of foster care case management services to children.

2. The contractor must also disclose any pending investigation or assessment or "substantiated finding" of any contractor's employee, officer, agent, and/or subcontractor within five (5) business days from the date of notification.

3. Substantiated finding is defined as a court adjudication, or determination by the state agency or any court of a probable cause and/or preponderance of the evidence finding, or substantially similar findings in this state or any other.

4. Failure of the contractor to disclose relevant litigation, pending investigations, assessment, or "substantiated finding" as specified herein, shall be considered a breach of the contract and subject to appropriate and available remedies by the State of Missouri.

5. The Children's Division may share information about any disclosed litigation, pending investigations, assessments, or "substantiated findings" with all state and federal agencies, law enforcement agencies, state and federal auditors, children and families, Family Support Team (FST), and any courts, in the sole discretion of the Children's Division on a need to know basis as determined by the state agency and consistent with applicable state law.

(8) Contractors shall have a proven record of providing quality child welfare services within the state of Missouri.

(C) The contractor's case management program must be accredited by one (1) or more of the following national accrediting bodies: the Council on Accreditation (COA); the Joint Commission; or the Commission on Accreditation of Rehabilitation Facilities. The Children's Division *[shall]* will accept **proof of accreditation in good standing** as *prima facie* evidence of completion of the requirements for licensure under sections 210.481 *[and]* to 210.511, RSMo, *[proof that an agency is accredited. The Children's Division shall not require any further evidence of qualification for licensure if such proof of voluntary accreditation is submitted]* only as provided in 13 CSR 35-35.140.

(10) Subject to appropriation, the Children's Division shall continue to offer contracts in areas of the state where eligible providers are capable of providing a broad range of services. Subject to appropriation, the Children's Division may consider expansion of the contracts to areas of the state where **Children's Division's staff caseloads exceed COA standards.**

(11) The contract may not result in the loss of federal funding. The contractor shall therefore comply with and implement the requirements of all relevant federal and state laws, **regulations**, and policies including, but not limited to, those listed below which pertain to the child under case management by the contractor. In the event of a discrepancy between the policies of the Children's Division and federal or state law, the contractor shall comply with the federal or state law—

(K) Federal laws, rules, and regulations including, but not limited to, *[the Adoption and Safe Families Act]* **Title IV-E of the Social Security Act, as amended**, and the Health Insurance Portability and Accountability Act, **as amended**;

(M) Local initiatives pertaining to services which a case manager provides to children in out-of-home placements and their families which have been approved by the Children's Division state office. *[This shall include, but shall not be limited to, requirements related to Family-to-Family. Expectations of contractors shall not exceed requirements of Children's Division staff.]*

(13) **The Children's Division shall monitor and evaluate** *[C]*contractors *[shall be evaluated by the Children's Division]* based on objective, consistent, and performance-based criteria as *[further defined]* **provided in both 13 CSR 35-35.100 and the contract. In the event of a conflict between 13 CSR 35-35.100 and the contract, the regulation shall prevail over the contract.**

(D) *[The Children's Division may monitor additional outcomes including, but not limited to: the number of placement settings for children in out-of-home care; residential utilization; outcomes for older youth; and the number of resource homes developed by the contractor as identified in the Request for Proposal or Invitation for Bid. The Children's Division may require corrective action when the contractor fails to meet the standards set forth in the Request for Proposal or Invitation for Bid.]* **Children in the custody of, or under the supervision of, the Children's Division and whose cases are being managed by the contractor must receive comprehensive and quality services as measured by the evaluation tool set forth in 13 CSR 35-35.100.**

(15) If the contractor does not comply with its obligations under this regulation, or breaches its contract with the Children's Division, **or the Children's Division has reasonable cause to suspect that any child or children's safety or welfare may be at risk** the Children's Division shall have the discretion to **halt new referrals of cases to the contractor, transfer cases to other performing providers**, terminate the contract, and seek any remedies which may be available in law and equity for breach of contract. **The Children's Division may take immediate action as the Children's Division in its discretion may deem to be necessary to ensure the safety, welfare, and best interests of children served by the contractor.** If the Children's Division determines that the contractor has failed to meet the outcome measures specified in the contract, the Children's Division may reduce the contractor's caseload or cancel the contract in its entirety. The contractor shall be allowed an opportunity to review the outcomes prior to the development of the final outcomes report. The contractor shall be responsible for any updates in the automated case management system which are necessary to correct the outcomes. The Children's Division shall correct any programming errors identified by the contractor.

(16) In addition to those measures authorized in section (15) above, if the contractor does not meet the **performance and/or** outcome goals specified in the contract **and in 13 CSR 35-35.100**, or otherwise fails to comply with this regulation, **any other laws or regulations**, or the contract, the Children's Division may elect to require the contractor to implement a *[practice improvement]* **corrective action plan to** *[correct]* **remedy** any deficiencies in performance. Failure of the contractor to take action as indicated in the practice improvement plan within ninety (90) calendar days, or the number of

days specified in the practice improvement plan, shall be considered a breach of contract. Thereafter, the Children's Division may terminate the contract or pursue any other remedies in law or equity available to the Children's Division. The written *[practice improvement]* **corrective action** plan shall address—

- (A) Reasons why the *[outcome]* **goal** was not achieved;
- (B) Steps taken to meet the *[outcome]* **goal**;
- (C) Individual(s) responsible for necessary action; and
- (D) Timeframe for meeting the defined *[outcome]* **goal**.

(17) All contractors, whether accredited, licensed or not, shall fully comply with the information sharing requirements set forth in 13 CSR 35-35.140(5).

AUTHORITY: sections 207.020 and 660.017, RSMo [2000] 2016, section 210.112.8, RSMo Supp. [2010] 2020, and Young v. Children's Division, State of Missouri Department of Social Services, 284 S.W.3d 553 (Mo. 2009). Original rule filed Feb. 28, 2011, effective Oct. 30, 2011. Emergency amendment filed June 11, 2021, effective July 1, 2021, expires Feb. 24, 2022. Amended: Filed June 11, 2021.

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 35—Children's Division Chapter [32—Child Care] 35—Alternative Care

PROPOSED AMENDMENT

13 CSR 35-[32.030]35.130 Contracted Foster Care Case Management Costs. The division is renumbering this rule and moving it to Chapter 35. The division is also amending sections (1)-(6) and adding section (7).

PURPOSE: This proposed amendment implements House Bill 1414 (2020), which amended section 210.112, RSMo in regards to how the Department of Social Services and the Children's Division will determine the reasonable cost for contracted foster care case management services for foster care case management contracts under section 210.112, RSMo; and how foster care case management contractors may earn incentive payments for superior performance pursuant to section 210.112, RSMo.

(1) Payment to **individuals and entities providing** foster care case management *[providers]* **services pursuant to section 210.112, RSMo and 13 CSR 35-35.120 (hereinafter referred to as "contractors")** contracted by the Children's Division of the Department of Social Services (hereinafter referred to as the "division" or "CD") shall be based on the reasonable cost of services as determined through the competitive procurement process. *[Providers]* **Contractors and prospective contractors (hereinafter referred to as "contractor" or contractors)** shall certify their bid covers all reasonable costs **at a firm fixed price unless otherwise provided by law.**

(A) Upon request by CD, the *[provider]* contractor shall submit a written explanation and supporting documentation detailing how the *[provider]* contractor calculated the reasonable costs of services. The CD may not award a contract to any *[provider]* contractor which fails to submit such information when requested by CD.

(B) CD, in its sole discretion, may reject any bid where CD determines that the bid amount for a service or services exceeds the reasonable cost of the service or services. **The Department of Social Services shall apply the cost principles set forth in 2 CFR Part 200 as applicable in the approval, evaluation, and audit of bids and contracts.** CD shall use federal *[guidelines, OMB Circular A-122]* **Uniform Guidance, pursuant to 2 CFR 200.404,** to define reasonable costs as follows:

1. Reasonable costs. A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost/s/. The question of the reasonableness *[of specific costs must be scrutinized with particular care in connection with organizations or separate divisions thereof which receive the preponderance of their support from awards made by federal agencies]* **is particularly important when the contractor is predominantly federally funded.** In determining the reasonableness of a given cost, consideration shall be given to—

A. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the *[organization]* contractor or the proper and efficient performance of the *[award]* contract;

B. The restraints or requirements imposed by such factors as—**sound business practices; arm's-length bargaining; federal, state, local, tribal, and other laws and regulations; the terms and conditions of the federal award of monies to the state,** generally-accepted sound business practices, *[arms-length bargaining, federal and state laws and regulations,]* and terms and conditions of the *[award]* contract;

C. **Market prices for comparable goods or services for the geographic area;**

[C./D.] Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the *[organization]* contractor, its members, employees, and clients, the public at large, and the state and federal government; and

[D./E.] ***[Significant deviations]* Whether the contractor significantly deviates** from the established practices of the division or the *[organization]* contractor which may unjustifiably increase the *[award]* contract costs.

(2) CD may, in its sole discretion, establish a cap on the highest amount that CD will pay for the reasonable cost of services identified in the Request for Proposal (RFP) or Invitation for Bid (IFB). CD will announce the cap for services in the RFP or IFB. CD shall utilize one (1) or more of the following methods to establish the cap as part of the competitive procurement process:

(A) Industry cost reports for the previous three (3) calendar years which demonstrate the costs to the *[provider]* contractor to deliver the services identified in the RFP or IFB. Such reports shall include costs for case management services, community resource development, treatment services, special expenses, crisis expenses, administrative costs, and any other cost incurred to provide the services identified in the RFP or IFB. Upon request by CD, case management *[providers]* contractors or prospective case management *[providers]* contractors who submit a proposal or bid for a contract shall provide CD with cost reports and supporting documentation, **if and when required by the RFP or IFB.** The format for submission of cost report information shall be included in the RFP or IFB.

1. Cost for case management services shall include all costs associated with assessments, case planning, placement services, service planning, permanency planning, and concurrent planning. Such costs shall include salaries and benefits for required staff.

A. Assessments shall be defined as the consideration of all social, psychological, medical, educational, and other factors to determine diagnostic data to be used as a basis for the case plan.

B. Case planning is a process of negotiation between the family case manager, parent(s) or guardian(s) from whom the child was removed, and the juvenile officer which describes the services and activities necessary for the purpose of achieving a permanent familial relationship for the child.

C. Placement services is the selection of the most appropriate placement resource for children in out-of-home care based on the assessment of the child's unique needs and personality and the out-of-home care *[provider's]* contractor's capacity and skills in meeting those needs.

D. Service planning is the provision of any services indicated and identified as needed through an assessment and case plan or ordered by the juvenile court.

E. Permanency planning is determining the permanent plan which best meets the needs of the child.

F. Concurrent planning is a process of pursuing a primary permanency goal for children in out-of-home care, such as reunification, while simultaneously establishing and implementing an alternative permanency plan for that child.

2. Cost for community resource development shall include all costs associated with the recruitment, assessment, training, and maintenance and retention of out-of-home care *[providers]* contractors. It shall also include the development of those services which shall best meet the needs of the child and his/her family.

3. Cost for treatment services shall include all services designed to meet the service and treatment needs of an individual.

4. Cost for special expenses shall include all costs associated with needs of children which are not designed to meet a service or treatment need. These costs would not be included in the foster care maintenance payment to the placement *[provider]* contractor. An example is a clothing allowance.

5. Cost for crisis expenses shall include all **reasonably necessary** costs incurred to address the critical financial and resource needs of families. Crisis funds are utilized to purchase specific items family members need to alleviate a crisis. An example is payment to have utilities restored so that a child may be returned home.

6. Administrative costs are those which are incurred to deliver the case management services defined in the RFP or IFB which are not included above in paragraphs (2)(A)1., (2)(A)2., (2)(A)3., (2)(A)4., or (2)(A)5. Such costs include expenses for general administrative functions and overhead.

7. *[Provider]* Contractor costs shall be determined and validated by a third-party contractor retained by CD or the Department of Social Services for that purpose. The *[provider]* contractor shall submit any and all information that CD, the Department of Social Services, or the third-party contractor may require to validate the cost report. The *[provider]* contractor shall certify such information is truthful, accurate, and complete.

8. *[Provider]* Contractor costs shall include any applicable credits or payments received through federal or state funding sources or private contributions.

9. Industry cost reports shall include any audited financial statements for the applicable time period under review;

(3) ***[Awards]* Contracts** shall be made to the lowest and best qualified bidder(s), subject to applicable procurement law and available appropriation. A qualified bidder is a *[provider]* contractor which meets all of the requirements in law, regulation, and policy related to the services identified in the RFP or IFB. A qualified bidder must also meet the qualifications outlined in the RFP or IFB.

(4) The number of bids, **contracts,** and cases awarded to any given *[provider]* contractor are subject to available appropriation.

(5) The contract shall specify the monthly amount which is to be paid

based on the number of cases awarded unless payment has been reduced for reasons specified in this regulation. The contract may include a provision that the parties to the contract may amend the contract to increase or decrease the rate if [specifically] authorized by statute or appropriation.

(6) The contract shall provide for the payment of incentives to recognize accomplishment of case goals and corresponding cost savings to the state, **subject to the availability of appropriated funds. In the event that sufficient funds are not available to pay the full incentives, as adjusted, and calculated pursuant to this section, the Department of Social Services shall reduce the payment to each contractor eligible to receive an incentive payment pro rata on the basis of the proportion of cases that the eligible contractor handled during the period to the total number of cases handled by foster care case management contractors eligible to receive an incentive payment during the period.**

(A) For contracts effective on or before September 30, 2011, incentives shall be provided when contractors exceed the permanency expectations identified in the contract as follows:

1. The contract shall identify the percentage of children who are to achieve permanency in a twelve- (12-)/-/ month period. Permanency shall be defined as reunification with the child's parent(s) or legal guardian(s), a finalized adoption, or establishment of a legal guardianship;

2. CD shall refer the number of cases in the Notice of Award during the first month of the contract year. CD shall refer additional cases throughout the contract year with the intention of replacing cases which are expected to move to permanency each month based on the percentage of children who are to achieve permanency as identified in the contract; and

3. The contractor shall be paid monthly for the number of cases awarded, regardless of the number they actually serve, except in the following situations:

A. CD shall reduce the payment when CD determines it is in the best interest of a child to reassign the case to CD staff and the case is not replaced. CD shall reduce payment by the number of cases which have been disenrolled and reassigned for case management which were not replaced;

B. CD shall reduce payment when the contractor is placed on referral hold as the result of the contractor's staff involvement with an unacceptable, egregious situation as defined in the contract. Payment shall be reduced by the number of cases which CD is unable to refer while the contractor is on referral hold due to an egregious situation. Egregious situations are defined in this rule to include any situation which seriously impacts the delivery of services to a child or family assigned to the contractor, including a material breach of the contract with the division, and shall include, but is not limited to, the following:

- (I) Court contempt order;
- (II) Violating the condition(s) of a court order;
- (III) Unsafe environments or inappropriate out-of-home [provider] contractor as evidenced by the following:

(a) Placement in unlicensed foster homes or facilities unless approved by the court;

(b) Placements with a [provider] contractor without conducting a background screening;

(c) Placements with a [provider] contractor with a failed background screening as defined in the CD Child Welfare Manual;

(d) Placements without full compliance with the requirements of the Interstate Compact on the Placement of Children (section 210.620, RSMo); and

(e) Placements without court approval where court approval is required;

(IV) Breaches of confidentiality as defined in the contract;

(V) Intentionally, recklessly, knowingly, or negligently entering false data in CD's automated case management system;

(VI) Failure to comply with the requirement to report suspected child abuse and neglect, child injuries, child fatalities, or other critical incidents as required by contract and/or as required by section 210.115, RSMo; and

(VII) Other violations of federal or state law;

C. The contractor shall not invoice for reentries into care within twelve (12) months of previous exit except under those circumstances described below—

(I) The contractor shall be paid for reentries into care during the contract year whereby the number of cases replacing those which are expected to move to permanency each month shall be reduced to correspond with the number of reentries when—

(a) The contractor does not have an opportunity to serve the case or the court terminates jurisdiction and there is clear and convincing documentation to support the contractor was against the release of jurisdiction;

(b) Reunification does not occur; and

(c) The case has been replaced; and

(II) The contractor shall be paid for reentries into care during the next contract year whereby the reentry into care shall count as an active case at the beginning of the contract year when—

(a) The contractor does not have an opportunity to serve the case or the court terminates jurisdiction and there is clear and convincing documentation to support the contractor was against the release of jurisdiction; and

(b) Reunification did occur when the court first terminated jurisdiction after assignment to the contractor;

D. CD shall reduce the monthly case rate to remove the foster care maintenance payment for those children who have been enrolled in the interdivisional agreement through the [Mental Retardation and] Developmental Disabilities (IMR/DD) Comprehensive waiver with the Missouri Department of Mental Health; and

E. CD shall reduce the monthly case rate to reimburse the contractor for only case management services when a child meets the definition of a catastrophic case as defined in the contract and CD is providing additional funding for the child.

(B) For new contracts issued based on an RFP or IFB on or after October 1, 2011, subject to available appropriation, CD shall pay an incentive for the sum of the monthly differences between the number of children who are expected to achieve permanency as defined in the contract and the number of children who do achieve permanency when the one-for-one case replacement methodology is utilized. Permanency shall be defined as reunification with the child's parent(s) or legal guardian(s), a finalized adoption, or establishment of a legal guardianship. The following provisions shall apply to the administration of the incentive:

1. The percentage of children which are to achieve permanency in a twelve- (12-)/-/ month period shall be based on the following percentage, whichever number is higher:

A. The percentage of children who move to permanency within a region, utilizing an average for all counties served within the region; or

B. The percentage of children contractors serve who move to permanency within a region, utilizing an average of the performance of contractors serving the region;

2. The contractor may return cases to CD when children have been placed with their parent(s) for more than ninety (90) days. The contractor may return cases to CD when children have been placed with their legal guardian(s), from whom they were removed, for more than ninety (90) days. The contractor may retain management of the case after ninety (90) days only with the prior, written permission of the CD. When permission is granted, the contractor shall understand the permanency expectation will not change. The contractor shall return cases when an adoption has been finalized, the courts have awarded a legal guardianship, and when the juvenile court has terminated jurisdiction over the child. CD may replace such cases on a one-for-one basis. When the one-for-one case replacement methodology is utilized, CD shall replace cases in the following order of

preference if cases are available:

A. The next child and any sibling who enter care within ten (10) calendar days in the county where the case was returned;

B. A child and any sibling currently case managed by CD in the county where the case was returned with services being provided by a supervisor or coworker due to the extended absence of the service worker;

C. A child and any sibling which entered care within thirty (30) calendar days in the county where the case was returned which is case managed by CD;

D. A child and any sibling from a county other than the one where the record was returned which is served by the contracted *[provider]* contractor and meets the criteria set forth in subparagraphs (6)(B)2.A., (6)(B)2.B., or (6)(B)2.C. above, when agreeable to the contractor; and

E. In the event the contractor is assigned more active cases than awarded in an effort to keep one (1) worker assigned to a sibling group, cases shall not be replaced until such a time when the contractor is serving the amount of active cases awarded. Active cases do not include children who have been placed with their parent(s) for more than ninety (90) days unless the CD has granted permission for the contractor to keep the case; children who have been placed with their legal guardian(s), from whom they were removed, for more than ninety (90) days unless the CD has granted permission for the contractor to keep the case; children who have been adopted; those situations where the courts have awarded a legal guardianship; situations where the juvenile court has terminated jurisdiction over the child; or reentries into care unless they meet the criteria specified in part (6)(A)3.C.(I) above or the rate of re-/entries or the number of re-/entries into care within twelve (12) months has not exceeded the allowable rate or number as defined in **subparagraph (6)(B)3.D.** below. The contractor shall not be assigned a sibling group which would increase the number of cases awarded by more than two percent (2%). The contractor shall inform CD of the additional number of cases which may need to be replaced to keep the contractor at the number of cases awarded by the end of the contract year;

3. The contractor shall be paid for the number of cases awarded except in the following situations:

A. Payment shall be reduced in the following and subsequent months during the contract year and subsequent renewal periods to correspond with the number of cases which could not be assigned when the counties have no case which meets any of the criteria identified in subparagraph (6)(B)2.A., (6)(B)2.B., (6)(B)2.C., or (6)(B)2.D. above. CD reserves the right to increase the number of referrals during subsequent renewal periods when the number of children entering CD's custody increases in the geographic region served by the contractor, when the *[provider]* contractor is agreeable to such;

B. CD shall reduce the payment when CD determines it is in the best interest of a child to reassign the case to CD staff and the case is not replaced. CD shall reduce payment by the number of cases which have been disenrolled and reassigned for case management which were not replaced;

C. CD shall reduce payment when the contractor is placed on referral hold as the result of the contractor's staff involvement with an unacceptable, egregious situation as defined in the contract. Payment shall be reduced by the number of cases which CD is unable to refer while the contractor is on referral hold;

D. CD shall set an allowable rate of re-/entries or the number of re-/entries into care within twelve (12) months of previous exit, which shall not include the re-/entries defined below. The rate or the number allowed shall be based on historical data. CD, at its sole discretion, may adjust this rate or number based on mitigating factors. The contract shall set forth that after the rate is exceeded, the contractor shall not be paid for cases exceeding the allowable number of reentries set forth in the contract or shall be assessed a penalty after the rate is exceeded. If a penalty is assessed, the penalty shall be based on a methodology set forth in **13 CSR 35-35.100** and the

contract.

(I) The reentry into care will count as an active case and the contractor will be paid for the case when CD is able to determine that the contractor did not have an opportunity to serve the case or the court terminated jurisdiction and there is clear and convincing documentation to support the contractor was against the release of the jurisdiction. In the event the contractor is serving more active cases than awarded as the result of the reentry into care, they shall not be paid for such. However, cases shall not be replaced until such a time when the contractor is serving the amount of active cases awarded;

E. The monthly case rate shall be reduced to remove the foster care maintenance when the contract specifies the division shall be responsible for such; and

F. CD shall reduce the monthly case rate to reimburse the contractor for only case management services when a child meets the definition of a catastrophic case as defined in the contract and CD is providing additional funding for the child;

4. CD shall determine the number of children achieving permanency during the contract year while being served by the contractor. The contractor will be paid for the sum of the monthly differences between the number of children who are expected to achieve permanency as defined in the contract and the number of children who do achieve permanency, subject to available appropriation, as follows:

A. Contractors shall be paid the monthly amount bid and awarded for the sum of the monthly differences during the contract year as identified in paragraph (6)(B)4. above, subject to available appropriation; and

B. The incentive shall be a one- (1-)/- time payment for the number of children who exceeded the permanency standard during the contract year as identified in paragraph (6)(B)4. above; and

5. CD reserves the right in its sole discretion to reduce the number of cases assigned in subsequent contract years with payment reduced to correspond when the contractor fails to meet the permanency standard defined in the contract. CD also reserves the right to terminate the contract. In the event the contractor fails to meet the permanency standard and the number of cases are reduced in subsequent contract years, CD may reduce the number of cases awarded as follows:

A. CD may request the return of active cases;

B. CD may not replace cases which are closed by the contractor; and

C. CD will reduce payment to correspond with the number of active cases served.

(C) For all contracts effective on or after April 1, 2022, the provisions of subsections (6)(A), (6)(B), and this subsection (6)(C) shall apply. To receive an incentive the contractor must first qualify to receive an incentive by exceeding the permanency performance goal for the region as specified in this subsection. If the contractor qualifies for an incentive by exceeding the permanency performance goal for the region, then the contractor will qualify to receive fifty percent (50%) of the incentive payment. To earn the remaining fifty percent (50%) of the incentive payment, the contractor must meet the performance goals and outcomes established pursuant to 13 CSR 35-35.100 as they are phased in, and as further provided in this subsection.

1. The CD shall establish relative weights to be given to each item in the Safety, Well-Being and Service Domains and the additional requirements of the Permanency domain as they are phased in as provided in 13 CSR 35-35.100. The incentive payment shall be reduced as provided in paragraph (6)(C)2. of this regulation if the contractor fails to meet the performance goals established of 13 CSR 35-35.100 and the evaluation tool therein.

2. The remaining fifty percent (50%) of the incentive payment shall be calculated as follows:

A. If the contractor achieves a score of equal to or greater than one hundred percent (100%) of the weighted performance and outcome score then the contractor shall receive the full portion of the incentive payment under paragraph (6)(C)2. of this

regulation;

B. If the contractor receives a score of ninety to ninety-nine percent (90-99%) of the weighted performance and outcome score the contractor shall receive ninety percent (90%) portion of the full incentive payment under paragraph (6)(C)2. of this regulation; or

C. If the contractor receives a score of less than ninety percent (90%) or less of the weighted performance and outcome score the contractor shall not receive an incentive payment under paragraph (6)(C)2. of this regulation.

3. To calculate the performance and outcome score specified in paragraph (6)(C)2. of this regulation, the division will calculate for each contractor the percentage of the performance outcome goal for each item in each domain being scored under 13 CSR 35-35.100 that each contractor actually achieved for that item during the phase for the period. The percentage achieved for each item under each domain shall then be multiplied by the weight factor (if any) assigned to each item. The net sum of the weighted percentages will be the final score for each contractor for the period. The performance outcome goals for the period and the weights to be assigned to each item will be established by the division, in conjunction with the Research and Evaluation team and other individuals, following the procedures specified in 13 CSR 35-35.100.

4. The final scores shall be rounded up to the nearest whole number.

5. The scores for each contractor shall be published on the division's website.

(7) Changes to reimbursements for services in addition to the contracted amounts will be based upon available increased or decreased appropriations for case management purposes and will be allocated to both public and private contractors of such services. The allocation shall be made *pro rata* to the division and each contractor based upon the proportion of the total number of cases that the division and each contractor served during the period to the total number of cases of children served statewide during the period.

AUTHORITY: sections 207.020 and 660.017, RSMo [2000] 2016, section 210.112.8, RSMo Supp. [2010] 2020, and Young v. Children's Division, State of Missouri Department of Social Services, 284 S.W.3d 553 (Mo. 2009). Original rule filed Feb. 28, 2011, effective Oct. 30, 2011. Emergency amendment filed June 11, 2021, effective July 1, 2021, expires Feb. 24, 2022. Amended: Filed June 11, 2021.

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 35—Children's Division
Chapter 35—Alternative Care**

PROPOSED RULE

13 CSR 35-35.100 Response and Evaluation Process for Case Management of Children in Foster Care

PURPOSE: This rule implements House Bill 1414 (2020), which amended section 210.112, RSMo. The purpose of this rule is to regulate the response and evaluation process for case management services that are identified in the amended statute.

(1) Purpose and Scope.

(A) The purpose of this regulation is to implement the amendments to section 210.112, RSMo, that were enacted into law in HB 1414 of the 2020 regular session of the Missouri General Assembly. This regulation applies to case management services, whether provided by employees of the Children's Division (hereinafter the "division") or by Foster Care Case Management Contractors (FCCMs).

(B) In implementing this regulation, the safety and welfare of children shall be the paramount consideration.

(2) Definitions. For the purposes of this section the following definitions shall apply:

(A) "Accrediting body" shall refer to the Council on Accreditation of Services for Children and Families, Inc., the Joint Commission on Accreditation of Healthcare Organizations, or the Commission on Accreditation of Rehabilitation Facilities;

(B) "CFSR" shall mean the Child and Family Services Review process, standards, goals and measures established by the Administration of Children and Families of the United States Department of Health and Human Services;

(C) "CFSR-OSRI" shall refer to the CFSR On-Site Review Instrument utilized by the Administration of Children and Families of the United States Department of Health and Human Services;

(D) "Case management services" shall include assessments, case planning, placement services, service planning, and concurrent planning for children. These services include, but are not limited to:

1. Coordinating and facilitating the provision of services necessary to ensure the safety and well-being of the child, to meet the needs of the child's parent(s) or caretaker, and to promote timely permanency;

2. Facilitation of family support team meetings;

3. Facilitation and/or supervision of visits between children and their family members;

4. Preparation of court reports;

5. Attending and participating in court hearings; and

6. Coordination of services and provisions in compliance with federal and state law, and directed by Children's Division policy and regulation;

(E) "Child" or "Children" shall mean any individual who has been placed under the supervision of the division or in the legal or physical custody of the division by judgment or order of a juvenile or family court;

(F) "Direct Service Providers" means any person or entity who is providing case management services to children and families of children who are under the jurisdiction of the juvenile court and who are either placed under the supervision of the division or placed in the legal or physical custody of the division. This applies to alternative care Children's Division Case Managers and their supervisors, and to FCCMs;

(G) "Foster Care Case Management Contractors," "FCCM," or "FCCMs" shall mean any individual or entity which has a contract with the children's division to provide case management services for children. It also shall mean any contractor or subcontractor of an FCCM which provides case management services. It does not mean individual employees of the FCCM;

(H) "Large Contractor" shall mean any FCCM which is contracted to provide case management services for one hundred (100) or more children. It shall also refer to the lead FCCM contractor and their sub-contracted partner agencies;

(I) A "near fatality" means any physical injury or illness of a child caused by suspected or substantiated child abuse or neglect that, as certified by a physician, places the child in serious or critical condition;

(J) “Provider” shall mean the Children’s Division and FCCM, but shall not mean individual employees of the division or FCCMs;

(K) “Response and Evaluation Team” or “the R&E Team” shall refer to the Response and Evaluation Team established pursuant to 210.112.3, RSMo;

(L) “Sentinel events” shall mean any critical incident as described in 13 CSR 35-71.070, any unusual event as described in 13 CSR 35-73.050 and—

1. A child fatality or near fatality;
2. An incident that causes serious emotional harm or serious bodily injury to a child. For purposes of this regulation a serious emotional or physical injury occurs when it is medically reasonable or necessary for a child to obtain professional medical intervention as a result of something that happens to the child while placed with the individual or organization;
3. A child elopes from his or her placement;
4. A fire in a location routinely occupied by children, which requires the fire department to be called;
5. A report of child physical abuse, emotional abuse, sexual abuse, or neglect pertaining to a child; and
6. Whenever a child attempts to harm him/herself or others, including suicide attempts;

(M) The term “serious bodily injury” means bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

(N) Children with “Special Needs” shall include children who have physical, behavioral, or mental health conditions that require specialized care.

(3) Evaluation Tool and Metrics.

(A) The division shall establish and implement a uniform evaluation tool, metrics, and performance outcome goals for providers to evaluate the quality of case management services. Performance outcome goals, but not metrics, may be adjusted regionally to account for regional differences in the availability of services, provided that the same performance outcome goals apply to all providers in the same region; provided that the performance outcome goals that apply to the division shall be adjusted to take into consideration the factors set forth in subsection (3)(F). The division shall establish the tool in conjunction with the R&E Team and other appropriate individuals. The division may establish and implement the evaluation tool in phases as described elsewhere in this regulation. The evaluation tool may draw from the following sources of data and information:

1. Data contained in the information system of the division, including Family and Children Electronic System (FACES);
2. Data from surveys;
3. Detailed case reviews of individual cases of children as described below;
4. Data and information from federal CSFR reviews;
5. External audits and program reviews;
6. Reports from an accrediting body; and
7. Other sources of information as may be necessary.

(B) The division will publish the proposed tool for Phase I on its website by April 1, 2022, and solicit comments from providers, stakeholders, and the public. Providers may recommend alternative metrics based on the best interests of the child. In making such recommendations the providers shall explain, in writing, how the alternative metrics are in the best interests of the child and promote the safety and welfare of children. The division and the R&E Team will review the comments, and the R&E Team will submit recommendations based upon the comments within thirty (30) days of receipt of the comments. The division will consider the public comments and recommendations of the R&E Team and publish final evaluation tools and metrics for Phase I on or before July 31, 2022. The final, Phase I evaluation tools, metrics and performance outcome goals shall be implemented by and applicable to all effective October 1, 2022.

(C) The evaluation tool shall include selected metrics and perfor-

mance outcome goals from the CSFR and the CSFR-OSRI.

(D) By October 1, 2022, the division, in conjunction with the R&E Team and following the procedures set forth in subsection (3)(B), shall implement and all providers are required to utilize and implement a uniform, standardized stakeholder feedback tool. This tool will collect data from stakeholders pertaining to the quantity, quality, and effectiveness of case management services that the division and FCCMs provide.

1. The tools may be surveys and will also provide space for stakeholders to provide narrative feedback and comments.

2. Separate stakeholder feedback tools shall be designed for and provided to each of the following categories of stakeholders: children twelve (12) years of age or older, parents or legal guardians of children, foster parents or resource providers, juvenile officers, and judges of juvenile and family courts.

3. Stakeholder feedback tools shall be submitted on the following schedule:

- A. Children twelve (12) years of age or older: annually and at the conclusion of the time the child is in care;
- B. Foster parents and resource parents annually;
- C. Parents or legal guardians of children in care, annually;
- D. Juvenile officers, annually; and
- E. Judges of the juvenile and/or family courts who preside over proceedings under Chapter 211, RSMo—annually.

(E) The evaluation tool for providers shall include metrics and performance outcome goals for the following domains listed below. The division may implement these in phases, but it shall implement at least one metric and performance outcome goals for each domain in Phase I no later than October 1, 2022; implement additional metrics and performance goals in Phase II no later than October 1, 2023; and implement all remaining metrics and performance goals in Phase III no later than October 1, 2024. The division may implement additional performance outcome goals and metrics or make amendments to any domain, performance outcome goal or metric in conjunction with the Response and Evaluation Team following the process set forth in subsection (9)(B) of this regulation as may be necessary and appropriate. Some metrics and performance outcome measures may apply to more than one (1) domain. To the maximum extent possible, the metrics and performance outcome measures shall be based upon, and preferably mirror, the federal CSFR and Program Improvement Plan (PIP) metrics, measures, and goals. The achievement of the deadlines specified in this regulation are contingent on the availability information processing capability and the availability of funds that are necessary for implementation. The division, with the permission of the Department of Social Services, may extend the deadlines for implementation of a goal or metric if it is not technically feasible or if there are insufficient funds to implement by the deadline. The domains are—

1. Safety Domain. The purpose of the Safety Domain metrics and performance outcome goals is to ensure, to the maximum extent possible, that children are kept safe from the risk of abuse and/or neglect for the duration of their experience within the child welfare system. Metrics and performance outcome goals will be developed and implemented to address the following:

- A. Worker/child visits;
- B. Reports of abuse and/or neglect of a child;
- C. Sentinel events; and
- D. Any other metrics and outcome goals that may be required by law or that the division may decide are appropriate;

2. Well-Being Domain. The purpose of the Well-Being Domain metrics and performance outcome goals is to ensure, to the maximum extent possible, that children receive the necessary care and services for them to grow, develop, and thrive for the duration of their experience within the child welfare system. Metrics and performance outcome goals will be developed and implemented to address the following:

- A. Parent/child visits to the extent that they are not contrary to the orders of the court;

B. Healthy Child and Youth program compliance (i.e. compliance with federal Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) requirements and standards). This will include timely completion of Healthy Children and Youth (HCY)/EPSDT screenings and also timely compliance with diagnosed and prescribed treatment;

C. Residential-Placement of a child in a residential or institutional setting shall be in compliance with the requirements of federal and state law;

D. Education—such as achievement of identified, developmentally, and age appropriate educational milestones;

E. All case managers and supervisors successfully complete training in providing trauma informed and trauma based services; and

F. Any other metrics and outcome goals that may be required by law or that the division may decide are appropriate;

3. Permanency Domain. The purpose of the Permanency Domain metrics and performance outcome goals is to ensure, to the maximum extent possible, that children achieve permanency and are discharged to a safe and appropriate placement from the care and supervision of the child welfare system in a timely manner. Metrics and performance outcome goals will be developed and implemented to address the following:

A. Worker/parent visits;

B. Re-entries into foster care;

C. Timely achievement of the child's court approved permanency plan;

D. Stability of placements;

E. Provision of services to meet the needs of older youth;

F. Timely development and effective implementation of a primary and concurrent permanency plan for each child;

G. Development and implementation of a social service plan to address the reasons why the child is in care; and

H. Any other metrics and outcome goals that may be required by law or that the division may decide are appropriate; and

4. Service Domain. The purpose of the Service Domain metrics and performance outcome goals is to ensure that providers are effectively and efficiently managing the services that they are providing. Metrics and performance outcome goals will be developed and implemented to address the following:

A. Caseloads—including caseloads per case manager and the number of changes in case manager that a child may experience while a child is in care;

B. Effective ratio of supervisors to supervision of case managers;

C. Timely reporting of sentinel events;

D. Cases returned to the division due to catastrophic costs or court order for case management by Foster Care Case Management agencies; and

E. Any other metrics and outcome goals that may be required by law or that the division may decide are appropriate.

(F) All metrics and performance outcome goals for the division shall be designed to take into consideration the following factors:

1. The fact that caseloads of FCCM case managers are capped; and

2. The fact that FCCMs may return cases to the division due to catastrophic costs or court order for case management.

(G) The division, in conjunction with the R&E Team, shall develop objective standards and criteria to identify cases which a provider may feel are anomalous and should not be considered in developing the case management tool. The standards and criteria shall be implemented following the process and deadlines established in subsection (3)(B) of this regulation.

(H) To calculate the performance and outcome scores, the division will calculate for each provider the percentage of the performance outcome goal for each item in each domain being scored under 13 CSR 35-35.100 that each provider actually achieved for that item during the phase for the period. The percentage achieved for each item under each domain shall then be multiplied by the weight factor (if

any) assigned to each item. The net sum of the weighted percentages will be the total score for each provider for the period. The performance outcome goals for the period and the weights to be assigned to each item will be established by the division, in conjunction with the Research and Evaluation team and other individuals, following the procedures specified in this regulation.

(4) Collection of Data.

(A) Effective October 1, 2022, the division and FCCMs shall implement policies and procedures to require their staffs to timely record all of the necessary data in the information system. Information shall be timely posted if it is posted no later than the fifteenth day of each calendar month for the preceding calendar month or sooner as may be required by policy of the division.

(B) The division and each FCCM shall develop and implement a system to track the timely and accurate recording of data in the information system by October 1, 2022; this may include implementing a system to send reminders to staff or prohibit completion of data entries when mandatory data fields are not timely completed.

(C) The division will publish a list on its website describing the specific items of data that providers will be responsible for recording and reporting. The division will publish its first list of data items on or before April 1, 2022 to be effective July 1, 2022. The division shall send a notice by e-mail to all providers notifying them when a change has been made in the data points at least one (1) quarter prior to the effective date of the list to ensure that providers have notice and an opportunity to prepare.

(D) Detailed Case Reviews.

1. The division and the R&E Team will utilize the information and findings from individual case reviews from the federally required, statewide CFSR process.

2. In addition to the CFSR process, the division, in conjunction with the R&E Team, may develop and implement a detailed case review process if necessary to supplement the CFSR process and/or to ensure the quality of data that is being reported and utilized for calculating metrics and performance outcome goals and measures. The division and the R&E Team may also utilize detailed case reviews as part of the process of identifying and providing technical assistance to providers who are having difficulty meeting performance outcome goals and measures, and for other purposes as provided in the contract.

3. When a case has been selected for a detailed individual case review the provider providing case management services will be given the opportunity to propose different evaluation metrics if the case may have circumstances far beyond those which would be expected.

A. The division, in conjunction with the R&E Team and other stakeholders, shall develop and implement objective standards and criteria for identifying cases which will be evaluated on different evaluation metrics. The division shall utilize the process described in subsection (3)(B) for developing, publishing, and implementing the standards and criteria.

B. The provider shall make the request to apply different evaluation metrics in writing within ten (10) days of the date that the division identified the case for a detailed review. The request shall include:

(I) A detailed explanation for why the generally applicable criteria and metrics for conducting case reviews cannot be reasonably and appropriately applied to the case and why the case may have circumstances far beyond those that would be expected; and

(II) Explain in detail what performance measures and metrics the provider proposes that the division and the R&E Team apply to the review of the case.

C. The provider shall have the burden of proving that the case falls far beyond what is expected and what alternative metrics should be applied by clear and convincing evidence.

D. The division and/or the R&E Team shall conduct a full case review of each and every case that a provider identifies as a case

that should be evaluated using different evaluation metrics.

(E) The division will collect data and all providers will provide data on a monthly basis provided that Detailed Case Reviews will be conducted when necessary to supplement other data sources as determined by the division in conjunction with the R&E Team.

(F) Providers shall make available all data, files, records, and information pertaining to each and every case to the division and the R&E Team to perform their duties under section 210.112, RSMo, and this regulation. This includes information maintained in physical and electronic formats. Providers shall direct their staffs to provide true, complete, accurate, and timely information to the division and the R&E Team members when performing their duties under this regulation. Providers shall make their employees and subcontractors available for interviews when conducting detailed case reviews.

(G) Providers shall ensure that staff are trained and have the opportunity to enter data into the information system in a timely manner to ensure that the data retrieved from the information system is timely and accurate. Data for the preceding calendar month shall be entered into the information system no later than the fifteenth day of the following calendar month or sooner as may be required by policy of the division.

(H) The data and metrics shall be analyzed and reported in the aggregate across the whole system, and then by judicial circuit, county (or city within a county), and provider.

(5) The division and the R&E Team will develop, propose, and implement a system for reviewing and working with providers who request assistance or who show signs of performance weakness. Performance weakness shall be defined and measured with reference to the metrics and performance outcome goals as discussed in this regulation, in addition to other provisions in the contract.

(A) The division, in conjunction with the R&E Team, will identify objective, performance measures and standards based on the metrics and performance goal outcome scores as calculated in subsection (3)(H) to identify providers who are showing areas in weakness of performance. This may be done in phases so as to be consistent with the phased implementation of the evaluation tool and metrics and performance outcome goals. The division will give the public and stakeholders thirty (30) days to submit comments and suggestions. The division will consider the comments and then publish the operational performance measures and standards on the division's website consistent with the phased implementation deadlines.

(6) Data Reporting.

(A) The division, in conjunction with the R&E Team, shall develop and implement a standardized format for analyzing and reporting the data and lessons learned from the data. This will ensure that data is analyzed and reported in a consistent and comparable manner from quarter to quarter. The division will follow the procedures specified in this regulation for developing and implementing the reporting tools.

(B) All measures, metrics and performance measures, shall be designed to take into consideration the following factors:

1. The fact that case loads of FCCM case managers are capped; and
2. The fact that FCCMs may return cases to the division due to catastrophic costs or court order for case management.

(C) The division will publish the report quarterly on its website. The report for the preceding quarter shall be published on or before the last day of the end of the last month of the subsequent calendar quarter. The initial report shall be published no later than March 31, 2023, for the October 1, 2022 through December 31, 2022 quarter.

(D) In developing the standardized format for reporting, the R&E Team shall be responsible for determining how to aggregate cases for the division and large contractors; so that performance and outcomes may be compared effectively while also protecting confidentiality.

(7) Conflicts of Interest.

(A) Private Providers shall not participate in conducting detailed case reviews under this regulation when they or one (1) of their officers, employees, or subcontractors have a conflict of interest. It shall be considered a conflict of interest—

1. For an officer or employee of a FCCM or private provider to conduct a case review of a case managed by the FCCM or private provider which employs them; and/or

2. For an officer or employee of a FCCM or private provider to conduct a case review of a case managed by a subcontractor of the FCCM or private provider which employs them; and

3. Where the provider or the employee of the provider has any interest in the underlying case.

(B) Division staff shall not conduct detailed case reviews of cases under this regulation arising from the circuit where the division staff member conducting the review is assigned. The division may assign special staff not affiliated with any one (1) particular circuit or region to conduct case reviews.

(C) No person shall conduct a detailed case review of a case in which he or she participated as a case manager or supervisor.

(8) All members of the R&E Team shall maintain the confidentiality of all information, documents, and data that they receive in the performance of their duties as members of the R&E Team to the same extent that the information, documents, and data is confidential in the hands of the division, its employees, and contractors. R&E Team members shall submit requests for access to information and data to the division for review.

(9) Review and Evaluation of the Evaluation Tools, metrics, and reporting format.

(A) The R&E Team shall review the evaluation tool and report format established under this section at least twice each year and submit a report to the division making any recommendations for changes in the tool. The reports shall be due each year on or before July 1 and January 1 with the first report being due July 1, 2023.

(B) The division may amend the evaluation tool, metrics, and report formats as may be necessary to ensure that information is collected and reported in an accurate, efficient, and useful way. The division will utilize the following process to amend the evaluation tool and report format:

1. The proposed amendments will be submitted to the R&E Team for review and comment. The R&E Team will have thirty (30) days to provide comments;

2. The division will then publish an announcement of the proposed amendments to all providers and to the public by an announcement on the division's website. The announcement will give providers and the public thirty (30) days to submit written comments;

3. The division may, but is not required to, hold one (1) or more public hearings to solicit comments. These public hearings may be held in person, virtually, or by telephone conference; and

4. The division will consider the comments from the R&E Team and other sources and publish the final amendments on the division's website. The amendments shall be effective on the first day of the calendar quarter following the publication of the amendment; provided however, that the effective date of the amendment shall not be less than thirty (30) days from the date of publication.

(C) Twenty-four (24) months after the first publication of the tools and metrics established under this regulation the R&E Team and the division shall conduct a comprehensive review of the tools and metrics established pursuant to the process established in section 210.112, RSMo, and this regulation. The division shall publish a report on its evaluation within six (6) months of commencing the review.

AUTHORITY: sections 207.020 and 660.017, RSMo 2016, and section 210.112.8, RSMo Supp. 2020. Emergency rule filed June 11, 2021, effective July 1, 2021, expires Feb. 24, 2022. Original rule filed June 11, 2021.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions seventy-one thousand six hundred eighty dollars (\$71,680) 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 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 35–Children’s Division
- Chapter Title:** Chapter 35–Alternative Care

| | |
|------------------------------|-------------------------------------------------------------------------------------------------|
| Rule Number and Name: | 13 CSR 35-35.100 Research and Evaluation Process for Case Management of Children in Foster Care |
| Type of Rulemaking: | Proposed Rule |

II. SUMMARY OF FISCAL IMPACT

| Affected Agency or Political Subdivision | Estimated Cost of Compliance in the Aggregate |
|------------------------------------------------------|-----------------------------------------------|
| Department of Social Services Children’s Division | \$71,680 |

III. WORKSHEET

N/A

IV. ASSUMPTIONS

This rule establishes a methodology calculating incentive payments for Foster Care Case Management agencies. The following measures, with regard to the FACES system updates, will remain after Phase 1 (from 10/1/22 - 9/30/23): residential placement in compliance, education, trauma-informed and trauma-based services, and services to meet needs of older youth. Most of the data is already contained in FACES. These measures may require additional unknown data elements that may not be in FACES.

Assuming each of the four highlighted measures above will need at least one new data element added for tracking; these changes are estimated to create a cost of \$71,680 for the Children’s Division.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter [50—Licensing] 35—Alternative Care**

PROPOSED AMENDMENT

13 CSR 35-[50.010]35.140 Accreditation as Evidence for Meeting Licensing Requirements. The division is renumbering this rule and moving it to chapter 35. The division is also amending sections (1)-(5), and is adding a new section (2) and (7), and is renumbering accordingly.

PURPOSE: This proposed amendment establishes the criteria and procedures by which the Children’s Division will accept proof of accreditation as a foster home, residential care facility, or child placing agency by certain accrediting bodies as prima facie evidence of meeting the requirements for licensure as a foster home, residential care facility, or child placing agency in light of the amendments to section 210.112, RSMo in HB 1414 (2020).

(1) *[The Children’s Division shall accept accreditation by Council on Accreditation of Services for Children and Families, Inc., the Joint Commission on Accreditation of Healthcare Organizations, or the Commission on Accreditation of Rehabilitation Facilities, as specified in section (2) of this rule, as prima facie evidence that the organization meets licensing requirements under sections 210.481 through 210.511, RSMo] Purpose and Scope. This regulation applies to Licenses issued to individuals or organizations which are accredited by an accrediting body.*

(2) **Definitions.** For the purpose of this regulation, the definitions set forth in section 210.481, RSMo, and the following definitions shall apply:

(A) “Accrediting body” shall mean the Council on Accreditation of Services for Children and Families, Inc., the Joint Commission on Accreditation of Healthcare Organizations, or the Commission on Accreditation of Rehabilitation Facilities;

(B) “Individual or organization” shall mean any adult person, corporation, partnership, religious denomination, religious organization, or organized group of human beings; and

(C) “Prima facie evidence” means evidence that will establish a fact or sustain a decision unless contradictory evidence is produced.

[(2)](3) [Type of License.] The Children’s Division shall accept accreditation by an accrediting body as prima facie evidence that the individual or organization meets the requirements for a license to operate a foster home, residential care facility, or child placing agency in accordance with the applicable provisions of sections 210.481 to 210.511, RSMo. The division will accept accreditation for purposes of documenting eligibility for license or relicensure. However, any individual or organization whose license is based upon accreditation must still fully comply with all of the requirements of licensure (including full compliance with all federal, state, and local health and safety codes) as if not accredited for the duration of the license to maintain the license. The safety and welfare of children served by the individual or organization shall be the paramount consideration in all licensing decisions.

[(A) The organization shall provide to the Children’s Division, sufficient evidence that they are accredited in the service or program for which they are requesting a license.]

[(B)] If a service or program, including, but not limited to, child placing, maternity, infant/toddler, residential treatment, and intensive residential treatment in residential child care, is not accredited by the accrediting body, than the organization must apply for and meet all [other] licensing requirements as [put forth by the division] for

the unaccredited program or service.

[(3)](4) Application[/] and Reapplication for License for Accredited Individual or Organizations[;].

(A) The individual or organization applying for licensure as an accredited individual or organization shall present to the division[—] with its application for licensure or relicensure all of the following:

1. A copy of the individual or organization’s official final accreditation report and accreditation certificate from the accrediting body establishing that the individual or organization is accredited in good standing for the period of time covered by the license; [and]

2. A list of operating sites which includes the capacity served, the gender served, and the ages served by that organization. This list [must] shall be updated if there is a change in operating sites by the individual or organization;

3. A copy of the accrediting body’s official standards and policies for accreditation;

4. A copy of any corrective action documents or other notices from the accrediting body regarding areas of non-compliance or required improvement or monitoring;

5. Any documentation required at initial licensure or relicensure as stated in chapters 13 CSR 35-71 (for residential treatment agencies) and 13 CSR 35-73 (for child placing agencies), including, but not limited to, agency policies, procedures, organizational charts, budgets, staff training records, and personnel records verifying compliance with background check requirements; and

6. Any and all other information and documentation that the division may determine is reasonably necessary to verify that the individual or organization is accredited in good standing and otherwise meets all of the requirements for licensure.

(B) [If the organization has not been previously licensed by the state of Missouri, an] The division in its discretion may conduct on-site visits [may be required by the division] to verify compliance with licensure requirements before a license is issued[;].

(C) The division shall examine the areas that the organization is applying for a license. The division then [shall] may issue a corresponding license for those areas in which the organization is accredited. The license shall be valid for the period of time up to two (2) years (or such other time as may be specifically authorized or required by statute), or when the organization’s accreditation expires, whichever is shorter[;].

(D) [Nothing in this section will result in the loss of license if the accreditation certificate has expired, but] If the individual or organization’s accreditation expires during the term of the license, the division may issue a provisional license pursuant to section 210.486, RSMo for a period of time not to exceed six (6) months upon the individual or organization showing that—

1. *[t/]The individual or organization is still in good standing [and] with the accrediting body, the re-accreditation process is being diligently pursued, and accreditation is expected within six (6) months of the date the accreditation expired. The division may, at its discretion, request a letter of good standing from the accrediting body; [and]*

2. The individual or organization otherwise demonstrates the potential capacity to meet full requirements for licensure; and

3. The division director is satisfied that the operation of the foster home, residential care facility, or child placing agency provisionally licensed is not detrimental to the health and safety of the children being served.

(E) [Any denial or revocation of license based upon an organization’s accreditation standing is entitled to a hearing as specified under the licensing rules or they may undergo the licensing process and meet all licensing rules in order to obtain a license.] The division may deny the issuance of a license

to, or may suspend or revoke the license of, any individual or organization which fails to provide information that the division may require to establish eligibility for licensure.

(F) The individual or organization seeking licensure under this section shall have the responsibility to apply for accreditation and/or re-accreditation in a timely manner to ensure compliance with all deadlines set out in this section and other applicable laws.

[(4)](5) Information Sharing.

(A) The individual or organization shall notify the division immediately of any sentinel event, any critical incident as required in 13 CSR 35-71.070, any unusual event as required in 13 CSR 35-73.050, and of any suspension, limitation, including but not limited to required corrective action or monitoring, or revocation of accreditation. The procedures and requirements for reporting shall be the same for non-accredited, licensed individuals, and organizations as provided in chapters 13 CSR 35-71 and 13 CSR 35-73.

(B) Sentinel events are [as defined by the accrediting body] those events which the accrediting body requires the individual or organization to report to the accrediting body as a condition of accreditation, but shall at a minimum include the following:

1. A death of a child in one (1) of the individual's or organization's facilities; [or]

2. A serious emotional or physical injury of a child in one of the individual's or organization's facilities. For purposes of this regulation, a serious emotional or physical injury occurs when it is medically reasonable or necessary for a child to obtain professional medical intervention as a result of something that happens to the child while placed with the individual or organization; [or]

3. A child elopes from the individual's or organization's facility;

[3.]4. A fire in a location routinely occupied by children, which requires the fire department to be called; [or]

[4.]5. An allegation or report of [child] physical abuse, [physical or] sexual abuse, emotional abuse, or neglect of a child pertaining to the individual or organization, or an employee, contractor, subcontractor, volunteer, or officer of the individual or organization [which is substantiated by the division or through an internal investigation by the organization which occurs within a facility]; [or]

[5.]6. An employee is terminated from employment in relation to the safety and care of children; [or]

[6.]7. There is any change in the chief executive officer; [or]

[7.]8. There is a lawsuit filed against the individual or organization by or on behalf of a person who is or was in the individual's or organization's care; [or]

[8.]9. Any known criminal charges are filed against the individual, facility, organization, any resident of the facility, or any employee or volunteer of the individual or organization who has contact with children./;

10. When the individual or organization is not in compliance with any of the criteria for accreditation, including maintaining the required level of services and staffing levels, for more than three (3) consecutive days; or

11. Whenever a child attempts to harm him/herself or others, including suicide attempts.

(C) The individual or organization shall notify the division of the entrance, exit, and any performance review meetings of the accrediting body which are held in conjunction with the accreditation of the organization. The division has a right to attend any or all of these meetings between the organization and the accrediting body.

[(5)](6) The division may make such inspections and investigations as it deems necessary to [conduct an initial visit to a facility not previously licensed] ensure that the individual or organization continues to meet the requirements of licensure, for investigative purposes involving [complaints] reports of alleged child abuse or

neglect, [at reasonable hours] and to address a complaint concerning the health and safety of children which the individual or organization serves[, or any other mutually agreed upon time].

(7) Any individual or organization who is aggrieved by a decision of the division to deny, revoke, or suspend a license based upon an organization's accreditation standing under this section may either—

(A) Seek administrative review following the procedures set forth in 13 CSR 35-71.030 for residential treatment agencies or 13 CSR 35-73.017 for child placing agencies; or

(B) Apply for licensure as an unaccredited individual or organization.

AUTHORITY: sections 207.020, 210.506, and 660.017, RSMo 2016, and section 210.112.8, RSMo Supp. [2004] 2020. Emergency rule filed Dec. 23, 2004, effective Jan. 2, 2005, expired June 30, 2005. Original rule filed Dec. 23, 2004, effective June 30, 2005. Emergency amendment filed June 11, 2021, effective July 1, 2021, expires Feb. 24, 2022. Amended: Filed June 11, 2021.

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 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 20—Division of Community and Public Health Chapter 1—Food Protection

PROPOSED AMENDMENT

19 CSR 20-1.030 [Sanitation and Production Standards for] Frozen Dessert[s] License. The Department of Health and Senior Services is amending the rule title, deleting sections (1) through (36), and adding new sections (1) through (7).

PURPOSE: This amendment describes the application process and requirements for acquiring a frozen dessert license.

[(1)]The following definitions shall apply in the interpretation and enforcement of this rule:

(A) A frozen dessert shall mean a frozen product made from any of the following: milk solids or other milk products, water, organic acids, natural or artificial flavoring, sweetening agents, and harmless coloring together with any safe or suitable functional ingredient. Frozen desserts shall include ice cream, frozen custard, ice milk, sherbet, water ice, melon-meringue or any other frozen product intended to be eaten in its frozen state, but which in its unfrozen, but otherwise edible state, is recognized by a common or usual name for a non-standardized food. Any of these frozen products which are prepared for special dietary use are also included as a frozen dessert;

(B) The term mix shall mean the unfrozen combination of all ingredients of a frozen dessert with or without fruits, fruit

juices, candy, nut meats, flavor or harmless color;

(C) The terms pasteurization and pasteurized shall refer to the process of heating in approved and properly operated equipment every particle of mix to one (1) of the following minimum temperatures and holding at this temperature continuously for the specified time: one hundred fifty-five degrees Fahrenheit (155 F) and holding at that temperature for at least thirty (30) minutes; or one hundred seventy-five degrees Fahrenheit (175 F) and holding at that temperature for at least twenty-five (25) seconds; or any other method or process demonstrated to be equally efficient and approved by the Missouri Department of Health;

(D) A frozen dessert processor is any person who freezes any pasteurized mix into semi-solid or solid form for retail distribution or sale as a frozen dessert;

(E) A frozen dessert distributor is any person who offers for sale or sells to another any frozen dessert or mix for human consumption;

(F) A frozen dessert plant is any place or premises where frozen desserts or mixes are processed, pasteurized, frozen or packaged for distribution or sale;

(G) An official laboratory is a biological, chemical or physical laboratory which is under the direct supervision of the state or local health authority and which has been approved by the appropriate state laboratory agency;

(H) Health authority shall mean the director of the Department of Health or his/her designated representative;

(I) The word person shall mean an individual, partnership, corporation, company, firm, trustee, cooperative or association;

(J) Adulterated shall mean the condition of a frozen dessert when it contains any poisonous or harmful substance in a quantity which may render it injurious to health; when it contains any added poisonous or harmful substance for which no safe tolerance has been established by regulation or in excess of that tolerance if one has been established; when it consists in whole or in part of any substance unfit for human consumption; when it has been processed, prepared, packaged or held under unsanitary conditions whereby it may have been rendered injurious to health; when its container is composed in whole or in part of any toxic or harmful substance which may render the contents injurious to health or when it contains any substance that does not conform with section 196.856, RSMo (1986) or this rule;

(K) Misbranded shall mean the presence of any false or misleading written, printed or graphic matter upon a container of frozen dessert or accompanying a frozen dessert or any label which violates any applicable federal, state or local labeling laws or regulations; and

(L) Confectionary shall mean candy, cakes, cookies and glazed fruits.

(2) All frozen dessert processors and frozen dessert plants shall be inspected at least annually to determine eligibility for license. The inspection procedure for renewal of license shall be the same as that for initial licensing.

(3) Raw milk and raw milk products used in the manufacture of frozen desserts shall meet at least the minimum requirements as defined in the Missouri Department of Agriculture Farm Certification Regulations.

(4) No ingredients shall be used in processing frozen desserts which are adulterated within the meaning of section 196.070, RSMo (1986).

(5) At irregular intervals during any six (6)-month period at least four (4) samples of frozen desserts or pasteurized mix

shall be taken and examined by an official laboratory designated by the Missouri Department of Health or its authorized representative. Pasteurized mix and frozen desserts shall not exceed fifty thousand (50,000) standard plate count or ten (10) coliform per gram in three (3) out of the last five (5) consecutive samples taken by the health authority.

(6) The floors of all rooms in which frozen desserts or frozen dessert mix or the ingredients for them are processed or frozen or in which containers and utensils are washed shall be constructed of concrete or other equally impervious and easily cleaned material; and shall be smooth, properly drained, provided with trap drains and kept clean and in good repair. Cold storage rooms used for storing frozen desserts, milk, cream, milk products, frozen fruits, frozen eggs and comparable ingredients need not be provided with floor drains, but the floors shall be sloped to drain to one (1) or more exits and shall be kept clean. Dry storage rooms need not to be drained and tight wood-floor construction is optional.

(7) Walls and ceilings of rooms in which frozen dessert mix, frozen desserts or ingredients for them are processed or frozen or in which containers or utensils are washed shall have a smooth, washable, light-colored surface and shall be kept clean and in good repair.

(8) Effective means shall be provided to prevent flies and rodents from entering a frozen dessert plant. All doors shall be self-closing.

(9) All rooms shall be well lighted and ventilated. All exposed working surfaces shall have at least twenty (20) footcandles of light as measured by a light meter. Dry storage and cold storage rooms shall have at least ten (10) footcandles of light at a distance of thirty inches (30") from the floor.

(10) The pasteurization, processing, cooling, freezing and packaging operations must be separated by solid partitions from other plant operations. Unless prohibited by existing construction, plants receiving milk products or frozen dessert mix in bulk transport tanks shall provide a room for receiving, cleaning and sanitizing transport tanks. Unless all milk products and mix are received in bulk transport tanks, a receiving room that is separate from rooms already listed in this section of this rule shall be required. Rooms in which milk products, frozen dessert ingredients or frozen desserts are handled, processed, sorted or packaged or in which product-contact containers, utensils and equipment are washed or stored shall not open directly into any room used for domestic purposes. All milk, milk products, mix or frozen desserts that have overflowed, leaked or been spilled shall be discarded.

(11) Every frozen dessert plant shall have conveniently located toilet facilities. Toilet rooms shall not open directly into any room in which milk products, frozen desserts or frozen dessert ingredients are processed or packaged. Toilet rooms shall be completely enclosed and shall have tight-fitting self-closing doors. Dressing rooms and toilet rooms shall be kept clean, in good repair and well ventilated.

(12) The water supply shall be easily accessible, adequate and of a safe and sanitary quality.

(13) Convenient handwashing facilities shall be provided, including hot and cold or warm running water, soap and individual sanitary towels or other approved hand-drying devices.

Handwashing facilities shall be kept in a clean condition and in good repair.

(14) All piping and fittings used to conduct milk, cream, milk products, mix or frozen desserts shall be of sanitary design and construction. Mix, frozen desserts, fluid milk products and ingredients shall be conducted from one (1) piece of equipment to another only by sanitary piping and fittings.

(15) All multiuse containers, utensils and equipment which come in contact with mix, frozen desserts, milk, cream and milk products and other ingredients shall be smooth, impervious, noncorrodible, nontoxic, relatively low-absorbent material. Equipment shall be designed and installed so it is easily cleaned and shall be kept in good repair. All single-service containers, closures, gaskets and other articles shall be manufactured, packaged, transported and handled in a sanitary manner.

(16) All waste shall be disposed of in a sanitary manner. All plumbing and appurtenances to plumbing shall be so designed and installed in a manner that prevents the contamination of mix or frozen desserts or any ingredient, utensil, container or equipment by drip, condensation or backflow.

(17) All multiflow utensils, containers and equipment shall be thoroughly cleaned before each use. All product-contact surfaces of utensils, containers and equipment shall be subjected effectively to an approved bactericidal process immediately prior to use. Multiuse containers used for the transportation of mix shall be thoroughly rinsed immediately after emptying. Cleaning in place shall be used only on equipment and pipeline systems that are designed and engineered for that purpose. Installation and cleaning procedures shall be in accordance with Standard 605-04 of the 3-A Accepted Practices formulated by the International Association of Milk, Food and Environmental Sanitations, United States Public Health Service and the Daily Industry Committee.

(18) After cleaning, all multiuse utensils, containers and equipment shall be stored to drain dry in a manner so they will not be contaminated before usage.

(19) Caps; parchment paper; wrappers; liners; gaskets and single-service sticks, spoons, covers and containers for frozen dessert mix or frozen desserts or their ingredients shall be purchased and stored in sanitary tubes, wrappings or cartons. All of these shall be kept in a clean, dry place until used and shall be handled in a sanitary manner.

(20) Between bactericidal treatment and usage and during usage, containers and equipment shall be handled or operated in a manner that prevents contamination of mix, frozen desserts or their ingredients. Pasteurized milk and frozen desserts shall not be permitted to come into contact with equipment with which unpasteurized mix, milk, cream or milk products have been in contact unless the equipment has been thoroughly cleaned and effectively subjected to an approved bactericidal process.

(21) All frozen desserts which are made from liquid dairy and egg products must be pasteurized after formulation; flavoring ingredients and the reconstituted liquid mixes prepared from dry powder mixes are exempt from the pasteurization requirement. All milk and egg products used in dry mixes shall have been subjected to a pasteurization process. The design and operation of all pasteurization equipment and all

appurtenances of that equipment shall comply with applicable specifications and operational procedures as outlined by the most recent recommendations of the federal Food and Drug Administration (FDA).

(22) All milk, cream and milk products in fluid form received at a frozen dessert plant for use in frozen dessert mix shall immediately be cooled to a temperature of forty-five degrees Fahrenheit (45 F) or less and maintained at that temperature until pasteurized and all pasteurized mix shall be cooled immediately in approved equipment to a temperature of forty-five degrees Fahrenheit (45 F) or less and shall be maintained at that temperature until frozen.

(23) A manufacturer of frozen desserts must comply with the following manufacturing practices:

(A) Powder or dry frozen dessert mixes intended for reconstitution with water and which contain no milk or other fluid dairy product ingredients but contain egg ingredients, dry whey, reduced mineral whey, whey protein concentrate or whey reduced in lactose or caseinates are exempt from the pasteurization requirement of section (21) of this rule. Any of these ingredients used in the formulation of powder or dry frozen dessert mixes shall have been pasteurized;

(B) Powder or dry frozen dessert mixes shall contain no ingredients except those which are generally recognized as safe by the federal FDA;

(C) Water ices are exempt from the pasteurization requirements of section (21) of this rule; and

(D) All frozen dessert manufacturers shall apply for a license from the Department of Health prior to the manufacture or sale and distribution of their products in the state. Volume of powder or dry frozen dessert mixes required on the application shall be reported as gallons of mix after reconstitution. The application shall also include the name under which the frozen dessert is to be advertised or offered for sale; a list of the ingredients, including optional ingredients, with percentages in the product; method of preparation; and any other relevant information.

(24) Packaging, cutting, molding and other preparations of mix or frozen desserts or their ingredients shall be done in a sanitary manner.

(25) After delivery, mix or frozen desserts in broken or open containers may be returned to the plant for inspection but shall not be sold or used for making mix or frozen desserts.

(26) Product drip or overflow or spilled mix or frozen desserts or their ingredients shall not be sold for human consumption.

(27) No person, while affected with any disease in communicable form or while a carrier of that disease, or while affected with boils, infected wounds, sores or an acute respiratory infection, shall engage in pasteurization handling of ingredients, filling, packaging or freezing operation or in any capacity in which there is a likelihood that this person will contaminate mix, frozen desserts or mix and frozen dessert-contact surfaces with pathogenic organisms or transmit disease to other individuals. No person known or suspected of being affected with any disease or condition shall be employed in such a capacity.

(28) All persons who come in contact with milk, cream, milk products, mix, frozen desserts, containers or equipment shall wear clean outer garments and head coverings and shall keep their hands clean at all times while engaged in that

work.

(29) All vehicles used for the transportation of mix, frozen desserts, cream, milk and milk products shall be constructed and operated so as to protect their contents from sun and contamination. These vehicles shall be kept clean and no substance capable of contaminating mix, frozen desserts, cream, milk and milk products shall be transported in the vehicles. Any such vehicle shall have the name of the distributor prominently displayed on it. Transport tanks used for transporting mix, cream, milk and milk products shall comply with the construction, cleaning, bactericidal treatment storage and handling requirements of this rule. Each shipment shall be sealed and labeled in an approved manner.

(30) Surroundings of frozen dessert processors and plants shall be kept clean, neat and free from conditions which might attract or harbor flies or other insects and rodents or which might otherwise constitute a nuisance.

(31) Lubricants, such as orange oil or petroleum jelly, which are applied to filling machine pistons and cylinders, pumps and valves, shall be sterile and shall be applied in a sanitary manner.

(32) No person shall transfer frozen desserts from one container to another on the street, in any vehicle or store, or in any other place except under sanitary conditions as permitted by the health authority.

(33) Frozen desserts from points beyond the limits of routine inspection of the health authority may be sold in the state if they are processed and pasteurized under provisions which are substantially equivalent to the requirements of this rule as determined by the health authority.

(34) All frozen dessert plants which are constructed, reconstructed or extensively altered after the effective date of this rule shall conform to construction requirements of this rule. Properly prepared plans for all frozen dessert plants which are constructed, reconstructed or extensively altered after October 11, 1980 shall be submitted to the health authority for approval before work is begun. Signed approval shall be obtained from the health authority.

(35) Notice shall be sent to the health authority immediately by any frozen dessert processor or distributor when any employee has any infectious, contagious or communicable disease.

(36) Whenever reasonable cause exists to suspect the possibility of transmission of infection from any person concerned with the handling of milk, milk products, frozen desserts, frozen dessert ingredients or frozen dessert mix, the health authority is authorized to require the immediate exclusion of that person from product handling. In addition, the health authority can require the immediate exclusion of the products concerned from distribution and require adequate medical and bacteriological examination of the person and of his/her associates and of his/her and their body discharges.]

(1) **Applicability.** This rule applies to food establishments, food processing plants, and brokers manufacturing and/or distributing frozen dessert products.

(2) **Definitions.** The following definitions shall apply in the interpretation and application of this rule and shall have the meaning

stated below:

(A) "Administrative authority" shall mean the department, local public health agency (LPHA), and/or U.S. Food and Drug Administration that has authority to govern food establishments and/or food processing plants;

(B) "Broker" shall mean any person operating a food processing plant located outside of Missouri that manufactures and/or distributes frozen dessert products into Missouri;

(C) "Department" shall mean the Missouri Department of Health and Senior Services;

(D) "Food establishment" shall be defined as specified in 19 CSR 20-1.025;

(E) "Food processing plant" shall be defined as specified in 19 CSR 20-1.025;

(F) "Frozen dessert" shall mean ice cream, ice cream mix, ice milk, sherbet, frozen malt, ice milk mix, mellorine, edible fat frozen dessert, or ices that meet the definition of a potentially hazardous food as defined in 19 CSR 20-1.025; and

(G) "Person" shall mean an individual, partnership, corporation, organization, and association.

(3) **Responsibilities.** The person shall—

(A) Allow the administrative authority access to the premises during normal hours of operation for the purposes of conducting health and sanitation inspections;

(B) Allow the administrative authority to collect water, food, and environmental samples as needed;

(C) In the event of a suspected communicable disease outbreak, implement health and sanitation control measures as required by the department and/or Local Public Health Agency (LPHA); and

(D) In the event food products are deemed adulterated or misbranded, implement health and sanitation control measures as required by the department.

(4) **General Criteria.**

(A) Food establishments shall—

1. Be in compliance with sanitation requirements specified in 19 CSR 20-1.025 or local food ordinance; and

2. Clean and maintain frozen dessert equipment in accordance with manufacturer's specifications.

(B) Food processing plants shall—

1. Be in compliance with sanitation requirements specified in 19 CSR 20-1.040; and

2. Be in compliance with labeling requirements specified in 19 CSR 20-1.045.

(C) Brokers shall—

1. Be in compliance with equivalent local sanitation requirements; and/or

2. Be in compliance with sanitation requirements specified in 21 CFR Part 117; and

3. Be in compliance with labeling requirements specified in 21 CFR Part 101.

(5) **Application Requirements for Initial Frozen Dessert License.**

(A) Prior to the issuance of a license, an applicant shall complete and submit an application packet to the department. The department may require additional information when deemed necessary to assure compliance with the requirements of this rule. The application packet shall include:

1. A completed Application for Frozen Dessert License form (which can be requested by contacting the department);

2. A nonrefundable licensing fee of ten dollars (\$10);

3. Certificate of No Tax Due as required in section 144.083, RSMo; and

4. A copy of the most current sanitation inspection report from the administrative authority.

(B) Private homes, hospitals, churches, or fraternal organization manufacturing frozen dessert products for their own use or food establishments serving and/or selling ice cream or frozen dessert products received in its final frozen form from a licensed manufacturer shall not be required to obtain a frozen dessert license.

(6) Procedure for Issuance or Denial of Frozen Dessert License.

(A) The applicant shall be notified in writing or electronic mail (email), by the department, when the application is approved, incomplete, or denied.

1. If the application is approved, the notice shall specify the application is approved and a frozen dessert license shall be issued.

2. If the application is incomplete, the notice shall specify the necessary information or documentation required to complete the application.

A. The applicant shall submit the requested information and/or documentation to the department within thirty (30) calendar days from the issuance date of the notice.

B. Failure to submit the requested information within the thirty (30) calendar days may result in the department denying the application.

3. If the application is denied, the notice shall specify the reason(s) for the denial.

(B) The applicant shall be denied a frozen dessert license for any one (1) or any combination of the following:

1. Failure to submit a complete application;

2. False or misleading statement(s) on the application; or

3. Failure to comply with the applicable requirements specified in sections (3) and (4) of this rule.

(C) If the applicant is aggrieved by a determination to deny licensure, the applicant may appeal the department's decision to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(7) License Renewal.

(A) A frozen dessert license shall be valid for one (1) year.

(B) Prior to the issuance of a renewal license, within sixty (60) calendar days but no later than thirty (30) calendar days prior to the expiration of the current license, a licensee shall complete and submit an application packet to the department. The department may require additional information when deemed necessary to assure compliance with the requirements of this rule. The application packet shall include:

1. A completed Application for Frozen Dessert License form (which can be requested by contacting the department);

2. A nonrefundable licensing fee as specified in section 196.866, RSMo;

3. Certificate of No Tax Due as required in section 144.083, RSMo; and

4. A copy of the most current sanitation inspection report from the administrative authority.

AUTHORITY: section 196.872, RSMo [1986] 2016. This rule was previously filed as 13 CSR 50-63.010. Original rule filed June 27, 1980, effective Oct. 11, 1980. Amended: Filed June 27, 1983, effective Nov. 11, 1983. Amended: Filed May 2, 1986, effective July 26, 1986. Amended: Filed June 2, 2021.

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 Department of Health and Senior Services, Division of Community and Public Health, Adam Crumbliss, Division Director, PO Box 570, Jefferson City, MO 65102-0570. 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 30—Division of Regulation and Licensure
Chapter 84—Training Program for Nursing Assistants**

PROPOSED AMENDMENT

19 CSR 30-84.010 [Nurse] Nursing Assistant Training Program.

The department is amending the title of this rule; amending sections (1)–(6) and (13); adding sections (7), (8), (10), and (14)–(16); amending sections formerly numbered (7)–(11); renumbering sections as needed; adding two forms; and adding an application.

PURPOSE: This amendment updates and adds requirements for the basic course curricula content and adds requirements for update training for instructors. Clarifies student requirements and who is eligible to challenge the final examination. Clarifies requirements for employees of a long-term care facility. Updates instructor/clinical supervisor/student ratios. Adds requirements for a RN Instructor Trainer. Revises requirements to allow for a department approved third party proctor to administer the final examination test. Updates and adds requirements for training and certifying agencies. Clarifies and adds requirements for instructors and clinical supervisors. Updates definitions, removes redundancy, outdated language, and makes grammatical changes.

(1) Definitions. For the purpose of this rule, the following definitions shall apply:

(A) Association—means the Missouri Health Care Association, the Missouri Association of Nursing Home Administrators, Leading Age Missouri, or Missouri Hospital Association;

[(A)](B) Basic course [shall]—means the seventy-five (75) hours of [classroom] instructional training, the one hundred (100) hours of supervised on-the-job [supervised] training, and the final examination of the [approved Nurse] nursing [A]assistant [T]training course[.];

[(B)](C) Certifying agency [shall]—means an [long-term care (LTC)] association [or other entity], Career Center school, comprehensive high school, community college, or four- (4-) year institution of higher learning approved by the [division under subsection (11)(B) to issue certificates to nursing assistants.] department;

[(C)](D) Challenge the final examination [shall]—means taking the final examination of the basic course without taking the entire basic course[.];

[(D)](E) [Division—shall] Department—means the Missouri [Division of Aging.] Department of Health and Senior Services;

[(E) Long-term care association shall mean the Missouri Health Care Association, the Missouri Association of Homes for the Aged, the League of Nursing Home Administrators or the Missouri Assisted Living Association.]

(F) [Nursing service shall mean an agency or organization, such as a Nursing Pool Agency or Hospice, which employs nurses and nursing assistants for temporary or intermittent placement in LTC facilities.] Hospital—means any licensed hospital as defined in section 197.020, RSMo;

(G) [Training agency shall mean the organization which sponsors the approved training program. An approved training agency is approved by the Division of Aging under section (7) of this rule.] Missouri Veterans' Home—means any facilities

established and maintained as a Missouri Veterans' Home as defined in section 42.002, RSMo;

(H) *[Program shall mean the Nurse Assistance Training Program as required by the Omnibus Nursing Home Act and section 198.082, RSMo 1994.]* **Nursing Assistant Clinical Supervisor Workshop**—means the training course approved by the department and conducted by a certifying agency to prepare clinical supervisors to learn the methodology of teaching the supervised on-the-job training component of the nursing assistant training program;

(I) **Nursing Assistant Instructor Workshop**—means a training course approved by the department and conducted by a certifying agency to prepare instructors to learn the methodology of teaching the nursing assistant training program;

(J) **Program**—means the nursing assistant training program as required by section 198.082, RSMo;

(K) **Registered Nurse Instructor Trainer**—means a registered nurse (RN) approved by a certifying agency to teach the Nursing Assistant Instructor Workshop and the Nursing Assistant Clinical Supervisor Workshop to prepare instructors and clinical supervisors to teach the nursing assistant training program; and

(L) **Training agency**—means an organization approved by the department which sponsors the approved nursing assistant training program.

(2) The purpose of the *[Nurse Assistant Training P]* program shall be to prepare individuals for employment *[in a LTC facility]* as a **certified nursing assistant (CNA)**. The program shall be designed to teach skills in resident care which will qualify *[students]* **individuals** to perform uncomplicated nursing procedures and to assist licensed practical nurses (LPNs) or *[registered professional nurses]* **RNs** in direct resident care.

(3) All aspects of the *[Nurse Assistant Training P]* program included in this rule (that is, qualified instructor, clinical supervisor, *[examiner, approved]* course curriculum, *[approved]* training agency, **certifying agency**, supervised on-the-job training, testing, and student qualifications) shall be met in order for a program to be considered as approved.

(4) **Basic Course Requirements.** The program shall consist of a basic course *[consisting of a]* **that includes, at a minimum [of], the following:**

(A) *[s]*Seventy-five (75) *[classroom]* hours of **instructional** training *[on basic nursing skills, fire safety and disaster training, resident safety and rights, social and psychological problems of residents, and the methods of handling and caring for mentally confused residents such as those with Alzheimer's disease and related disorders]* in the curricula identified in section (5) of this rule;

(B) *[o]*One hundred (100) hours of supervised on-the-job training (clinical practice) in an **approved laboratory or other setting in which the student demonstrates knowledge while performing tasks on an individual under the supervision of a LPN or RN; and**

(C) *[a]*A final examination*]; and, following the basic course, continuing in-service training as provided for in 13 CSR 15-14.042(19) through (24)].*

(5) **Curricula Content.**

(A) Until August 31, 2021, a training agency identified in paragraphs (9)(A)1., (9)(A)2., and (9)(A)6. of this rule, shall teach the basic course and utilize either the content outlined in paragraphs (5)(A)1. and 2. or (5)(B)1. and 2. This basic course includes the following:

[1] Curriculum content of the program shall include procedures and instructions on basic nursing skills in the following areas: basic hygiene techniques; bedmaking; personal care of residents;

food service; charting; safety measures (including fire/safety and disaster preparedness*[,] and infection control)*; basic preventative and restorative care and procedures; basic observation procedures, such as weighing and measuring; communication skills; methods of handling and caring for mentally confused residents; residents' rights; ethical and legal responsibilities; death and dying; and mental health and social needs*].;* **and**

*[(A)]*2. The course curriculum as outlined in the manual entitled *The Nurse Assistant in a Long-Term Care Facility*, produced by the Instructional Materials Laboratory, University of Missouri-Columbia, *[1987] revised November 2001*, catalogue number 50-5061-S shall be considered an approved course curriculum. Other manuals and course material may be used to supplement the curriculum. Instructors shall use the companion instructor's guide, catalogue number 50-5061-I.

[(B)] An orientation module consisting of certain topics identified as such in the approved course curriculum shall be the first material covered in the course unless the course is taught in its entirety before nursing assistants have resident contact. All students must complete the nurse assistant orientation module prior to providing direct care to any resident. For those students already employed by an intermediate care or skilled nursing facility, the orientation module shall be taught at the beginning of the course and before the nursing assistant is allowed to provide direct care to residents independently.

1. The orientation module shall include, as a minimum, the following topics: handwashing, gloving and infection control; emergency procedures and Heimlich Maneuver; residents' rights; abuse and neglect reporting; safety (fire and accident); lifting; moving and ambulation; answering signal lights; bedpan, urinal, commode and toilet; preparing residents for and serving meals; feeding the helpless; bathing; dressing and grooming; mouth care; bedmaking (occupied and unoccupied); promoting residents' independence; communication and interpersonal skills.

2. Students shall complete the orientation module taught by a qualified instructor even though they may be employed in a facility that uses the approved course material for orientation as required by 13 CSR 15-14.042(20). The instructor, in that instance, may adjust the time required to cover the material or may integrate the material into the basic course content.

(C) The suggested time schedule included for each curriculum topic in the approved course cited in subsection (5)(A) may be adjusted by the instructor to meet the particular learning abilities of the students providing that the orientation module shall be taught in at least sixteen (16) hours for Medicare- or Medicaid-certified facilities. Licensed-only facilities shall provide at least twelve (12) hours of basic orientation approved by the division.

(D) The on-the-job supervised component of one hundred (100) hours shall start after the student has enrolled and started the course curriculum and shall precede the final examination.

(E) Continuing in-service education shall be offered in the intermediate care or skilled nursing facility (ICF/SNF) to nursing assistants on a regular basis following their successful completion of the basic course as required in 13 CSR 15-14.042(20) through (23).]

(B) A training agency identified in paragraphs (9)(A)3.-5. of this rule, shall teach the basic course content outlined in paragraphs (5)(B)1. and 2. by August 31, 2021, a training agency identified paragraphs (9)(A)1., (9)(A)2., and (9)(A)6. of this rule, shall transition and begin teaching the basic course content outlined in paragraphs (5)(B)1. and 2. This basic course includes the following:

1. The curriculum content shall include the required seventy-five (75) hours of instructional training and covers all of the following areas:

- A. Communication and interpersonal skills;
- B. Infection control;
- C. Safety/emergency procedures, including the Heimlich maneuver;
- D. Promoting residents' independence;
- E. Respecting residents' rights;
- F. Basic nursing skills including, but not limited to—
 - (I) Taking and recording vital signs;
 - (II) Measuring and recording height and weight;
 - (III) Caring for the residents' environment;
 - (IV) Recognizing abnormal changes in body functioning and the importance of reporting such changes to a supervisor; and
 - (V) Caring for residents when death is imminent;
- G. Personal care skills including, but not limited to—
 - (I) Bathing;
 - (II) Grooming, including mouth care;
 - (III) Dressing;
 - (IV) Toileting;
 - (V) Assisting with eating and hydration;
 - (VI) Proper feeding techniques;
 - (VII) Skin care; and
 - (VIII) Transfers, positioning, and turning;
- H. Mental health and social service needs including, but not limited to—
 - (I) Modifying nursing assistant's behavior in response to resident's behavior;
 - (II) Awareness of developmental tasks associated with the aging process;
 - (III) How to respond to resident behavior;
 - (IV) Allowing the residents to make personal choices, providing and reinforcing other behavior consistent with the resident's dignity; and
 - (V) Utilizing the resident's family as a source of emotional support;
- I. Care of cognitively impaired residents including, but not limited to—
 - (I) Techniques for addressing the unique needs and behaviors of individuals with dementia (Alzheimer's and others);
 - (II) Communicating with cognitively impaired residents;
 - (III) Understanding the behavior of cognitively impaired residents;
 - (IV) Appropriate responses to the behavior of cognitively impaired residents; and
 - (V) Methods of reducing the effects of cognitive impairments;
- J. Basic restorative services including, but not limited to—
 - (I) Training the resident in self-care according to the resident's abilities;
 - (II) The use of assistive devices in transferring, ambulation, eating, and dressing;
 - (III) Maintenance of range of motion;
 - (IV) Proper turning and positioning in bed and chair;
 - (V) Bowel and bladder training; and
 - (VI) Care and use of prosthetic and orthotic devices;
- K. Residents' rights including, but not limited to—
 - (I) Providing privacy and maintenance of confidentiality;
 - (II) Promoting the residents' right to make personal choices to accommodate their needs;
 - (III) Giving assistance in resolving grievances and disputes;
 - (IV) Providing needed assistance in getting to and participating in resident and family groups and other activities;

(V) Maintaining care and security of residents' personal possessions;

(VI) Promoting the residents' right to be free from abuse, mistreatment, and neglect and the need to report any instances of such treatment to appropriate facility staff; and

(VII) Avoiding the need for restraints in accordance with current professional standards; and

2. The basic course shall be taught using current published instruction material(s) that are no more than ten (10) years old. The material(s) shall include current standards of practice for nursing assistants. Other course materials that contain current standards of practice in healthcare and are no more than ten (10) years old may be used to supplement the curriculum.

(6) Student Enrollment and Qualifications.

(A) Any individual who is employable by an intermediate care facility (ICF)/ or skilled nursing facility (SNF) to be involved in direct resident care shall be eligible to enroll in *a/n approved* training agency's nursing assistant training *[course]* program if—

1. The individual is at least eighteen (18) years of age and employable. Employable shall mean that the individual is not listed on the *[Missouri Division of Aging]* department's Employee *[Disqualified]* Disqualification List; *who* (EDL) and has not been *[found guilty of, pled guilty to, been convicted of, or nolo contendere to,]* convicted or entered a plea of guilty to a misdemeanor or felony charge which includes any suspended imposition of sentence, any suspended execution of sentence or any period of probation or parole in this state or any other state which if committed in Missouri would be a *[C/class A or B felony [under] violation of Chapters 565, 566, or 569, [a Class D felony under section 568.020,]* RSMo *[1994]* or any violation of subsection 198.070.3, RSMo *[1994]*, or section 568.020, RSMo, unless a good cause waiver has been granted by the *[division; and who meets requirements under 13 CSR 15-14.042(32)]* department; or

2. The individual is at least sixteen (16) years of age providing he or she is—

A. Currently enrolled in a secondary school health services occupation program or a cooperative work education program of an area vocational/ technical school or comprehensive high school;

B. Placed for work experience in an ICF//, SNF, hospital, Missouri Veterans' Home, or a hospital-based nursing facility or hospital-based skilled nursing facility by that program; *[and]*

C. Not listed on the department's EDL and has not been convicted or entered a plea of guilty to a misdemeanor or felony charge which includes any suspended imposition of sentence, any suspended execution of sentence, or any period of probation or parole in this state or any other state which if committed in Missouri would be a class A or B felony violation of Chapters 565, 566, or 569, RSMo or any violation of subsection 198.070.3, RSMo, or section 568.020, RSMo, unless a good cause waiver has been granted by the department; and

[C.]D. Under the direct supervision of *[the]* an instructor or *[licensed nursing staff of the facility]* clinical supervisor, or both, while completing the clinical portion of the course. *[A certified facility may not employ a student in the facility who is not certified within four (4) months of date of hire. A licensed-only facility may only employ a student in that facility for up to one (1) year from the date of hire prior to certification.]*

[[B)] All full or part-time employees of an ICF/SNF who are involved with direct resident care, and hired in that capacity after January 1, 1980, shall have completed the approved Nurse Assistant Training Program or shall enroll in and begin study in the approved training program within ninety (90) days of employment, except that the following persons shall be permitted to challenge the final examination:

1. Persons who were enrolled in a professional (RN) or

practical (LPN) nursing education program for at least four (4) months or who are enrolled in this program and who have successfully completed the Fundamentals of Nursing Course, including clinical hours within the last five (5) years, may challenge the final examination of the course, as this training is deemed equivalent to the required classroom hours and on-the-job training;

2. Professional nursing or practical nursing licensure candidates who have failed state licensure examinations may challenge the final examination, as their training is deemed equivalent to the required classroom hours and on-the-job training;

3. Persons from other states who are approved to work as a nurse assistance in the other states may challenge the final examination, as their training is deemed equivalent to the required classroom hours and on-the-job training;

4. Students who have completed a nursing program outside the United States and who are awaiting the licensure examination in this country shall be required to apply to the division to take the challenge examination. In addition to a completed application, the student must also include: a copy of the out of country license or certificate; a copy of the school transcript translated to English; a copy of the out of country criminal background check translated to English. Students shall be required to complete the orientation module of the course as given in subsection (5)(B) of this rule and then may challenge the final examination, as their training is deemed equivalent to the other required classroom hours and on-the-job training;

5. Persons trained in acute care sections of hospitals as nursing assistants or persons trained as psychiatric aides shall complete the orientation module with special emphasis on the geriatric residents' needs, residents' rights and orientation to the facility and shall complete the one hundred (100) hours of on-the-job training in an LTC facility or LTC unit of a hospital and then they may challenge the final examination, as their training is deemed equivalent to the other required classroom hours and on-the-job training;

6. Persons trained in an LTC unit of a hospital and who have been employed in the LTC unit of the hospital for at least twelve (12) months and who submit a letter of recommendation from the administrator or director of nursing documenting their training may challenge the final examination after completing the units on residents' rights and care of the confused resident. Such training shall be deemed equivalent to the other required classroom hours and on-the-job training; and

7. Any other persons whose background, education and training in gerontology and health occupations includes the components of the approved training curriculum may be allowed to challenge the final examination after taking those portions of the course as determined to be necessary based on evaluation of their credentials by the supervisor of health education of the Division of Aging.

(C) Those persons designated in paragraphs (6)(B)1.-7., who want to challenge the final examination shall submit a request in writing to the division enclosing any applicable documentation. The division will respond, in writing, either approving or denying the request to challenge the final examination and, if approved, the letter from the division may be presented to an approved training agency to challenge the examination or complete the course or portions of the course as required and then challenge the examination.

(D) Those persons permitted to challenge the final examination shall have made arrangements to do so within sixty (60) days of employment as a nursing assistant and shall have successfully challenged the final examination prior to or within one hundred twenty (120) days of employment. Per-

mission letters not utilized within the one hundred twenty (120)-day period shall be considered invalid and reapplication for permission to challenge shall be made to the division.

(E) Nursing assistants who are employed by a nursing service, or who are working on a private duty basis providing direct resident care shall have completed the approved basic course, shall have a current certificate from an approved certifying agency and shall be listed on the Division of Aging Certified Nurse Assistant Registry prior to functioning in an ICF/SNF.

(F) Allied health care personnel, such as emergency medical technicians, medical laboratory technicians, surgical technicians, central supply technicians and dental auxiliaries, shall not be considered qualified and shall not be allowed to challenge the final examination. Individuals, if employed by an ICF/SNF to provide direct patient care shall enroll in and successfully complete an approved program.

(G) If a student drops the course due to illness or incapacity, the student may re-enroll in a course within six (6) months and make up the course material missed without retaking the entire course upon presenting proof of attendance and materials covered in the original class.

(H) A student shall complete the entire basic course (including passing the final examination) within one (1) year of employment as a nursing assistant in an SNF/ICF, except that a nursing assistant employed by a facility certified under Title XVIII or Title XIX shall complete the course and be certified within four (4) months.

(I) A full or part-time employee of an ICF/SNF who is employed as a nursing assistant after January 1, 1989 who has not completed at least the classroom portion of the basic course shall not provide direct resident care until he or she has completed the sixteen (16)-hour orientation module and the twelve (12) hours of supervised practical orientation required in 13 CSR 15-14.042(20).

(J) All nursing assistants trained prior to January 1, 1989 who were not trained using the course curriculum referenced in subsection (5)(A) of this rule with at least seventy-five (75) hours of classroom instruction shall have attended a special four (4)-hour retraining program which used the manual entitled Long-Term Care Nurse Assistant Update produced by the Instructional Materials Laboratory, University of Missouri-Columbia, 1989, catalogue number 50-5062-I or 50-5062-S. Any nursing assistant who did not attend this retraining program by August 31, 1989 shall no longer be considered a trained nursing assistant and all previous credentials issued by any source shall be considered invalid. To be certified as required by the provisions of this rule, a person shall successfully complete the entire Nursing Assistant Training Program.]

(B) Prior to any direct contact with a resident, a student enrolled in the basic course in a Medicare or Medicaid certified facility shall complete sixteen (16) of the required seventy-five (75) hours of instructional training in communication and interpersonal skills; infection control; safety/emergency procedures, including the Heimlich maneuver; promoting residents' independence; and respecting residents' rights.

(C) If a student drops the basic course, the student may re-enroll in a course within six (6) months and make up the course material missed without retaking the entire basic course after presenting proof of attendance and materials covered in the original class.

(D) A student shall not perform any services for which the student has not been trained nor found proficient by the instructor and/or clinical supervisor.

(E) A student who received instructional training from the basic course content outlined in paragraphs (5)(B)1. and 2. of this rule, shall register with the department approved third party

test administrator upon successful completion of the seventy-five (75) hours of instructional training and one hundred (100) hours of supervised on-the-job training.

(7) Employees of a Long-Term Care (LTC) Facility. Each CNA hired to work in an ICF or SNF after January 1, 1980, shall have successfully completed a nursing assistant training program approved by the department or shall enroll in and begin the first available approved training program which is scheduled to commence within ninety (90) days of the date of the CNAs employment and which shall be completed within four (4) months of employment.

(8) Final Examination Challenge.

(A) Individuals eligible to challenge the final examination, includes—

1. Individuals who were enrolled in a RN or LPN nursing education program for at least four (4) months and successfully completed a course on the fundamentals of nursing, including clinical hours within the last five (5) years;

2. Individuals currently enrolled in a RN or LPN nursing education program and who have successfully completed a course on the fundamentals of nursing, including clinical hours;

3. RN or LPN nursing licensure candidates who have failed state licensure examinations within the last five (5) years;

4. Individuals who have met the requirements of unlicensed assistive personnel contained in 19 CSR 30-20.125;

5. Individuals trained by a hospital as nursing assistants or psychiatric aides who have completed the following:

A. One hundred (100) hours of supervised on-the-job training in an ICF, SNF, hospital, Missouri Veterans' Home, or hospital-based nursing facility or hospital-based skilled nursing facility; and

B. Instruction that covers the basic course content outlined in paragraphs (5)(B)1. and 2. of this rule;

6. Any other persons whose background, education, and training in gerontology and health occupations includes components of the basic course content outlined in paragraphs (5)(B)1. and 2. may be allowed to challenge the final examination after taking those portions of the course as determined to be necessary based on evaluation of their credentials by the Section for Long-Term Care Regulation, Health Education Unit;

7. A CNA who is listed as inactive for less than five (5) years on the Missouri Certified Nurse Assistant Registry and cannot provide the required employment documentation in accordance with section (18) of this rule; and

8. Individuals who have successfully completed a nursing program outside the United States within the last five (5) years or who have obtained a nursing license outside the United States.

(B) Individuals who are certified and active on another state's nurse aide registry shall not be required to challenge the final examination. The individual shall submit, in writing to the department, a request to be added to the Missouri Certified Nurse Assistant Registry. At a minimum, the request shall include: the individual's legal name; Social Security number; current address; telephone number; email address, if applicable; and proof of their current certified nursing assistant certificate. The department will respond in writing, either approving or denying the request to be added to the registry.

(C) Individuals identified as eligible to challenge the final examination in paragraphs (8)(A)1.-7., shall submit a request in writing to the department and enclose, at a minimum, the following information: legal name; Social Security number; current address and telephone number; email address, as applicable; and transcripts. The department will respond in writing, either approving or denying the request to challenge the final examination. If approved, the department shall provide a list of individuals eligible to take the examination to the department approved

third party test administrator.

(D) Individuals identified in paragraph (8)(A)8., shall submit a request in writing to the department to take the final examination and enclose, at a minimum, the following information: legal name; Social Security number; current address and telephone number; email address, as applicable; a copy of the out-of-country license or certificate translated to English; a copy of the school transcript translated to English; and a copy of the out-of-country criminal background check translated to English. The department will respond in writing, either approving or denying the request to challenge the final examination. If approved, the department shall provide a list of individuals eligible to take the examination to the department approved third party test administrator.

(E) Those individuals permitted to challenge shall take the final examination within one hundred twenty (120) calendar days of the department notification. Permission letters not utilized within the one hundred twenty- (120-) day period shall be considered invalid and reapplication for permission to challenge shall be made to the department.

(F) If an individual fails the final examination after one (1) attempt, he or she shall successfully complete basic course in its entirety.

[(7)](9) Training [Agencies] Agency Responsibilities.

(A) The following entities are eligible to apply to the [division] department to be an approved training agency:

1. [Area vocational technical] Career Center schools and comprehensive high schools [offering] approved by the Missouri Department of Elementary and Secondary Education (DESE) that offer health service occupation programs which have a practice classroom and equipment used in delivering health care [and a]. There shall be a signed written agreement of cooperation with one (1) or more [SNFs/ICFs] ICFs, SNFs, hospitals, Missouri Veterans' Homes, or [an LTC unit of a] hospital-based nursing facilities or hospital-based skilled nursing facilities in their vicinity for the one hundred (100)-hours of supervised on-the-job training component of the basic course;

2. Public [C]community [junior] colleges, public colleges and universities, proprietary schools, or private agencies approved by the Missouri Department of [Elementary and Secondary Education] Higher Education (MDHE) or accredited by a [nationally] recognized accrediting agency or association on the list published by the [s]Secretary of the United States Department of Education, pursuant to the Higher Education Act [(20 USC Sections 295-4(2)(D), 42 USC Section 298(b)(6))] of 1965, the Higher Education Opportunity Act 2008 (Public Law 110-315), and the Veterans' Readjustment Assistance Act [(38 USC Section 1775(a))] which have a practice laboratory with one (1) or more bed units and equipment used in delivering health care and have a signed written agreement of cooperation with one (1) or more [SNFs/ICFs] ICFs, SNFs, hospitals, Missouri Veterans' Homes, or [LTC units of a] hospital-based nursing facilities or hospital-based skilled nursing facilities in their vicinity for the one hundred (100) hours of supervised on-the-job training component of the basic course; [or]

3. Associations as defined in section (1) of this rule. There shall be a signed written agreement of cooperation with an ICF, SNF, hospital, Missouri Veterans' Home, or a hospital-based nursing facility or hospital-based skilled nursing facility to provide the one hundred (100) hours of supervised on-the-job training;

[3.]4. A [licensed hospital,] licensed [SNF/ICF which has designated space sufficient to accommodate the classroom teaching portion of the course, and] ICF, SNF, or a hospital-based nursing facility or hospital-based skilled nursing facility. There shall be a signed written agreement of cooperation with an ICF, SNF, hospital, Missouri Veterans' Home, or a hospital-based

nursing facility or hospital-based skilled nursing facility if the one hundred (100) hours of supervised on-the-job training is not provided on-site, has a written agreement of cooperation with an LTC unit of a hospital or SNF/ICF to provide that portion.];

5. Licensed hospitals. There shall be a signed written agreement of cooperation with an ICF, SNF, hospital, Missouri Veterans' Home, or a hospital-based nursing facility or hospital-based skilled nursing facility if the one hundred (100) hours of supervised on-the-job training is not provided on site; or

6. Missouri Veterans' Homes. There shall be a signed written agreement of cooperation with an ICF, SNF, hospital, Missouri Veterans' Home, or a hospital-based nursing facility or hospital-based skilled nursing facility if the one hundred (100) hours of supervised on-the-job training is not provided on site.

(B) *[A school, agency, hospital or nursing facility]* Organizations identified in paragraphs (9)(A)1.-6. which want/s] to be approved by the *[division]* department to teach the *[Nursing Assistant Training Program]* program shall *[file an application with the division giving the name(s) of the instructor(s) and clinical supervisor(s); and, if clinical training is not being done on-site, a copy of an agreement with a nursing facility for the clinical portion of the course]* submit to the department form DHSS-DRL-2469 (08-20), Application for Approval as a Nursing Assistant Training Agency, included herein.

(C) In order to be approved, the applicant shall have *[an area which will be]* a designated *[during training sessions as a classroom with]* location which contains sufficient space, equipment, and teaching aids to *[allow fifteen (15)]* meet the course objectives and accommodate the maximum number of students *[to be seated with room for note-taking, appropriate equipment as needed for teaching the course, approved instructors and clinical supervisors, and shall assure that]* allowed. *[t]*The instructor and each student *[has a manual for the state-approved]* shall be provided with the required curricula content and instructional material(s) for the basic course identified in section (5) of this rule.

(D) Any ICF~~/~~ or SNF which has received a Class I *[N]*notice of *[N]*noncompliance related to administration and resident care from the *[division]* department in the two- (2-)~~/~~ year period prior to application for approval shall not be eligible for approval *[and]*. *[i]*If this *[N]*notice is issued after approval, the approval shall be withdrawn by the *[division]* department within ninety (90) calendar days and the certifying agencies shall be notified of the withdrawal of approval. Students already enrolled in *[a class in this facility, however,]* the basic course may complete *[their]* the course if a *[N]*notice is issued after *[a]* the basic course has begun. *[However, a noncompliant facility where an extended or partially extended survey has been completed may apply in writing to the division requesting permission for approval to train and test nurse assistants for certification. The approval for each separate class may be granted to teach and test in the facility but not by the facility staff. If approval is granted for a waiver for a certified facility or exception for a licensed-only facility, the division shall require certain criteria to be met, depending on the issues such as time and distance to other training agencies in the area.]*

(E) An ICF or SNF whose approval has been withdrawn for a Class I notice of noncompliance related to administration and resident care may request in writing to the department for an exception to train and test nursing assistants. This written request shall include, at a minimum, the following information:

1. The training site name, and training site number, address, telephone and fax number, and email address as applicable;
2. Administrator's name and facility operator's name and address;
3. Sponsoring training site name, sponsoring training site number, sponsoring training site's instructor's name, instructor's Social Security number, and email address as applicable;

4. The exit date of the noncompliance interview for each deficiency of a Class I in the areas of administration and resident care requirements in 19 CSR 30-85.042; reason(s) for noncompliance; explanation of efforts in locating another training agency within a reasonable distance (at least one-half (½) hour travel time each way from the facility); and

5. A student roster for each class. The student roster shall include each student's name; student's address and telephone number; student's Social Security number; and the student's email address, as applicable; class begin date; number of students completed; instructor's name and telephone number; instructor's license number; instructor's Social Security number; instructor's employer; and the instructor's email address, as applicable.

[(D)](F) The *[division]* department shall make an on-site inspection of each *[approved]* training agency's premises within two (2) years of approval and every two (2) years following to determine the adequacy of space; equipment and supplies; and, if clinical training is not done on-site, verify that there is a current copy of a *[n]* signed written agreement of cooperation with an ICF, SNF, hospital, Missouri Veterans' Home, or a hospital-based nursing facility or hospital-based skilled nursing facility for the clinical portion of the course.

[(E)](G) Upon receipt of *[a fully]* the completed *[application]* form DHSS-DRL-2469 (08-20), Application for Approval as a Nursing Assistant Training Agency, the *[division]* department shall notify the applicant in writing within ninety (90) calendar days of approval or disapproval. If disapproved, the reasons why shall be given.

[(F)](H) Training agencies shall be approved for a two- (2-)~~/~~ year period and shall submit a new application for approval thirty (30) calendar days prior to the expiration of approval.

(I) The training agency shall be responsible for obtaining an approved instructor and providing training materials for each student. If an instructor is not employed by the training agency, there shall be a signed written agreement of cooperation between the training agency and the instructor.

(J) The training agency shall be responsible for obtaining an approved clinical supervisor. If a clinical supervisor is not employed by a training agency, there shall be a signed written agreement of cooperation between the training agency and the clinical supervisor.

(K) If the training agency is not a licensed ICF or SNF, the agency shall have a signed written agreement of cooperation currently in effect with an ICF, SNF, hospital, Missouri Veterans' Home, or a hospital-based nursing facility or hospital-based skilled nursing facility where the one hundred (100) hours of supervised on-the-job training shall be conducted.

(L) In the event that a qualified instructor for the basic course did not sign records of a student who successfully completed the program, without justification or due to resignation from his or her position, the administrator or designee of the training agency shall validate the training by signature.

(M) Evidence of successful completion of the basic course shall be documented prior to a student taking the final examination and shall include:

1. Class schedules and form MO 580-2473 (12-07) Certified Nurse Assistant Competency Score Sheet (For Use Only With The 2001 Manual) Appendix A/B, included herein for training agencies using the basic course content outlined in paragraphs (5)(A)1. and 2. of this rule; or

2. Class schedules and form DHSS-DRL-111 (08-20), Classroom and On-the-Job Training Record, included herein for training agencies using the basic course content outlined in paragraphs (5)(B)1. and 2. of this rule.

(N) The training agency shall ensure that all applicable portions of appropriate forms identified in paragraphs (9)(M)1. and 2. of this rule are complete and shall provide a copy to the student

within seven (7) calendar days of successful completion of the seventy-five (75) hours of instructional training and one hundred (100) hours of supervised on-the-job training.

(O) The training agency shall maintain records for a minimum of two (2) years for those individuals who have completed the basic course.

(10) Certifying Agency Responsibilities.

(A) In order for a certifying agency to be approved by the department, the agency shall have a signed written agreement of cooperation with the department which shall be renewable every five (5) years.

(B) Certifying agencies that provide the Nursing Assistant Instructor Workshop and the Nursing Assistant Clinical Supervisor Workshop shall complete the following responsibilities:

1. Verify eligibility requirements for the participants enrolled in the Nursing Assistant Instructor Workshop and the Nursing Assistant Clinical Supervisor Workshop;

2. Provide qualified Registered Nurse Instructor Trainers to teach the applicable workshop(s);

3. Issue the applicable workshop certificate(s) to participants upon successful completion; and

4. Within seven (7) calendar days of issuing the workshop certificate, provide a listing of approved instructors and clinical supervisors to the department that includes: the name of workshop completed; participant's legal name, address, and telephone number; email address, as applicable; Social Security number; and date of birth.

(C) Certifying agencies that provide the four (4) hour instructor update training shall comply with the requirements in section (16) of this rule.

(D) Maintain accurate and complete records for a period of at least two (2) years.

[(8)](11) [Instructor/student ratio shall be a maximum of one to fifteen (1:15) and it is recommended that the ratio be one to ten (1:10) or less.] **Instructor and Clinical Supervisor/Student Ratios.** During the required one hundred (100) hours of supervised on-the-job training, the training agency's instructor and clinical supervisor/student ratio shall be a maximum of one to fifteen (1:15).

[(9)](12) **Qualifications of Instructors, Clinical Supervisors, and Examiners.**

(A) Instructor.

1. An instructor shall be *[a registered professional nurse]* currently licensed as a RN in Missouri or shall *[have]* hold a current temporary permit from the Missouri State Board of Nursing or shall hold a multi-state or single state RN license from a jurisdiction that is party to the Nurse Licensure Compact. The licensee shall not be subject of current disciplinary action, such as censure, probation, suspension, or revocation.

2. An instructor shall not be listed on the department's EDL.

3. An individual that has been previously disqualified as an instructor shall not function as an instructor unless he or she receives written approval from the department.

[2.]4. An instructor shall have had, at a minimum, two (2) years of nursing experience and at least one (1) year of experience in the provision of *[LTC] long-term care* facility services in the last *[five (5)] ten (10)* years. Other personnel from the health professions may assist the instructor; however, they *[must]* shall have at least one (1) year of experience in their field.

[3.]5. An *[applicant to be an]* instructor, shall *[submit credentials, (resume) and a copy of his/her current license renewal card or temporary permit to the Division of Aging. A letter shall be provided by the division to the applicant indicating the status of the applicant's qualifications and, if not*

qualified, the reasons and what additional requirements are needed] successfully complete a Nursing Assistant Instructor Workshop by a certifying agency using qualified instructors. The department shall issue a letter of approval to the qualified instructor after the individual has successfully completed the workshop. The department shall maintain a list of approved instructors.

[4. An applicant to be an instructor shall attend a seminar approved by the Division of Aging to learn the methodology of teaching the course but only after his/her credentials have been reviewed and approved by the Division of Aging. The Division of Aging shall issue a final letter of approval to be a qualified instructor after the person has satisfactorily completed the seminar. The seminar shall be conducted either by an LTC association or the Missouri Department of Elementary and Secondary Education using qualified teacher educators approved by the Missouri Department of Elementary and Secondary Education and the Division of Aging.

5. Any registered nurse approved by the division or the Department of Elementary and Secondary Education as an instructor or examiner prior to January 1, 1990, except those involved in nurse assistant curriculum development with the division or who are employed by a certifying agency, shall attend a training seminar on teaching the nurse assistant course conducted by a LTC association or the Department of Elementary and Secondary Education by July 1, 1993 in order to maintain status as an approved instructor. Instructors approved prior to January 1, 1990 who are exempt from attending the training seminar shall write the Division of Aging submitting documentation of classes and students taught. The division will issue those instructors letters of approval so they will not have to attend the new training seminar. After July 1, 1993 all credentials issued prior to January 1, 1990 shall be void. Nurses who attend the approved seminar shall be issued new certificates and the division shall maintain a list of all approved instructors, including those issued letters of approval.]

6. An instructor shall be responsible to teach the seventy-five (75) hours of instructional training for the basic course and a minimum of sixteen (16) of the one hundred (100) hours of supervised on-the-job training in accordance with the requirements contained in this rule.

7. The instructor teaching the seventy-five (75) hours of instructional training and/or sixteen (16) of the one hundred (100) hours of supervised on-the-job training for the basic course shall complete and sign all applicable portions of either form MO 580-2473 (12-07) Certified Nurse Assistant Competency Score Sheet (For Use Only With The 2001 Manual) Appendix A/B for training agencies using the basic course content outlined in paragraphs (5)(A)1. and 2. or form DHSS-DRL-111 (08-20), Classroom and On-the-Job Training Record for training agencies using the basic course content outlined in paragraphs (5)(B)1. and 2. for each student participating in the program.

8. An instructor shall provide to the student within seven (7) calendar days of successful completion of the seventy-five (75) hours of instructional training and one hundred (100) hours of supervised on-the-job training, either completed form MO 580-2473 (12-07) Certified Nurse Assistant Competency Score Sheet (For Use Only With The 2001 Manual) Appendix A/B for training agencies using the basic course content outlined in paragraphs (5)(A)1. and 2. or form DHSS-DRL-111 (08-20), Classroom and On-the-Job Training Record for training agencies using the basic course content outlined in paragraphs (5)(B)1. and 2.

9. If the course is not completed, records and documentation regarding the completed portions shall be provided by the instructor to the student, if requested, and to the training agency.

(B) Clinical Supervisor (On-the-Job Supervisor).

1. The clinical supervisor shall be [a] currently licensed [registered professional nurse] as a RN or [licensed practical nurse, whose license is not currently] LPN in Missouri or hold a current temporary permit from the Missouri Board of Nursing or shall hold a multi-state or single state RN or LPN license from a jurisdiction that is party to the Nurse Licensure Compact. The licensee shall not be subject [to] of current disciplinary action such as censure, probation, suspension, or revocation. [The clinical supervisor shall be licensed in Missouri or shall have a temporary permit from the Missouri State Board of Nursing.]

2. A clinical supervisor shall not be listed on the department's EDL.

3. An individual that has been previously disqualified as a clinical supervisor shall not function as a clinical supervisor unless he or she receives written approval from the department.

4. The clinical supervisor, if not currently employed by an ICF, SNF, hospital, or Missouri Veterans' Home, shall have at least one (1) year of licensed nursing experience. The clinical supervisor shall be currently employed by the approved training agency facility where the students are performing their duties or by the training agency conducting the [course and shall have attended a seminar approved by the Division of Aging to learn methodology of supervising the on-the-job training] program.

5. [Upon successful completion of the training seminar, the clinical supervisor shall be issued a certificate and the division] A clinical supervisor shall successfully complete a Nursing Assistant Clinical Supervisor Workshop by a certifying agency using qualified instructors. The department shall issue a letter of approval to the qualified clinical supervisor after the individual has successfully completed the workshop. The department shall maintain a list of approved clinical supervisors.

6. The clinical supervisor shall be on the facility premises in which the students are performing their duties while the students are completing the on-the-job component of their training and shall directly assist the students in their training and observe their skills when checking their competencies. [The clinical supervisor shall have at least one (1) year of experience in LTC if not currently employed by an LTC facility.]

7. A clinical supervisor shall be responsible to supervise eighty-four (84) of the one hundred (100) hours of supervised on-the-job training in accordance with the requirements contained in this rule.

8. The clinical supervisor(s) shall complete and sign all applicable portions of form MO 580-2473 (12-07) Certified Nurse Assistant Competency Score Sheet (For Use Only With The 2001 Manual) Appendix A/B for training agencies using the basic course content outlined in paragraphs (5)(A)1. and 2. or form DHSS-DRL-111 (08-20), Classroom and On-the-Job Training Record for training agencies using the basic course content outlined in paragraphs (5)(B)1. and 2. for each student participating in the program.

(C) Examiner.

1. An examiner using the department's testing materials for the basic course content outlined in paragraphs (5)(A)1. and 2. of this rule shall be—

[1.]A. [The examiner shall be a registered professional nurse] A RN currently licensed in Missouri or shall [have] hold a current temporary permit from the Missouri State Board of Nursing, or shall hold a multi-state or single state RN license from a jurisdiction that is party to the Nurse Licensure Compact and shall not be currently subject of disciplinary action such as censure, probation, suspension, or revocation.

[2.]B. The examiner shall have taught a similar course or shall be qualified to teach a similar course; but shall not have been the instructor of the students being examined; and shall not be employed by the operator whose students are being examined. The examiner shall be specifically approved by the [Division of Aging] department to administer final examinations of the state-approved

nurse assistant training curriculum and shall have signed an agreement with the [division] department to protect and keep secure the final examinations.

[3. The examiner shall have attended an examiner's seminar given by the Division of Aging to learn the methodology and sign an agreement.]

[(D)]2. Causes for Disqualification. A person shall not be allowed to be an [instructor, clinical supervisor or] examiner if it is found that he or she—

[1.]A. Knowingly acted or omitted any duty in a manner which would materially or adversely affect the health, safety, welfare, or property of a resident;

[2.]B. Defrauded a training agency or student by taking payment and not completing a course, not administering the final examination as required, or not being on-site while students are being trained;

[3.]C. Failed to teach, examine, or clinically supervise in accordance with [13 CSR 15-13.010] 19 CSR 30-84.010, or taught students from the state test, changed answers on the state test, lost test booklets, or recorded false information on test materials or test booklets of the program; or

[4.]D. Failed to send documentation of a completed course to a certifying agency within thirty (30) days.

[(E)]3. Notification of Disqualification.

[1.]A. The [division] department shall notify the individual that he or she is no longer eligible to be an [instructor, clinical supervisor or] examiner.

[2.]B. The [division] department shall notify all approved training and certifying agencies if it has been determined that an individual is no longer considered an approved [instructor, clinical supervisor or] examiner and that person's name shall be removed from the lists maintained by the [division] department of approved [instructors, clinical supervisors or] examiners.

[3.]C. To be reinstated as a state-approved [instructor, clinical supervisor or] examiner the individual shall submit a request in writing to the [division director] department stating the reasons why reinstatement is warranted. The [division director or the director's designee] department shall respond in writing to the request.

(13) Instructor and Clinical Supervisor Disqualification Criteria.

(A) Causes for Disqualification. The department may disqualify an individual as an instructor or clinical supervisor if it is found the individual failed to follow the requirements in section (12) of this rule or—

1. Knowingly acted or omitted any duty in a manner which would materially or adversely affect the health, safety, welfare, or property of a resident;

2. Defrauded a training agency or student by taking payment and not completing a course or not being on-site while students are being trained;

3. Failed to teach or clinically supervise in accordance with the regulations contained in this rule, or provide false information to the department; or

4. Is disqualified as a RN Test Observer by the department approved third party test administrator.

(B) Notification of Disqualification.

1. The department shall notify the individual that he or she is no longer eligible to be an instructor or clinical supervisor.

2. The department shall notify all certifying agencies if it has been determined that an individual is no longer considered an approved instructor or clinical supervisor and that person's name shall be removed from the lists maintained by the department of approved instructors or clinical supervisors.

3. To be reinstated as an approved instructor or clinical supervisor, the individual shall submit a request in writing to the department stating the reasons why reinstatement is warranted. The department shall respond in writing to the request.

(14) Training and Certifying Agency Disqualification Criteria.

(A) **Causes for Disqualification.** The department may disqualify a training agency or certifying agency if it is found that an agency failed to follow the requirements in section (9) for a training agency or section (10) for a certifying agency of this rule or—

1. Defrauded a student by taking payment and not ensuring the seventy five (75) hours instructional training or on-the-job training were completed as required by this rule; or
2. Failed to maintain approval from MDHE or DESE, if applicable.

(B) Notification of Disqualification.

1. The department shall notify the agency that he or she is no longer eligible to be a training agency or certifying agency.
2. To be reinstated as a training agency or certifying agency, the agency shall submit a request in writing to the department stating the reasons why reinstatement is warranted. The department shall respond in writing to the request.

(15) Registered Nurse Instructor Trainer Responsibilities.

(A) The RN Instructor Trainer shall be currently licensed as a RN in Missouri or shall hold a current temporary permit from the Missouri State Board of Nursing or shall hold a multi-state or single state RN license from a jurisdiction that is party to the Nurse Licensure Compact. The RN Instructor Trainer shall not be subject of current disciplinary action, such as censure, probation, suspension, or revocation and shall not be listed on the department's EDL.

(B) The RN Instructor Trainer shall also be, at a minimum, an approved nursing assistant instructor.

(C) The RN Instructor Trainer shall be employed or contracted by a certifying agency to instruct the Nursing Assistant Instructor Workshop, Nursing Assistant Clinical Supervisor Workshop, and the Instructor Update Training.

(16) Instructor Update Training.

(A) The instructor shall attend a four (4) hour update training provided by a certifying agency every five (5) years. This update training shall include, at a minimum, the following:

1. Instruction on how to complete form DHSS-DRL-111 (08-20), Classroom and On-the-Job Training Record;
2. Instruction on the fundamentals of adult learning;
3. Instruction in at least one (1) area regarding standards of practice in long term care such as pressure ulcer prevention, dining practices, or resident rights issues;
4. Instruction on providing care for cognitively impaired residents;
5. Review of the Nursing Assistant Training Program regulations contained in 19 CSR 30-84.010; and
6. Review of the administration and resident care requirements contained in 19 CSR 30-85.042.

(B) The certifying agency shall provide a list of the instructors that complete the update training to the department within seven (7) calendar days of completion of the training.

(C) Any instructor who has not completed the required four (4) hour update training by August 31, 2022, and every five (5) years thereafter shall be removed from the department-approved list of instructors. If removed from the department's list, the instructor shall attend and successfully complete the Nursing Assistant Instructor Workshop in order to be reinstated to act as an instructor.

[[10]](17) Final Examination Testing.

(A) In order to be eligible for testing, a student shall have either completed the *[state-approved training curriculum offered by an approved training agency or shall have a letter from the Division of Aging granting approval to challenge the final examination.]* following:

1. Seventy-five (75) hours of instructional training and the

one hundred (100) hours of supervised on-the-job training offered by a training agency. The student shall pass a minimum of three (3) written or oral tests throughout the course with an eighty percent (80%) score or better on each test in order to be eligible to take the final examination. Each test shall consist of a minimum of fifteen (15) questions; or

2. Possess an approval letter from the department granting approval to challenge the final examination.

[[B)] A student shall pass a minimum of three (3) written or oral tests throughout the course with an eighty (80) score or better on each test in order to be eligible to take the final examination.]

[[C)](B) If the course content outlined in paragraphs (5)(A)1. and 2. of this rule is used for teaching the basic course, [T]the final examination shall be conducted by an approved examiner who may be assisted by the instructor using the following procedures:

1. The instructor will select an LTC resident to participate in the testing process and obtain approval for this activity from the resident;

2. The examiner shall verify the eligibility of the students by reviewing *[records] form MO 580-2473 (12-07) Certified Nurse Assistant Competency Score Sheet (For Use Only With The 2001 Manual) Appendix A/B* to establish that the student has completed the approved training program or possesses an approval letter from the *[division] department* granting approval to challenge the final examination. *[In the event that a qualified instructor for the nurse assistant LTC program did not sign records of a student who successfully completed the program, without justification or due to resignation from his/her position, the administrator of the approved training agency may validate the training by signature. Evidence of successful completion of the basic course (that is, test scores, class schedules and the like) shall be documented prior to a student taking the final examination];*

3. The student shall successfully complete at least nine (9) procedures under the observation of the instructor or a facility licensed nurse and examiner.

A. The nine (9) procedures shall always include a type of bath, vital signs (temperature, pulse, respirations, and blood pressure), transfer techniques, feeding techniques, dressing and grooming, skin care, active or passive, range of motion to upper and lower extremities (unless contraindicated by a physician's order), and hand-washing and gloving from the standardized curriculum.

B. The remainder shall be selected according to the resident's care needs at the time of day that testing occurs.

C. The evaluation of the student shall include communication and interaction with the resident, provision of privacy, work habits, appearance, conduct, and reporting and recording skills;

4. The student shall successfully answer forty (40) out of fifty (50) oral or written questions presented by the examiner based on the standardized curriculum and selected from a specific test pool of questions which are safeguarded by the *[Division of Aging] department*;

5. The examiner who uses the basic course content outlined in paragraphs (5)(A)1. and 2. of the basic course for the final examination shall notify the department and obtain different examinations to be administered each time; and

6. The examiner who uses the basic course content outlined in paragraphs (5)(A)1. and 2. of the basic course for the final examination shall conduct the following:

A. Complete and sign form MO 580-2473 (12-07) Certified Nurse Assistant Competency Score Sheet (For Use Only With The 2001 Manual) Appendix A/B and the final examination score sheet which shall include scores and comments. The examiner shall advise the individual that successful completion of the evaluation will result in the addition of his/her name to the CNA Registry.

B. After scoring, the examiner shall return all test materials, test booklets, answer sheets, and any appendices to the

department. The examiner shall also provide the training agency with documentation of the student's test scores.

C. A copy of the student's final record sheets shall be provided to the student (except for the answer sheets). If the course is not completed, records and documentation regarding the portions completed shall be provided to the student, if requested, and to the training agency.

(C) If the basic course content outlined in paragraphs (5)(B)1. and 2. of this rule, is used to teach the course, testing shall comply with the following:

1. The instructor shall verify the eligibility of the students by reviewing form DHSS-DRL-111 (08-20), Classroom and On-the-Job Training Record to establish that the student has completed the approved program;

2. The final examination shall be conducted by the department approved third party test administrator and a fee will be assessed for each examination;

3. The student shall successfully complete an examination proctored by the department approved third party test administrator. The student shall achieve a passing score of at least eighty percent (80%); and

4. The student shall successfully complete the skills evaluation portion of the examination proctored by the department approved third party test administrator. The student shall achieve a score of one hundred percent (100%).

[5.](D) Any [person] individual who fails the final examination, except those who have been permitted to challenge the examination, shall have the opportunity to retake the examination twice within ninety (90) calendar days of the initial examination. [The examiner shall notify the division and obtain different examinations to be administered each time.] If [it is failed] the individual fails the final examination a third time, the entire basic course [or selected sections, as determined by the examiner, must] shall be retaken before another examination can be given; and].

[6.](E) Any [person] individual who is employed by a LTC facility and required by section 198.082, RSMo to enroll in the [Nurse Assistant P] program, but who has been permitted to challenge the final examination and who fails the examination, must immediately re-enroll in and begin study in the next available basic course [and]. The individual shall complete the basic course within [one (1) year] four (4) months of employment.

[[11]](18) [Records and Certification] CNA Registry.

[(A) Records.

1. The examiner shall complete and sign the competency record sheet and the final examination score sheet which shall include scores and comments. The examiner shall advise the individual that successful completion of the evaluation will result in the addition of his/her name to the State Nursing Assistant Register.

2. After scoring, the examiner shall return all test materials, test booklets, answer sheets, and any appendices to the division. The examiner shall also provide the training agency with documentation of the student's test scores.

3. A copy of the student's final record sheets shall be provided to the student (except for the answer sheets). If the course is not completed, records and documentation regarding the portions completed shall be provided to the student, if requested, and to the training agency.

4. The training agency shall maintain the records of students trained. Records shall be maintained for at least two (2) years.]

(A) If the CNA passes the final examination, the individual's name shall be placed on the CNA active registry.

(B) [Certification and Entry of Names on State Register.] CNAs shall submit documentation (e.g., pay stubs, W-2, letter from employer, etc.) of work in nursing or nursing related ser-

vices for at least one (1) day (e.g. eight (8) hours) within each twenty-four- (24-) consecutive month period to maintain active status. Documentation shall be submitted to the department approved third party test administrator and a fee will be assessed for each renewal.

[1. The training agency shall submit within thirty (30) days, the student's final record sheets to any one of the long-term care associations or any other agency which is specifically approved by the division to issue nursing assistant certificates and provide names to the division for entry on the nurse assistant register.

2. Each student shall obtain a certificate from a state-approved association or agency validating successful completion of the training program.

3. The Division of Aging shall maintain a list of long-term care associations or other agencies approved to handle the issuance of certificates for the Nurse Assistant Training Program. In order for a long-term care association or agency to be approved by the Division of Aging, it shall enter into an agreement of cooperation with the Missouri Division of Aging which shall be renewable annually and shall effectively carry out the following responsibilities:

A. Issue certificates to individuals who have successfully completed the course;

B. Provide the Division of Aging with the names and other identifying data of those receiving certificates on at least a monthly basis; and

C. Maintain accurate and complete records for a period of at least two (2) years.

4. The certificate of any nurse assistant who has not performed nursing services for monetary compensation for at least one (1) day in a twenty-four (24)-consecutive month period shall be invalid and the person's name shall be removed from the Missouri nursing assistant register. This individual, however, may submit his/her credentials to the Division of Aging at any time and if unemployed for less than five (5) years, s/he may be authorized to challenge the final examination. If s/he passes the examination, the examiner shall submit the individual's records to a training agency so that s/he can be issued a new certificate and his/her name can be placed on the nurse assistant register again. If unemployed longer than five (5) years, the individual must successfully complete the entire course before s/he can be recertified and s/he is not eligible to challenge the final examination.]

(C) A CNA who has been inactive on the registry for less than five (5) years and cannot provide documentation (e.g., pay stubs, W-2, letter from employer, etc.) of work in nursing or nursing related services for at least one (1) day (e.g. eight (8) hours) within each twenty-four- (24-) consecutive month period shall challenge the final examination in accordance with section (8) of this rule before the CNA is reinstated to the active registry.

(D) A CNA who has been inactive on the registry for more than five (5) years and cannot provide documentation (e.g., pay stubs, W-2, letter from employer, etc.) of work in nursing or nursing related services for at least one (1) day (e.g. eight (8) hours) within each twenty-four- (24-) consecutive month period is not eligible to challenge the final examination and shall successfully complete the entire basic course before the CNA is reinstated to the active registry.

MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
CERTIFIED NURSE ASSISTANT COMPETENCY SCORE SHEET (FOR USE ONLY WITH 2001 MANUAL) **APPENDIX A**

| | | | | | |
|-------------------------------------|----------|-------------|--------------------------------|---------------------|----------------|
| STUDENT NAME (PLEASE PRINT) (LAST) | (FIRST) | (MIDDLE) | (MAIDEN) | SOCIAL SECURITY NO. | HOME PHONE NO. |
| PERMANENT ADDRESS (STREET) | (CITY) | (STATE) | (ZIP) | DATE OF BIRTH | WORK PHONE NO. |
| SITE NAME - 75 HRS CLASSROOM | SITE NO. | BEGIN DATE | COMPLETE DATE | ATTENDANCE | MAKE-UP |
| SITE NAME - 84 HRS/100 HRS* | SITE NO. | BEGIN DATE | COMPLETE DATE - 84 HRS/100 HRS | | |
| SITE NAME - 16 HRS COMPETENCIES | SITE NO. | BEGIN DATE | COMPLETE DATE 16 HRS. | | |
| SITE NAME - WRITTEN/ORAL FINAL EXAM | SITE NO. | 1ST ATTEMPT | EXAM DATE | WRITTEN | ORAL |
| SITE NAME - WRITTEN/ORAL FINAL EXAM | SITE NO. | 2ND ATTEMPT | EXAM DATE | WRITTEN | ORAL |
| SITE NAME - WRITTEN/ORAL FINAL EXAM | SITE NO. | 3RD ATTEMPT | EXAM DATE | WRITTEN | ORAL |
| SITE NAME - PRACTICUM EXAM | SITE NO. | 1ST ATTEMPT | EXAM DATE | | SCORE |
| SITE NAME - PRACTICUM EXAM | SITE NO. | 2ND ATTEMPT | EXAM DATE | | SCORE |
| SITE NAME - PRACTICUM EXAM | SITE NO. | 3RD ATTEMPT | EXAM DATE | | SCORE |

CLASS TEST SCORES

2. EACH SCORE MUST BE AT LEAST 80% (MUST BE COMPLETED BY INSTRUCTOR PRIOR TO EXAM) APPROVED FOR CERTIFICATION NOT APPROVED FOR CERTIFICATION

Evaluation of procedures includes: knowledge, safety, encouraged self-help, work habits, student-resident interaction, organization, resident's rights. Other procedures may be determined by resident's needs. All procedures must be evaluated.

| PRACTICUM EXAM PROCEDURES | PASS/FAIL | PRACTICUM EXAM PROCEDURES | PASS/FAIL |
|---------------------------|-----------|-------------------------------------------------|-----------|
| 1. BATH | | 3. TRANSFER TECHNIQUES | |
| 4. FEEDING TECHNIQUES | | 6. SKIN CARE | |
| 7. HANDWASHING | | 9. ACTIVE OR PASSIVE FOM TO ↑ AND ↓ EXTERMITIES | |

Examiner advised individual that successful completion of the evaluation will result in the addition of his/her name to the state nursing assistant register. If you have been determined to have committed abuse, neglect or misappropriation of goods in a certified facility, a permanent federal marker will be placed against your name on the CNA register. You will **NEVER AGAIN** be allowed to work in a certified facility. **STUDENT MUST INITIAL.**

| | | |
|-----------------------------------------------------------------------------|-------------|-------------------|
| 1ST INSTRUCTOR SIGNATURE | LICENSE NO. | PRINTED LAST NAME |
| 2ND INSTRUCTOR SIGNATURE | LICENSE NO. | PRINTED LAST NAME |
| ADMINISTRATOR/DON SIGNATURE - 75 HOURS | LICENSE NO. | PRINTED LAST NAME |
| CHARGE NURSE SIGNATURE - FACILITY VERIFICATION 84 HRS OUT COMPLETED | LICENSE NO. | PRINTED LAST NAME |
| CHARGE NURSE SIGNATURE - FACILITY VERIFICATION 16 HRS COMPETENCY EVALUATION | LICENSE NO. | PRINTED LAST NAME |
| CLINICAL SUPERVISOR - 84 HRS OUT | LICENSE NO. | PRINT LAST NAME |
| CLINICAL SUPERVISOR - 16 HRS OUT | LICENSE NO. | PRINT LAST NAME |
| 1ST EXAMINER SIGNATURE | LICENSE NO. | PRINT LAST NAME |

APPENDIX B

| STUDENT NAME - PLEASE PRINT (LAST) | | (FIRST) | | (MIDDLE) | | (MAIDEN) | | SOCIAL SECURITY NO. | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-------------------------------|---------------------|--------------------------|-------------|-------------------------------------------|-------------------------------|---------------------|--------------------------|------------|-------------------------------------------|
| APPENDIX A-B - INSTRUCTIONS: 1st Column: List date of classroom instruction - 76 hours. 2nd Column: Classroom instructor initials. 3rd Column: Date the competency evaluation (16 hrs. - #1-#64 below) was completed in state approved training agency. 4th Column: Simulation must be done in white area and only if care is NOT AVAILABLE state approved training agency. 5th Column: Clinical Supervisor/Instructor must SIGN CORRESPONDING PINK SHEET THEN INITIAL that the Nurse Assistant is competent in this skill and that the competency evaluation was completed on a ONE TO ONE RATIO IN A STATE APPROVED TRAINING AGENCY. | | | | | | | | | | | |
| COMPETENCY | | DATE OF CLASSROOM INSTRUCTION | INSTRUCTOR INITIALS | DATE COMPETENCY ACHIEVED | SIMULATION | COMPETENCY EVALUATION INSTRUCTOR INITIALS | DATE OF CLASSROOM INSTRUCTION | INSTRUCTOR INITIALS | DATE COMPETENCY ACHIEVED | SIMULATION | COMPETENCY EVALUATION INSTRUCTOR INITIALS |
| 1. Take oral temperature | | | | | | | | | | | |
| 2. Take rectal temperature | | | | | | | | | | | |
| 3. Take axillary temperature | | | | | | | | | | | |
| 4. Count radial pulse | | | | | | | | | | | |
| 5. Count apical pulse | | | | | | | | | | | |
| 6. Count respirations | | | | | | | | | | | |
| 7. Measure blood pressure | | | | | | | | | | | |
| 8. Wash hands | | | | | | | | | | | |
| 9. Put on and remove daily care non-sterile gloves | | | | | | | | | | | |
| 10. Put on and remove mask | | | | | | | | | | | |
| 11. Put on and remove non-sterile gown | | | | | | | | | | | |
| 12. Feed helpless resident | | | | | | | | | | | |
| 13. Serve a food tray | | | | | | | | | | | |
| 14. Clear airway obstruction in conscious resident | | | | | | | | | | | |
| 15. Clear airway obstruction in unconscious resident | | | | | | | | | | | |
| 16. Thicken liquids | | | | | | | | | | | |
| 17. Distribute drinking water | | | | | | | | | | | |
| 18. Measure fluid intake | | | | | | | | | | | |
| 19. Measure fluid output | | | | | | | | | | | |
| 20. Shave with disposable razor | | | | | | | | | | | |
| 21. Shave with electric razor | | | | | | | | | | | |
| 22. Assist with oral hygiene | | | | | | | | | | | |
| 23. Administer oral hygiene to resident who is helpless/unconscious | | | | | | | | | | | |
| 24. Provide denture care | | | | | | | | | | | |
| 25. Give fingernail care | | | | | | | | | | | |
| 26. Give toenail care | | | | | | | | | | | |
| 27. Comb/brush hair | | | | | | | | | | | |
| 28. Give shampoo during tub bath/shower bath | | | | | | | | | | | |
| 29. Give bed shampoo | | | | | | | | | | | |
| 30. Give perineal care to male resident | | | | | | | | | | | |
| 31. Give perineal care to female resident | | | | | | | | | | | |
| 32. Assist resident to dress | | | | | | | | | | | |
| PERSONAL COMPETENCY EVALUATION (PASSING SCORE REQUIRED ON ALL ITEMS PRIOR TO BEING ALLOWED TO TAKE FINAL EXAM) | | | | | | | | | | | |
| | RATER NAME | LICENSE NO. | COMP. | RATER NAME | LICENSE NO. | COMP. | | | | | |
| 65. Wears clean uniform, wears name tag and is free of body odor | | | | | | | | | | | |
| 66. Observes resident rights | | | | | | | | | | | |
| 67. Reports to work on time | | | | | | | | | | | |
| 68. Uses facility's procedure for absenteeism | | | | | | | | | | | |
| 69. Completes assignments | | | | | | | | | | | |
| 70. Communicates well with others, is courteous | | | | | | | | | | | |
| 71. Incorporates acceptable techniques when caring for the confused resident, the mentally ill resident or the resident with unconventional behaviors. | | | | | | | | | | | |
| COMMENTS | | | | | | | | | | | |



 MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
 DIVISION OF REGULATION AND LICENSURE
 SECTION FOR LONG-TERM CARE REGULATION
CLASSROOM AND ON-THE-JOB TRAINING RECORD

| | | | |
|----------------------------------------------------------------------------------------------|-------------------|------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| (1) STUDENT NAME (LAST, FIRST, MIDDLE) | | (2) FORMER NAMES USED | |
| (3) SOCIAL SECURITY NO. | | (4) STUDENT E-MAIL | |
| (5) STUDENT PERMANENT ADDRESS (STREET, CITY, STATE, ZIP) | | (7) STUDENT PHONE NO. | |
| (8) APPROVED SITE NAME - 75 HRS INSTRUCTIONAL TRAINING | (8A) SITE NO. | (8B) BEGIN DATE | (8C) COMPLETION DATE |
| (9) APPROVED SITE NAME - 16 HRS OR 100 HRS ON-THE-JOB-TRAINING (OJT) | (9A) SITE NO. | (9B) BEGIN DATE | (9C) COMPLETION DATE |
| (10) APPROVED SITE NAME - 84-HRS OJT | (10A) SITE NO. | (10C) COMPLETION DATE 84 OJT HOURS | |
| (11) CLASS TEST SCORES | | | |
| 1. 2. 3. Each test score must be at least 80% (must be completed prior to final exam) | | | |
| (12) 1ST INSTRUCTOR SIGNATURE - INSTRUCTIONAL HRS | (12A) LICENSE NO. | (12B) LAST NAME | <input type="checkbox"/> (11A) APPROVED FOR FINAL EXAM <input type="checkbox"/> (11B) NOT APPROVED FOR FINAL EXAM |
| (13) 2ND INSTRUCTOR SIGNATURE - INSTRUCTIONAL HRS | (13A) LICENSE NO. | (13B) LAST NAME | |
| (14) ADMINISTRATOR/DIRECTOR OF NURSING (DON)/CEO SIGNATURE | (14A) LICENSE NO. | (14B) LAST NAME | |
| (15) CHARGE NURSE SIGNATURE - FACILITY VERIFICATION 84 HRS OJT COMPLETED | (15A) LICENSE NO. | (15B) LAST NAME | |
| (16) CHARGE NURSE SIGNATURE - FACILITY VERIFICATION 16 HRS OR 100 HRS OJT COMPLETED | (16A) LICENSE NO. | (16B) LAST NAME | |
| (17) 1ST INSTRUCTOR SIGNATURE - 16 HRS OJT | (17A) LICENSE NO. | (17B) LAST NAME | (18A) LICENSE NO. |
| (19) CLINICAL SUPERVISOR SIGNATURE - 84 HRS OJT | (19A) LICENSE NO. | (19A) LAST NAME | (20A) LICENSE NO. |
| (18) 2ND INSTRUCTOR SIGNATURE - 16 HRS OJT | (18B) LAST NAME | (18B) LAST NAME | (20B) LAST NAME |
| (19A) CLINICAL SUPERVISOR SIGNATURE - 84 HRS OJT | (19A) LAST NAME | (19A) LAST NAME | (20B) LAST NAME |

| STUDENT NAME - (LAST, FIRST, MIDDLE) | | SOCIAL SECURITY NO. | | | | | | | | |
|--------------------------------------|---------------------|---------------------|------------|-----------------------------------------|-------------------------------------------------------|-------------------------------|---------------------|-------------------|------------|-----------------------------------------|
| DATE OF CLASSROOM INSTRUCTION | INSTRUCTOR INITIALS | DATE OUT ACHIEVED | SIMULATION | OUT EVALUATION CS / INSTRUCTOR INITIALS | SKILLS | DATE OF CLASSROOM INSTRUCTION | INSTRUCTOR INITIALS | DATE OUT ACHIEVED | SIMULATION | OUT EVALUATION CS / INSTRUCTOR INITIALS |
| | | | | | 1. Take oral temperature | | | | | |
| | | | | | 2. Take axillary temperature | | | | | |
| | | | | | 3. Count radial pulse | | | | | |
| | | | | | 4. Count apical pulse | | | | | |
| | | | | | 5. Count respirations | | | | | |
| | | | | | 6. Measure blood pressure | | | | | |
| | | | | | 7. Wash hands | | | | | |
| | | | | | 8. Put on/remove daily care non-sterile gloves | | | | | |
| | | | | | 9. Put on/remove mask | | | | | |
| | | | | | 10. Put on/remove non-sterile gown | | | | | |
| | | | | | 11. Feed a resident that requires total assistance | | | | | |
| | | | | | 12. Serve a food tray | | | | | |
| | | | | | 13. Clear airway obstruction in conscious resident | | | | | |
| | | | | | 14. Clear airway obstruction in unconscious resident | | | | | |
| | | | | | 15. Thicken liquids | | | | | |
| | | | | | 16. Distribute drinking water | | | | | |
| | | | | | 17. Measure fluid intake | | | | | |
| | | | | | 18. Measure fluid output | | | | | |
| | | | | | 19. Shave with disposable razor | | | | | |
| | | | | | 20. Shave with electric razor | | | | | |
| | | | | | 21. Assist with oral hygiene | | | | | |
| | | | | | 22. Administer oral hygiene to resident that requires | | | | | |
| | | | | | 23. Denture care | | | | | |
| | | | | | 24. Fingernail care | | | | | |
| | | | | | 25. Toenail care | | | | | |
| | | | | | 26. Comb/brush hair | | | | | |
| | | | | | 27. Shampoo tub bath/shower bath | | | | | |
| | | | | | 28. Bed shampoo | | | | | |
| | | | | | 29. Perineal care to male resident | | | | | |
| | | | | | 30. Perineal care to female resident | | | | | |
| | | | | | 31. Assist resident to dress | | | | | |
| | | | | | 32. Changing a brief | | | | | |
| | | | | | 33. Assist resident to undress | | | | | |
| | | | | | 34. Apply and remove therapeutic stockings | | | | | |
| COMMENTS | | | | | | | | | | |

GUIDE TO CLASSROOM AND ON-THE-JOB TRAINING RECORD

Guide for page 1

- 8.** Name of approved training agency site where 75 hours of instructional training was conducted.
- 8A.** Site number of training agency where instructional training was conducted.
- 8B.** Beginning date of instructional training (this date must pre-date any on the job training).
- 8C.** Date instructional training was completed.
- 8D.** Number of instructional training hours completed.
- 9.** Name of approved long-term care (LTC) facility where student completed 16 or 100 hours of OJT.
- Note:** If all 100 hours of OJT were completed in an approved LTC facility, boxes 10 through 10C may be left blank.
- 9A.** Site number of approved LTC facility where student completed 16 or 100 hours of OJT.
- 9B.** Date student began 16 or 100 hours of OJT in an approved LTC facility.
- 9C.** Date student completed 16 or 100 hours of OJT in an approved LTC facility.
- 9D.** Number of hours of the 16 or 100 hours of OJT the student completed.
- 10.** Name of the approved LTC facility where student completed 84 hours of OJT.
- Note:** An approved LTC facility that has been denied the ability to provide 100 hours of OJT due to enforcement issues may be able to provide only 84 hours of OJT. The other 16 hours of OJT must be completed in an approved/eligible facility.
- 10A.** Site number of approved LTC facility where 84 hours of OJT was completed.
- 10B.** Date 84 hours of OJT began.
- 10C.** Date student completed 84 hours of OJT.
- 11.** During the course of 175 hours of training, the student must take and pass at least three sample tests with a score of at least 80% prior to sitting for the final exam. Those test scores shall be documented by the instructor at (11) 1., (11) 2., and (11) 3.
- 11A.\11B.** Instructor checks applicable box if student has successfully met all required criteria to sit for final exam or failed to successfully complete all required to sit for final exam.
- 12.** The signature of the first classroom instructor shall ensure that all training requirements are met according to 19 CSR 30-84.010 and that all portions of form DHSS-DRL-2473 is complete. Signing indicates all training, with the exception of the final exam has been completed.
- 12A.** First instructor's nurse license number.
- 12B.** First instructor's last name.
- 13.** If applicable, signature of the second instructor who assisted with the instructional training, indicating he/she provided instructional training to the student.
- 13A.** If applicable, second instructor's nurse license number.
- 13B.** If applicable, second instructor's last name.

- 14.** Signature of the Administrator, DON, or CEO of the approved LTC facility where 16 hours of OJT occurred. This signature is to acknowledge the CNA training occurred in the facility named in box #9.
 - 14A.** Administrator, DON, or CEO's license number.
 - 14B.** Administrator, DON, or CEO's last name.
 - 15.** Signature of charge nurse verifying the student was present in the LTC facility for 16 or 100 hours of OJT.
 - 15A.** Charge nurse's nurse license number.
 - 15B.** Charge nurse's last name.
 - 16.** Charge nurse's signature verifying that the student was present in the facility for 84 hours of OJT (may be left blank if charge nurse signed for all 100 hours at #15.)
 - 16A.** Charge nurse's nurse license number.
 - 16B.** Charge nurse's last name.
 - 17.** Signature of first instructor who provided at least 16 hours of 100 hours OJT in an approved LTC facility. (These 16 hours of training may be shared between one or more instructors.)
 - 17A.** Instructor's nurse license number.
 - 17B.** Instructor's last name.
 - 18.** If applicable, signature of second instructor who provided any portion of the 16 hours of 100 hours of OJT for the student in an approved LTC facility.
 - 18A.** If applicable, the second instructor's nurse license number.
 - 18B.** If applicable, the second instructor's last name.
 - 19.** Signature of clinical supervisor who supervised 84 hours of the OJT.
 - 19A.** Clinical supervisor's nurse license number.
 - 19B.** Clinical supervisor's last name.
 - 20.** If applicable, the signature of the second clinical supervisor who supervised any portion of 84 hours of OJT.
 - 20A.** If applicable, the second clinical supervisor's nurse license number.
 - 20B.** If applicable, the second clinical supervisor's last name.
- Guide for Page 2**
- All boxes on page 2 must be completed prior to the final exam with the exception of the comments box, which may be filled out as appropriate to the student.
- All clinical supervisors and instructors who provided training and/or supervision must sign this form. If extra space is needed, signatures may be included in the comment section at the bottom of page 2.



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
DIVISION OF REGULATION AND LICENSURE
SECTION FOR LONG-TERM CARE REGULATION

APPLICATION FOR APPROVAL AS A NURSING ASSISTANT TRAINING AGENCY

DATE SUBMITTED

NEW APPLICATION RENEWAL APPLICATION REVISED APPLICATION

FACILITY/SCHOOL NAME TRAINING AGENCY NO.

LIST PREVIOUS FACILITY/SCHOOL NAMES

PHYSICAL ADDRESS (STREET, CITY, STATE, ZIP CODE) TELEPHONE

MAILING ADDRESS (STREET, CITY, STATE, ZIP CODE) FAX NUMBER

ADMINISTRATOR/DIRECTOR

DHSS APPROVED INSTRUCTOR(S) NAME LICENSE NUMBER

TRAINING AGENCY/FACILITY CONTACT EMAIL ADDRESS

PLEASE CHECK THE FOLLOWING IF APPLICABLE:

DHSS LICENSED FACILITY (ICF/SNF) NON-FACILITY BASED
 HOSPITAL-BASED NF OR SNF * CAREER CENTER SCHOOL (PUBLIC) * CAREER CENTER SCHOOL (PRIVATE)
 HOSPITAL * COMPREHENSIVE HIGH SCHOOL
 MO VETERANS HOME * COMMUNITY OR 4-YEAR COLLEGE
 ASSOCIATION * PRIVATE AGENCY
*Must be approved by Department of Secondary Education or Department of Higher Education

DHSS APPROVED CERTIFYING AGENCY NAME

What portions of the course will be conducted at the above address: 75 instructional training hours 100 On-The-Job Hrs

What portions of the course **will not** be conducted at the above address: 75 instructional training hours 100 On-The-Job Hrs

If the 75 hours of instructional training or 100 hours on-the-job hours are conducted at a different location other than at the above address - a current signed agreement shall be on file at the facility/agency. Provide the name, CNA training site number and address of the facility/agency below:

| AGENCY/FACILITY NAME | CNA SITE NO. | ADDRESS (STREET, CITY, STATE, ZIP CODE) |
|----------------------|--------------|-----------------------------------------|
| | | |
| | | |
| | | |

NAME(S) AND NURSE LICENSE NUMBER(S) OF DHSS APPROVED CLINICAL SUPERVISOR(S)

ADMINISTRATOR/DIRECTOR SIGNATURE DATE

COMMENTS:

The completed application form may be submitted by mail, fax to: **573-526-7656**, or e-mail: cnaregistry@health.mo.gov.
Mailing address: Missouri Department of Health and Senior Services, Section for Long-Term Care Regulation, Attn: Health Education Unit, PO Box 570, Jefferson City, MO 65102-0570

AUTHORITY: sections 198.009 and 198.079, RSMo 2016, and section 198.082, RSMo [1994] Supp. 2020. This rule originally filed as 13 CSR 15-13.010. Original rule filed Aug. 13, 1982, effective Jan. 13, 1983. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 14, 2021, effective June 28, 2021, expires Dec. 24, 2021. Amended: Filed June 14, 2021.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions one hundred ninety-eight thousand nine hundred seventy dollars (\$198,970) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities seven hundred thirty-nine thousand four hundred sixty dollars (\$739,460) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Carmen Grover-Slattey, Regulation Unit Manager, Section for Long-Term Care Regulation, Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570 or at RegulationUnit@health.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: Department of Health and Senior Services
Division Title: Division of Regulation and Licensure
Chapter Title: Training Program for Nursing Assistants**

| | |
|------------------------------|-----------------------------------------------------|
| Rule Number and Name: | 19 CSR 30-84.010 Nursing Assistant Training Program |
| Type of Rulemaking: | Proposed Amendment |

II. SUMMARY OF FISCAL IMPACT

| Affected Agency or Political Subdivision | Estimated Cost of Compliance in the Aggregate |
|---------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| (14) Skilled Nursing Facilities (SNFs) | \$24,014 |
| (56) Vocational technical, comprehensive high schools approved by Missouri Department of Secondary Education (DESE) | \$96,054 |
| (33) Public agencies approved by Missouri Department of Higher Education (DHE) | \$56,603 |
| (6) Hospitals | \$10,292 |
| (7) Veteran's homes | \$12,007 |
| TOTAL COSTS = | \$198,970 |

III. WORKSHEET

Costs of Student Training Materials/Materials on public entities

SNFs: (1 student manual @ \$51.68) x (10 students per class) x (14 LTC facilities) x 3 classes = \$21,705.60

Vocational technical schools, comprehensive high schools approved by DESE: (1 student manual @\$51.68) x (10 students per class) x (56 schools) x 3 classes = \$86,822.40

Agency/schools approved by the Missouri DHE: (1 student manual @\$51.68) x (10 students per class) x (33 agencies/schools) x 3 classes = \$51,163.20

Hospitals: (1 student manual @\$51.68) x (10 students per class) x (6 public owned hospitals) x 3 classes = \$9,302.40

Missouri Veterans Homes: (1 student manual @\$51.68) x (10 students per class) x (7 homes) x 3 classes= \$10,852.80

Total for costs of student manual/instructional materials for public entities: \$21,705.60 + \$86,822.40 + \$51,163.20 + \$9,302.40 + \$10,852.80 = \$179,846.40

Costs of Instructor Training Materials/Manuals on public entities

SNFs: (1 instructor manual @ \$54.95) x (3 instructors per facility) x (14 facilities) = \$2,307.90

Vocational technical schools, comprehensive high schools approved by DESE: (1 instructor manual @ \$54.95) x (3 instructors per facility) x (56 schools) = \$9,231.60

Agency/schools approved by the Missouri DHE: (1 instructor manual @ \$54.95) x (3 instructors per facility) x (33 schools) = \$5,440.05

Hospitals: (1 instructor manual @ \$54.95) x (3 instructors per facility) x (6 hospitals) = \$989.10

Missouri Veterans Homes: (1 instructor manual @ \$54.95) x (3 instructors per facility) x (7 homes) = \$1,153.95

Total for costs of instructor materials/manuals for public entities: \$2,307.90 + \$9,231.60 + \$5,440.05 + \$989.10 + \$1,153.95 = \$19,122.60

TOTAL COSTS: \$179,846.40 (total for student manual/instructional materials) + \$19,122.60 (total for instructor materials/manuals) = \$198,969.00

IV. ASSUMPTIONS

Costs of Student and Instructor Manual/Instructional Materials on public entities

All approved training agencies are required to provide each student and instructor his or her own instruction training material(s) that encompasses the required curricula content found in 19 CSR 30-84.010. A training agency conducting the nursing assistant basic course must purchase material(s) that is published, includes all the curricula content for the basic course listed in 19 CSR 30-84.010, and is no more than ten (10) years old.

The public fiscal note is based on the assumption that all department approved nursing assistant training agencies will purchase the required training material(s) for each student and instructor.

There are currently 116 entities that are publicly owned training agencies approved by the department which include the following:

- 14 SNFs
- 56 DESE
- 33 DHE
- 6 Hospitals
- 7 Missouri Veterans Homes

Total of 116 publicly owned training agencies

The formula for determining the costs an approved training agency would incur to purchase the required nursing assistant training materials for instructors and students would be at least one (1) textbook for each student and one (1) textbook for each instructor. The department estimated that each approved training agency would maintain an average number of instructors per class, conduct a certain number of training classes per year with an average number of students per class.

The department reviewed three (3) entities that publish a nursing assistant training textbook for students and instructors to determine an average costs for a training manual/material. Based on the information, the department estimated the average cost for a student nursing assistant training manual/materials to be: \$51.68 and the average cost for an instructor's nursing assistant training manual/materials to be: \$54.95

The department received input from several training agencies on the number of instructor's employed/contracted, number of students per class, and the number of classes held per year. Based on the information provided the estimated number of instructors per class is 3; average students per class is 10; and the number of classes held per year is 3.

The formula for determining the cost to a training agency to purchase the nursing assistant training material for each student is as follows: (Average cost of one (1) student textbook) x (number of students per class) x (number of publicly-owned training agency) x (number of classes).

The formula for determining the cost to a training agency to purchase the nursing assistant training material for each instructor is as follows: (Average cost of one (1) instructor textbook) x (number of instructors per training agency) x (number of privately-owned training agency). NOTE: Because some instructor textbooks and online teaching instruction are free with the purchase of student texts, this will help keep instructor costs more affordable. Also, the department assumes that the training agency keeps the instructor materials, regardless of who instructs the course and instructor materials are only purchased once during the year.

Costs of CNA final examination for individuals

The department is not including costs for approved publicly-owned training agencies regarding the CNA final examination. Certified intermediate care facilities and skilled nursing facilities are reimbursed for costs to train nursing assistants through the Missouri Medicaid CNA reimbursement program, which includes the final examination. The department believes that approved publicly-owned training agencies can recoup costs through tuition fees. Hospitals and Veterans' homes are not required to pay for the CNA final examination; however, they may offer incentives or bonuses such as paying for a CNA final examination to retain them for employment. The fiscal impact would be a private cost for an individual who may have to pay for the CNA exam out of his/her own pocket.

Costs of CNA twenty-four (24) month renewal certification

The department is not including the costs for publicly-owned training entities to ensure that a CNA that maintains their active status on the CNA registry because the CNA is solely responsible to pay the associated renewal fee of \$20.00. The regulation does not

require publicly-owned entities to pay the cost for CNA renewal certifications. The fiscal impact would be a private cost for a CNA.

Costs of Instructor Update Training

The department is not including the costs for publicly-owned training agencies who employ/contract with instructors to ensure they complete the required four (4) hour instructor update training. An individual who wishes to be an approved instructor or retain their approved status will be solely responsible to pay the fee assessed for the four (4) hour Instructor Update Training and complete the course by August 31, 2022 and every five (5) years thereafter to retain an active status. The fiscal impact would be a private cost for an instructor.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division Title: Division of Regulation and Licensure
Chapter Title: Training Program for Nursing Assistants**

| | |
|-------------------------------|-----------------------------------------------------|
| Rule Number and Title: | 19 CSR 30-84.010 Nursing Assistant Training Program |
| Type of Rulemaking: | Proposed 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: |
|---------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| 183 | Intermediate Care Facilities (ICFs) and Skilled Nursing Facilities (SNFs) | \$313,891 |
| 2 | Vocational technical, comprehensive high schools approved by Missouri Department of Secondary Education (DESE) | \$3,431 |
| 11 | Private agencies approved by Missouri DHE | \$18,868 |
| 2 | Long Term Care (LTC) Associations | \$3,431 |
| 10 | Hospitals | \$17,153 |
| 3 | Private agency/schools approved US Department of Education | \$5,146 |
| 633 | Instructors – Update training | \$94,950 |
| 1,850 | Individuals not reimbursed for cost of the Certified Nursing Assistant (CNA) final examination | \$231,250 |
| 2,567 | CNA renewals certifications | \$51,340 |
| | TOTAL COSTS: | \$739,460 |

III. WORKSHEET**Costs of Student Manual/Instructional Materials on private entities**

ICF/SNFs: (1 student manual @\$51.68) x (10 students per class) x (183 facilities) x 3 classes = \$283,723.20

Vocational technical schools, comprehensive high schools approved by DESE: (1 student manual @\$51.68) x (10 students per class) x (2 schools) x 3 classes = \$3,100.80

Agency/schools approved by Missouri DHE: (1 student manual @\$51.68) x (10 students per class) x (11 agencies/schools) x 3 classes = \$17,054.40

LTC associations: (1 student manual @\$51.68) x (10 students per class) x (2 associations) x 3 classes = \$3,100.80

Hospitals: (1 student manual @\$51.68) x (10 students per class) x (10 hospitals) x 3 classes = \$15,504.00

Private agency/schools approved US Department of Education: (1 student manual @\$51.68) x (10 students per class) x (3 agencies/ associations) x 3 classes = \$4,651.20

Total for costs of student manual/instructional materials for private entities: \$327,134.40

Costs of Instructor Materials/Manuals on private entities

ICF/SNFs: (1 instructor manual @\$54.95) x (3 instructors per facility) x (183 facilities) = \$30,167.55

Vocational technical schools, comprehensive high schools approved by DESE: (1 instructor manual @\$54.95) x (3 instructors per school) x (2 schools) = \$329.70

Agency/schools approved by Missouri DHE: (1 instructor manual @\$54.95) x (3 instructors per agency/school) x (11 agencies/schools) = \$1,813.35

LTC associations: (1 instructor manual @\$54.95) x (3 instructors per association) x (2 schools) = \$329.70

Hospitals: (1 instructor manual @\$54.95) x (3 instructors per hospital) x (10 hospitals) = \$1,648.50

Private agencies/schools approved US Department of Education: (1 instructor manual @\$54.95) x (3 instructors per hospital) x (3 agencies/schools) = \$494.55

Total for costs of student manual/instructional materials for private entities: \$34,783.35

Costs of CNA final examination for individuals taking the exam

Fee to administer a CNA final examination: \$125.00

The total number of number of CNA final exams administered was calculated by averaging the number of CNA final examinations sent out for 2019 and 2020: $7,490 + 7,312 = 14,802 / 2 = 7,401$

The department estimates that approximately 25% of individuals taking the CNA final examination would have to pay for the costs on their own.

The costs for the number of CNAs not receiving reimbursement for the final examination was calculated by the average number of active CNAs (7,401) x .25% = 1,850 x cost of final examination (\$125.00) = \$231,250.00

Total costs for the number of CNAs who will not receive reimbursement for taking the final examination: \$231,250.00

Costs of twenty-four (24) month CNA renewal certifications

Fee for each CNA renewal certification: \$20.00

The department estimates they process approximately fifty percent (50%) of CNA renewal certifications on a yearly basis.

Total number of active CNAs that may seek renewal certification was calculated by averaging the active number of CNAs for 2019 and 2020: $5,850 + 4,416 = 10,266 / 2 = 5,133$

The total number of CNA renewal certifications issued annually was calculated by estimating the average yearly number of active CNAs (5,133) / fifty percent (.50) = 2567

The cost for CNAs to renew their certification to remain active was calculated by the average number of active CNAs (5,133) / 50% = (2,567) x cost of renewal (\$20.00) = \$51,340.00

Total costs for the number of CNA renewal certifications that potentially be processed by the department approved third party test administrator on a yearly basis: \$51,340.00

Costs of Instructor Update Training Every 5 Years

The department received a proposed fee from a certifying agency who plans to develop and conduct the instructor update training. The proposed fee per class is: \$150 (training materials would be included in the cost)

Number of approved instructors in SLCR – Health Education Unit (HEU) database: 3,708

It is not known if all active instructors listed in the HEU database will take the update training. The formula for determining the costs to instructors is based on the estimated number of instructors employed by an approved privately-owned training agency.

The Section for Long-Term Regulation (SLCR) asked several training agencies for input on the number of instructors employed/contracted. Five (5) training agencies responded and their responses were averaged to come up with an approximate number of instructors for each training agency. The average was found by the following number of instructors: $5+4+2+1+3=15$ instructors. $15 \text{ instructors}/5 \text{ training agency responses} = 3$ instructors average per training agency.

Privately-Owned Training Agencies

- ICFs/SNFs = 183
183 facilities x 3 instructors = 549 employed instructors
- DESE = 2
2 entities x 3 instructors = 6 employed instructors
- DHE = 11
11 entities x 3 instructors = 33 employed instructors
- LTC Associations = 2
2 entities x 3 instructors = 6 employed instructors
- Hospitals = 10
10 entities x 3 instructors = 30 employed instructors
- US Department of Education = 3
3 entities x 3 instructors = 9 employed instructors

Total number of privately-owned training agencies=211

Total number of instructors employed by privately-owned training agencies:
 $549+6+33+6+30+9= 633$

The costs for the number of instructors needing to take the required Instructor Update training course was calculated by using the estimated number of instructors employed/contracted by privately-owned training agencies (633) x cost of the update course (\$150.00) = \$94,950

Total proposed costs for an instructor to take the required four (4) Instructor Update training course: \$94,950

IV. ASSUMPTIONS

Costs of Student and Instructor Manual/Instructional Materials on private entities

All approved training agencies are required to provide each student and instructor his or her own instruction training material(s) that encompasses the required curricula content found in 19 CSR 30-84.010. A training agency conducting the nursing assistant basic course must purchase material(s) that is published, includes all the curricula content for the basic course listed in 19 CSR 30-84.010, and is no more than ten (10) years old.

The private fiscal note is based on the assumption that all department approved nursing assistant training agencies will purchase the required training material(s) for each student and instructor.

There are currently 211 entities that are privately-owned training agencies approved by the department which include the following:

183 ICFs/SNFs
2 DESE
11 DHE
2 LTC Associations
10 Hospitals
3 Private agencies

Total of 211 privately-owned training agencies

The formula for determining the costs an approved training agency would incur to purchase the required nursing assistant training materials for instructors and students would be at least one (1) textbook for each student and one (1) textbook for each instructor. The department estimated that each approved training agency would maintain an average number of instructors per class, conduct a certain number of training classes per year with an average number of students per class.

The department reviewed three (3) entities that publish a nursing assistant training textbook for students and instructors to determine an average costs for a training manual/material. Based on the information, the department estimated the average cost for a student nursing assistant training manual/materials to be: \$51.68 and the average cost for an instructor's nursing assistant training manual/materials to be: \$54.95

The department received input from several training agencies on the number of instructor's employed/contracted, number of students per class, and the number of classes held per year. Based on the information provided the estimated number of instructors per class is 3; average students per class is 10; and the number of classes held per year is 3.

The formula for determining the cost to a training agency to purchase the nursing assistant training material for each student is as follows: (Average cost of one (1) student textbook) x (number of students per class) x (number of privately-owned training agency) x (number of classes).

The formula for determining the cost to a training agency to purchase the nursing assistant training material for each instructor is as follows: (Average cost of one (1) instructor textbook) x (number of instructors per training agency) x (number of privately-owned training agency). NOTE: Because some instructor textbooks and online teaching instruction are free with the purchase of student texts, this will help keep instructor costs more affordable. Also, the department assumes that the training agency keeps the instructor materials, regardless of who instructs the course and instructor materials are only purchased once during the year.

Costs of CNA final examination

Regulation 19 CSR 30-84.010 requires an applicant/student who has taken the nursing assistant training program to successfully pass the final examination (written & skills) in order to become a certified nursing assistant (CNA) and be added to the active Missouri CNA Registry. The department is proposing a new requirement that allows a department approved third party test administrator to set a cost/fee to administer the CNA final examination. The applicant/student is required to register with the department approved third party test administrator to take the final examination.

Current regulation allows examiners to set their own fee to administer the final exam. The Section for Long-Term Regulation (SLCR), Health Education Unit (HEU) made contact with various examiners to obtain an average cost of what an examiner may charge an applicant/student to administer the final examination. The costs an examiner currently charges to administer the final examination has been wide ranging from \$30.00 to \$300.00 per final examination. The new proposed regulation requires a third party test administrator to administer the final examination. The third party test administrator will impose one set fee for the final examination.

The regulation does not require an approved privately-owned training agency to pay for the CNA final examination. The proposed regulation requires the applicant/student to register with the department approved third party test administrator in order to take the final examination and submit payment.

The department is not including costs for approved privately-owned training agency regarding the CNA final examination. Certified intermediate care facilities and skilled nursing facilities are reimbursed for costs to train nursing assistants through the Missouri Medicaid CNA reimbursement program, which includes the final examination. The department believes that approved privately-owned training agencies can recoup costs through tuition fees. Hospitals and Veterans' homes are not required to pay for the CNA final examination; however, they may offer incentives or bonuses such as paying for a CNA final examination to retain them for employment. For the purposes of this fiscal note, the department is accounting only for the costs that an applicant/student in an average year would have to pay out-of-pocket to take the CNA final examination.

The fee that will be imposed by the department approved third party test administrator to administer the CNA final examination is: \$125.00

The department estimates that approximately twenty-five percent (25%) of individuals taking the CNA final examination would have to pay for the costs on their own.

The formula used to determine the costs to the number of individuals not receiving reimbursement for the final examination was calculated by: (average number of active CNAs) x (25%) x (cost of final examination).

Costs of Instructor Update Training

The instructor update training is a new requirement and only a department approved certifying agency will be allowed to conduct the training. The department is not certain

all approved certifying agencies will offer the instructor update training. The department received information costs from one (1) certifying agency planning to develop the update training and conduct the course. The costs may vary depending on which certifying agencies decide to offer the training; therefore, it is not possible to determine a precise cost for the course.

The total number of approved and active instructors based on the department registry: 3,708. NOTE: The SLCR health education unit (HEU) registry database does not track the number of instructors employed or contracted by an approved privately-owned training agency. It is not known if all active instructors will take the four (4) hour Instructor Update training.

The department received a fee quote from an approved certifying agency who plans to offer and develop a training course to meet the four (4) hour instructor update training requirement. The certifying agency estimated it would impose a \$150 fee per instructor to take the four (4) hour instructor update course.

The formula used to estimate the cost of this proposed regulation to the approved instructors is: (# of instructors impacted by proposed regulation) x (cost of training course) = cost to instructors.

The formula used for the cost for the number of instructors needing to take the required Instructor Update training course was calculated by: (estimated number of instructors employed by privately-owned training agencies) x (cost of the update course).

The department is not including costs a certifying agency may incur as a result of conducting the instructor update training. Depending on the number of instructors enrolled in each update training course and charge for the course, it is highly probable the certifying agency will earn a profit for each class held. Even if the certifying agency does not make a profit, the department believes the certifying agency will not incur a cost to teach the course because the certifying agency will receive money from the instructor to take the course.

The department is also not including the costs a privately-owned training agency may incur for the instructor update training because the regulation does not require the training agency to pay for the instructor update training. An individual who wishes to be an approved instructor or retain their approved status will be solely responsible to pay the fee assessed for the four (4) hour Instructor Update Training and complete the course every five (5) years to retain an active status.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

**Division 30—Division of Regulation and Licensure
Chapter 85—Intermediate Care and Skilled Nursing Facility**

PROPOSED AMENDMENT

19 CSR 30-85.042 Administration and Resident Care Requirements for New and Existing Intermediate Care and Skilled Nursing Facilities. The department is amending sections (20), (21), and (32), deleting section (39), and renumbering remaining sections.

PURPOSE: This amendment clarifies and updates the requirements regarding the nursing assistant training program as a result of revisions made to regulation set in 19 CSR 30-84.010 Nursing Assistant Training Program.

Editor's Note: All rules relating to long-term care facilities licensed by the [Division of Aging] Department of Health and Senior Services are followed by a Roman Numeral notation which refers to the class (either Class I, II, or III) of standard as designated in section 198.085.1, RSMo.

(20) The facility shall develop and offer an in-service orientation and continuing educational program for the development and improvement of skills of all the facility's personnel, appropriate for their job function. Facilities shall begin providing orientation on the first day of employment for all personnel including licensed nurses and other professionals. At a minimum, this shall cover prevention and control of infection, facility policies and procedures including emergency protocol, job responsibilities and lines of authority, confidentiality of resident information, and preservation of resident dignity including protection of the resident's privacy and instruction regarding the property rights of residents. *[Nursing assistants who have not successfully completed the classroom portion of the state-approved training program prior to employment shall not provide direct resident care until they have completed the sixteen (16)-hour, orientation module and at least twelve (12) hours of supervised practical orientation. This shall include, in addition to the topics covered in the general orientation for all personnel, special focus on facility protocols as well as practical instruction on the care of the elderly and disabled. This orientation shall be supervised by a licensed nurse who is on duty in the facility at the time orientation is provided].* II/III

(21) *[Nursing assistants who have not successfully completed the state-approved training program shall complete a comprehensive orientation program within sixty (60) days of employment. This may be part of a nursing assistant training program taught by an approved instructor in the facility. It shall include, at a minimum, information on communicable disease, handwashing and infection control procedures, resident rights, emergency protocols, job responsibilities and lines of authority. II/III] Nursing Assistant Training Program.*

(A) All nursing assistants shall successfully complete the entire basic course (including passing the final examination) of the nursing assistant training program and be certified within four (4) months of employment. II/III

(B) Nursing assistants who have not successfully completed the nursing assistant training program prior to employment may begin duties as a nursing assistant and may provide direct resident care only if under the direct supervision of a licensed nurse prior to the completion of the seventy-five (75) classroom hours of the training program. For the purpose of this rule, direct supervision shall mean close contact whereby the licensed nurse is able to respond quickly to the needs of the resident. The nurs-

ing assistant shall not perform any care or services for which he or she has not been trained nor found proficient by a licensed nurse. II/III

(C) Prior to any direct resident contact, an individual enrolled in the nursing assistant training program's basic course in a Medicare or Medicaid certified facility shall complete at least a total of sixteen (16) of the required seventy-five (75) hours of instructional training in communication and interpersonal skills; infection control; safety/emergency procedures, including the Heimlich maneuver; promoting residents' independence; and respecting residents' rights. II/III

(32) Nursing personnel shall be at least eighteen (18) years of age except that a person between the ages of seventeen (17) years of age and eighteen (18) years of age may provide direct resident care if *[he/she has successfully completed the state-approved nursing assistant course and has been certified with his/her name] the individual is listed as a certified nursing assistant with an active status on the [state] department's certified nursing assistant [register] registry. [He/she must] The individual shall work under the direct supervision of a licensed nurse and [will] shall never be left responsible for a nursing unit.* II/III

[(39) Nursing assistants employed after January 1, 1980, shall have completed mandatory training as required by section 198.082, RSMo, or be enrolled in the course and functioning under the supervision of a state approved instructor of clinical supervisor as part of the one hundred (100) hours of on-the-job training. The person enrolled shall have successfully completed the course and become certified within one (1) year of employment with a licensed-only facility or within four (4) months of employment with a facility certified under Title XVIII or Title XIX if he or she is to remain employed in the facility as a nursing assistant. II]

[(40)](39) Nursing personnel in any facility with more than twenty (20) residents shall not routinely perform non-nursing duties. II/III

[(41)](40) Nursing personnel in facilities with twenty (20) residents or less shall perform non-nursing duties only if acceptable infection control measures are maintained. II/III

[(42)](41) Each facility resident shall be under the medical supervision of a Missouri-licensed physician who has been informed of the facility's emergency medical procedures and is kept informed of treatments or medications prescribed by any other professional lawfully authorized to prescribe medications. I/II

[(43)](42) Facilities shall ensure that at the time the resident is admitted, the facility obtains from a physician the resident's primary diagnosis along with current medical findings and the written orders for the immediate care of the resident. II/III

[(44)](43) The facility shall ensure that the resident's private physician, the physician's designee, the facility's supervising physician, or an alternate physician shall examine the resident at least annually, and shall examine the resident as often as necessary to ensure proper medical care. I/II

[(45)](44) For each medical examination, the physician must review the resident's care, including medications and treatments; write, sign, and date progress notes; and sign and date all orders. The facility shall establish a policy requiring the physician to sign orders and to complete all other documentation required if the physician does not visit the resident routinely. II/III

[(46)](45) No medication, treatment, or diet shall be given without a written order from a person lawfully authorized to prescribe such

and the order shall be followed. No restraint shall be applied except as provided in 13 CSR 15-18.010, Resident Rights. I/II

~~/(47)/(46)~~ There shall be a safe and effective system of medication distribution, administration, control, and use. I/II

~~/(48)/(47)~~ Verbal and telephone orders for medication or treatment shall be given only to those individuals licensed or certified to accept orders. Orders shall be immediately reduced to writing and signed by that individual. If a telephone order is given to a certified medication technician, an initial dose of medication or treatment shall not be given until the order has been reviewed by telephone or in person by a licensed nurse or pharmacist. The review shall be documented by the reviewer co-signing the telephone order. II

~~/(49)/(48)~~ Medications shall be administered only by a licensed physician, a licensed nurse, or a medication technician who has successfully completed the state-approved course for medication administration. II

~~/(50)/(49)~~ Injectable medication, other than insulin, shall be administered only by a licensed physician or a licensed nurse. Insulin injections may be administered by a certified medication technician who has successfully completed the state-approved course for insulin administration. II

~~/(51)/(50)~~ Self-administration of medication is permitted only if approved in writing by the resident's physician, and it is in accordance with the facility's policy and procedures. II

~~/(52)/(51)~~ All medication errors and adverse reactions shall be reported immediately to the nursing supervisor and the resident's physician and, if there was a dispensing error, to the issuing pharmacist. II/III

~~/(53)/(52)~~ At least monthly a pharmacist or a registered nurse shall review the drug regimen of each resident. Irregularities shall be reported in writing to the resident's physician, the administrator, and the director of nurses. There must be written documentation which indicates how the reports were acted upon. II/III

~~/(54)/(53)~~ All prescription medications shall be supplied as individual prescriptions. All medications, including over-the-counter medications, shall be packaged and labeled in accordance with applicable professional pharmacy standards and state and federal drug laws and regulations. The *United States Pharmacopoeia* (USP) labeling shall include accessory and cautionary instructions as well as the expiration date, when applicable, and the name of the medication as specified in the physician's order. Over-the-counter medications for individual residents shall be labeled with at least the resident's name. II/III

~~/(55)/(54)~~ If the resident brings medications to the facility, they shall not be used unless the contents have been examined, identified, and documented by a pharmacist or a physician. II/III

~~/(56)/(55)~~ Facilities shall store all external and internal medications at appropriate temperatures in a safe, clean place and in an orderly manner apart from foodstuffs and dangerous chemicals. A facility shall secure all medications, including those refrigerated, behind at least one (1) locked door or cabinet. Facilities shall store containers of discontinued medication separately from current medications. II/III

~~/(57)/(56)~~ Facilities shall store Schedule II medications, including those in the emergency drug supply, under double lock separately from noncontrolled medication. Schedule II medications may be stored and handled with other noncontrolled medication if the facility

has a single unit dose drug distribution system in which the quantity stored is minimal and a missing dose can be readily detected. II

~~/(58)/(57)~~ Upon discharge or transfer, a resident may be given medications with a written order from the physician. Instructions for the use of those medications will be provided to the resident or the resident's designee. III

~~/(59)/(58)~~ All non-unit doses and all controlled substances which have been discontinued must be destroyed on the premises within thirty (30) days. Outdated, contaminated, or deteriorated medications and non-unit dose medications of deceased residents shall be destroyed within thirty (30) days. Unit dose medications returnable to the pharmacy shall be returned within thirty (30) days. II/III

~~/(60)/(59)~~ Medications shall be destroyed in the facility by a pharmacist and a licensed nurse or by two (2) licensed nurses. III

~~/(61)/(60)~~ Facilities shall maintain records of medication destroyed in the facility. Records shall include: the resident's name; the date; the name, strength, and quantity of the medication; the prescription number; and the signatures of the participating parties. III

~~/(62)/(61)~~ The facility shall maintain records of medication released to the family or resident upon discharge or to the pharmacy. Records shall include: the resident's name; the date; the name, strength, and quantity of the medication; the prescription number; and the signature of the persons releasing and receiving the medication. III

~~/(63)/(62)~~ The facility must establish a system of records of receipt and disposition of all controlled drugs in sufficient detail to enable an accurate reconciliation. The system must enable the facility to determine that drug records are in order and that an account of all controlled drugs is maintained and reconciled. II/III

~~/(64)/(63)~~ Facilities shall make available to all nursing staff up-to-date reference material on all medications in use in the facility. III

~~/(65)/(64)~~ The facility shall develop policies to identify any emergency stock supply of prescription medications to be kept in the facility for resident use only. This emergency drug supply must be checked at least monthly by a pharmacist to ensure its safety for use and compliance with facility policy. A facility shall have the emergency drug supply readily available to medical personnel and use of medications in the emergency drug supply shall assure accountability. III

~~/(66)/(65)~~ Each resident shall receive twenty-four- (24-)/- hour protective oversight and supervision. For residents departing the premises on voluntary leave, the facility shall have, at a minimum, a procedure to inquire of the resident or resident's guardian of the resident's departure, of the resident's estimated length of absence from the facility, and of the resident's whereabouts while on voluntary leave. I/II

~~/(67)/(66)~~ Each resident shall receive personal attention and nursing care in accordance with his/her condition and consistent with current acceptable nursing practice. I/II

~~/(68)/(67)~~ Each resident shall be clean, dry, and free of body and mouth odor that is offensive to others. I/II

~~/(69)/(68)~~ Taking into consideration the resident's preferences, residents shall be well-groomed and dressed appropriately for the time of day, the environment and any identified medical conditions. II/III

~~/(70)/(69)~~ Residents who are physically or mentally incapable, or both, of changing their own positions shall have their positions

changed at least every two (2) hours and shall be provided supportive devices to maintain good body alignment. I/II

[(71)](70) The facility must provide each resident the opportunity to access sufficient fluids to maintain proper hydration in accordance with the resident's medical condition and goals of treatment as documented in the medical record. I/II

[(72)](71) All residents who require assistance at mealtimes, whether it be preparation of the food items or actual feeding, shall be provided the assistance upon delivery of the tray. Facilities shall provide dining room supervision during meals. II/III

[(73)](72) Facilities shall provide each resident, according to his/her needs, with restorative nursing to encourage independence, activity and self-help to maintain strength and mobility. Each resident shall be out of bed as desired unless medically contraindicated. II

[(74)](73) Each resident shall have skin care including the application of oil, lotion, and cream as needed to prevent dryness and scaling of skin. II/III

[(75)](74) Facilities shall keep residents free from avoidable pressure sores, taking measures toward prevention. If sores exist, staff shall give adequate treatment. I/II

[(76)](75) Facility staff shall check residents requiring restraints every thirty (30) minutes and exercise the residents every two (2) hours. II/III

[(77)](76) Facilities shall not use locked restraints. I

[(78)](77) Residents shall be cared for by using acceptable infection control procedures to prevent the spread of infection. The facility shall make a report to the division within seven (7) days if a resident is diagnosed as having a communicable disease, as determined by the Missouri Department of Health and listed in the *Code of State Regulations* pertaining to communicable diseases, specifically 19 CSR 20-20.020, as amended. I/II

[(79)](78) In the event of accident, injury, or significant change in the resident's condition, facility staff shall notify the resident's physician in accordance with the facility's emergency treatment policies which have been approved by the supervising physician. I/II

[(80)](79) In the event of accident, injury, or significant change in the resident's conditions, facility staff shall immediately notify the person designated in the resident's record as the designee or responsible party. III

[(81)](80) Staff shall inform the administrator of accidents, injuries, and unusual occurrences which adversely affect, or could adversely affect, the resident. The facility shall develop and implement responsive plans of action. III

[(82)](81) Facilities shall ensure that each resident is provided individual personal care items necessary for good grooming. Items shall be stored and maintained in a clean manner within the resident's room. III

[(83)](82) Facilities shall provide equipment and nursing supplies in sufficient number to meet the needs of the residents. II/III

[(84)](83) Facilities shall keep all utensils and equipment in good condition, effectively sanitized, sterilized, or both, and stored to prevent contamination. II/III

[(85)](84) Staff shall ensure that bedpans, commodes, and urinals

are covered after use, emptied promptly, and thoroughly cleaned after use. II/III

[(86)](85) Facilities shall provide and use a sufficient supply of clean bed linen, including sheets, pillow cases, blankets, and mattress pads to assure that resident beds are kept clean, neat, dry, and odor free. II/III

[(87)](86) Staff shall use moisture proof covers as necessary to keep mattresses and pillows clean, dry, and odor free. II/III

[(88)](87) Facilities shall provide each resident with fresh bath towels, hand towels, and washcloths as needed for individual usage. II/III

[(89)](88) In addition to rehabilitative or restorative nursing, all facilities shall provide or make arrangements for providing rehabilitation services to all residents according to their needs. If a resident needs rehabilitation services, a qualified therapist shall perform an evaluation on written order of the resident's physician. II/III

[(90)](89) Facilities shall ensure that rehabilitation services are provided by or under the on-site supervision of a qualified therapist or a qualified therapy assistant who works under the general supervision of a qualified therapist. I/II

[(91)](90) Staff shall include the following in documentation of rehabilitation services: physician's written approval for proposed plan of care; progress notes at least every thirty (30) days by the therapist; daily record of the procedure(s) performed; summary of therapy when rehabilitation has been reached and, if applicable, recommendations for maintenance procedures by restorative nursing. III

[(92)](91) The facility shall designate a staff member to be responsible for the facility's social services program. The designated staff person shall be capable of identifying social and emotional needs, knowledgeable of methods or resources, or a combination of these, to use to meet them and services shall be provided to residents as needed. II/III

[(93)](92) The facility shall designate an employee to be responsible for the activity program. The designated person shall be capable of identifying activity needs of residents, designing and implementing programs to maintain or increase, or both, the resident's capability in activities of daily living. Facilities shall provide activity programs on a regular basis. Each resident shall have a planned activity program which includes individualized activities, group activities, and activities outside the facility as appropriate to his/her needs and interests. II/III

[(94)](93) The facility shall provide and use adequate space and equipment within the facility for the identified activity needs of residents. II/III

[(95)](94) The facility shall establish and maintain a program for informing all residents in advance of available activities, activity location and time. III

[(96)](95) Facility staff shall include the following general information in admission records: resident's name; prior address; age (birth date); sex; marital status; Social Security number; Medicare and Medicaid numbers; date of admission; name, address, and telephone number of responsible party; name, address, and telephone number of attending physician; height and weight on admission; inventory of resident's personal possessions upon admission; and names of preferred dentist, pharmacist, and funeral director. II/III

[(97)](96) Facility staff shall include physician entries in the medical record with the following information: admission diagnosis, admission

physical and findings of subsequent examinations; progress notes; orders for all medications and treatment; orders for extent of activity; orders for restraints including type and reason for restraint; orders for diet; and discharge diagnosis or cause of death. II/III

[(98)](97) Residents admitted to a facility on referral by the Department of Mental Health shall have an individualized treatment plan or individualized habilitation plan on file which is updated annually. III

[(99)](98) Facilities shall ensure that the clinical record contains sufficient information to—

- (A) Identify the resident;
- (B) Reflect the initial and ongoing assessments and interventions by each discipline involved in the care and treatment of the resident; and
- (C) Identify the discharge or transfer destination. II/III

[(100)](99) Facilities shall ensure that the resident's clinical record must contain progress notes that include, but are not limited to:

- (A) Response to care and treatment;
- (B) Change(s) in physical, mental, and psychosocial condition;
- (C) Reasons for changes in treatment; and
- (D) Reasons for transfer or discharge. II/III

[(101)](100) The facility must safeguard clinical record information against loss, destruction, or unauthorized use. III

[(102)](101) The facility must keep all information confidential that is contained in the resident's records regardless of the form or storage method of the records, including video-, audio-, or computer-stored information. III

[(103)](102) The facility must maintain clinical records on each resident in accordance with accepted professional standards and practices. These records shall be complete, accurately documented, readily accessible on each nursing unit, and systematically organized. II/III

[(104)](103) Facilities must retain clinical records for the period of time required by state law or five (5) years from the date of discharge when there is no requirement in state law. III

[(105)](104) Facilities shall retain all financial records related to the facility operation for seven (7) years from the end of the facility's fiscal year. III

[(106)](105) In the event the resident is transferred from the facility, the resident shall be accompanied by a copy of the medical history, transfer forms which include the physical exam report, nursing summary, and report of orders physicians prescribed. II/III

AUTHORITY: sections 198.006, [RSMo Supp. 2003] 198.009, and 198.079, RSMo [2000] 2016. This rule originally filed as 13 CSR 15-14.042. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 14, 2021.

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 Carmen Grover-Slatery, Regulation Unit Manager, Section for Long-Term Care Regulation, PO Box 570, Jefferson City, MO 65102-0570 or at

RegulationUnit@health.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 2010—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED AMENDMENT

20 CSR 2010-2.061 Requirements for an Initial License to Practice. The board is amending section (2).

PURPOSE: This amendment corrects a statutory reference.

(2) On and after June 30, 2021, applicants for initial licensure shall demonstrate completion of at least one hundred fifty (150) semester credit hours of college education and earned a baccalaureate degree and/or graduate degree from an accredited college or university approved by the board. The one hundred fifty (150) semester credit hours shall include the one hundred twenty (120) hours required by section [327.277] 326.277, RSMo, and rule 20 CSR 2010-2.041. Additionally, of the remaining thirty (30) hours required for licensure, an applicant must complete a minimum additional twelve (12) semester credit hours in accounting and business, with six (6) semester credit hours in accounting and six (6) semester credit hours in business in undergraduate and/or graduate level courses.

AUTHORITY: section 326.262, RSMo 2016, and sections 326.277 and 326.280, RSMo Supp. 2020. This rule originally filed as 4 CSR 10-2.061. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 8, 2021.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Accountancy, PO Box 613, Jefferson City, MO 65102, by facsimile at 573-751-0012, or via email at mosba@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.