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SALUS POPULI SUPREMA LEX ESTO

“The welfare of the people shall be the supreme law.”



JOHN R. ASHCROFT
SECRETARY OF STATE

MISSOURI
REGISTER

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

HOW TO CITE RULES AND RSMO

RULES

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

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and should be cited in this manner: 3 CSR 10-4.115.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraphs 1., subparagraphs A., parts (I), subparts (a), items I. and subitems a.

The rule is properly cited by using the full citation; for example, 3 CSR 10-4.115, NOT Rule 10-4.115.

Citations of RSMo are to the *Missouri Revised Statutes* as of the date indicated.

Code and Register on the Internet

The *Code of State Regulations* and *Missouri Register* are available on the Internet.

The *Code* address is sos.mo.gov/adrules/csr/csr

The *Register* address is sos.mo.gov/adrules/moreg/moreg

These websites contain rulemakings and regulations as they appear in the *Code* and *Registers*.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) business days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 71—[Licensing] Rules for Residential Treatment
Agencies for Children and Youth**

EMERGENCY AMENDMENT

13 CSR 35-71.010 Definitions and Principles Generally Applicable to this Chapter. The division is amending the title of the rule, adding a new section (1) and (2), rescinding sections (2), (3), (4), (11), (16), (18), and (21), and is moving the remaining sections into subsections under the new section (2).

PURPOSE: The emergency amendment to this rule establishes the general principles that DSS will apply in implementing chapter 71. It also defines words and phrases used in the process that License-Exempt Residential Care Facilities must use to notify DSS of their operations in Missouri. Finally the emergency amendment defines words and phrases used in the rules for residential treatment agencies for children and youth in Chapter 71 and amends the title of the rule.

EMERGENCY STATEMENT: Section 210.493, RSMo, of House Bill (HB) 557 (2021) authorizes the Department of Social Services to promulgate regulations, including emergency regulations, to implement new requirements for background checks of officers, managers, contractors, volunteers with access to children, employees, other support staff and owners of licensed residential care facilities (LRCF), License-Exempt Residential Care Facilities (LERCFs) and

Licensed Child Placing Agencies (CPAs). The background checks are being conducted to help ensure that certain individuals who are associated with these facilities do not have a record of criminal conduct or substantiated incidents of child abuse or neglect which may pose a risk to the children served at these facilities. The background checks will include a finger-print based check of the individual’s criminal record, the sexual offender registry, the Family Care Safety Registry, the Central Registry and registries of other states where the individual resided. HB 557 included an emergency clause which declared HB 557 to be an emergency act within the meaning of the Missouri Constitution because immediate action is necessary to protect children, and it was necessary for the immediate preservation of the public health, safety, and welfare. The implementation of the background checks required in this regulation will immediately enable the Department to conduct background checks and to determine whether individuals are eligible for employment or presence at these institutions. This regulation is part of a series of regulations which establish the general principles governing the implantation of all of the regulations governing residential care facilities in Missouri. This includes the requirements for conducting the required Background Checks required in section 210.493 RSMo, and the requirement that LRCFs notify DSS of their operations within Missouri as required by sections 210.1250 through 210.1286 RSMo. The Department of Social Services has determined that promulgation of this regulation on an emergency basis is necessary to address the danger to public health, safety and/or welfare of children in Missouri identified by the Missouri General Assembly. The Department of Social Services therefore has a compelling governmental interest to promulgate this section on an emergency basis. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The Department of Social Services believes that this emergency amendment is fair to all interested persons and parties under the circumstances. The Department of Social Services published a draft of this emergency a on its website and solicited feedback from the public and stakeholders through e-mail and at public meeting held on August 5, 2021. A proposed amendment, which covers this same material, is published in this issue of the Missouri Register. This emergency amendment was filed September 17, 2021, becomes effective October 1, 2021, and expires March 29, 2022.

(1) The following principles shall apply to all decisions made pursuant to this chapter:

(A) The safety and welfare of children is paramount;
(B) All providers of direct services to children and their families will be evaluated in a uniform, transparent, objective, and consistent basis;

(C) Services to children and their families which are provided by the division and licensed residential care facilities shall be provided in a timely manner to maximize the opportunity for successful outcomes, and such services shall be tracked and routinely evaluated through a quality assurance program;

(D) Any provider of direct services to children and families shall have the appropriate and relevant training, education, and expertise to provide the highest quality of services possible which shall be consistent with federal and state standards;

(E) Resources and efforts of the division and licensed residential care facilities shall be committed to pursue the best possible opportunity for a successful outcome for each child. In the case of children and youth who are in the foster care system, successful outcomes may include preparing youth for a productive and successful life as an adult outside the foster care system, such as independent living. For those providers that work with children requiring intensive twenty-four-hour treatment services, successful outcomes shall be based on the least restrictive alternative

possible based on the child's needs as well as the quality of care received; and

(F) All licensed service providers shall prioritize methods of reducing or eliminating a child's need for residential treatment through community-based services and supports.

(2) For the purpose of all regulations in 13 CSR chapter 71, unless otherwise specified or unless the context clearly requires otherwise, the definitions of terms specified in sections 210.110, 210.481, 210.1253 RSMo, and 13 CSR 35-71.015 shall apply to all of the regulations in this chapter. The singular includes the plural and plural includes the singular. In addition, the following terms are defined as follows:

(A) "Agency" in the context of regulations governing licensed residential care facilities shall mean the same as licensed residential care facility or LRCF.

(B) Background Check" means a background check which complies with the requirements of section 210.493, RSMo and 13 CSR 35-71.015

[(1)](C) "Chemical restraints" are drugs which are prescribed or administered to temporarily restrain a child who presents a likelihood of serious physical harm to him/herself or others.

[(2)] Child is any individual under eighteen (18) years of age as defined in section 210.481(1), RSMo.

(3) Child abuse/neglect background check is, at a minimum, a search of the family care safety registry for residential treatment agencies for children and youth staff child abuse/neglect history pursuant to sections 210.903 through 210.936, RSMo.

(4) Criminal background check is, at a minimum, a search of the family care safety registry for residential treatment agencies for children and youth staff criminal history pursuant to sections 210.903 through 210.936, RSMo.]

[(5)](D) A "critical incident" is an incident involving a child in the care of the agency, in which the child or another person directly involved with the child is placed at significant risk of death, serious physical, mental, or sexual harm. A critical incident may involve conduct of the child, other children, and/or acts or omissions of staff of the agency. Examples of critical incidents include, but are not limited to: injury of a child during physical restraint; serious physical or sexual aggression by or toward the child; significant physical injuries requiring medical attention; allegations of sexual abuse; criminal conduct involving the child; elopement; attempted suicide; fire setting; child death; and information which must be reported to the child abuse and neglect hotline pursuant to 210.115 RSMo. A "critical incident report" is a report documenting a critical incident.

[(6)](E) "Director" is the director of the Children's Division.

[(7)](F) "Division" is the Children's Division of the Department of Social Services of Missouri as defined in section 210.481(3), RSMo.

(G) "Elopement"-When a child leaves a facility or designated area off the campus of a LRCF without permission and places the child out of sight and sound of direct supervision.

[(8)](J) "Family [c]Care [s]Safety [r]Registry" [pursuant to sections 210.903 through 210.936, RSMo, is established to protect children, the elderly, and disabled individuals in the state and to promote community safety by providing information concerning family caregivers as established within the Department of Health and Senior Services. The registry contains information on child-care workers' and personal-care workers' background and child-care, elder-care, and personal-care providers as specified in section 210.903.2(1)-(8), RSMo] means the family care safety registry administered by the Department of Health and Senior Services.

[(9)](K) "Good standing" refers to a licensed residential treat-

ment agency for children and youth in substantial compliance with Chapter 71 of the Children's Division residential treatment agencies for children and youth rules and is not under involuntary intake suspension, license denial, license suspension, and/or license revocation.

[(10)](L) "Intensive residential treatment" for children and youth is provided in a living unit of an agency for gravely, emotionally dysregulated youth that has the capability of providing a highly structured and secure environment to prevent runaway behavior, address the likelihood of rage and physical aggression, and minimize the likelihood of youth injuring themselves or others. Intensive residential treatment for children and youth may be achieved through a combination of staffing patterns, architectural design of the operating site, electronic monitoring of the operating site and its exits, or other means necessary to assure safety.

[(11)] License is the legal document issued to an agency by the division for a period not to exceed two (2) years which authorizes the agency to provide twenty-four- (24-) hour care for children, subject to compliance with sections 210.481 - 210.536, RSMo, and the applicable rules promulgated by the division (section 210.481(6), RSMo).

[(12)](M) "Mechanical restraints" are any device, instrument, or physical object used to confine or limit a child's freedom of movement, except when necessary for orthopedic, surgical, and other medical purposes, or when necessary, to transport a child that may abscond or cause injury during transportation. Support devices used in normal situations to achieve proper body position and balance are not mechanical restraints.

[(13)](N) "Medical examination" is a thorough physical examination conducted by a licensed physician, certified nurse practitioner, advanced practice nurse in a collaborative practice agreement with a licensed physician, or a registered nurse who is under the supervision of a licensed physician. It may include a variety of tests, depending on the age, sex, and health of the person being examined, that includes tests for communicable diseases including, but not limited to, tuberculosis and hepatitis, when recommended by a licensed physician. It should also include a statement of the patient's mental state as determined by a licensed physician.

[(14)](O) "Operating site" is any building or campus of a licensed agency in which children [reside] receive care.

[(15)](P) "Physical restraint" is physical holding involving restriction of a child's voluntary movement to temporarily restrain an agitated, violent, or aggressive child who presents a likelihood of serious physical harm to him/herself or others.

[(16)](Q) [Residential treatment agency for children and youth is an agency providing twenty-four-(24-) hour care and treatment to children who are unrelated to the person operating the agency and who are unattended by a parent or guardian (as defined in section 210.481(10), RSMo, as residential care facility).] "Professional staff" of residential care facility are staff or contractors of the residential care facility who are qualified and required by law to be licensed in good standing to provide services for children to provide the services which they are providing. Examples of professional staff include, but are not limited to: physicians, nurses, physician assistants, teachers, licensed professional counselors, physical therapists, and occupational therapists.

[(17)](R) "Social services" are planned psycho-social interventions that are intended to lead to increased individual and family self-sufficiency, and empowerment, and will support the child's transition from the placement into the family or community. Social services shall include, but shall not necessarily be limited to, individual, family, or group therapy, provided in conjunction with other age and developmentally appropriate expressive, experiential, and adjunct activities.

[(18)] Staff are persons employed by an agency.]

[(19)](S) "Transitional living services" are services provided to

older adolescents that combine life skills training with opportunities to practice same. The goal of such services is to prepare the youth for successful adult living in the community upon their discharge from residential treatment for children and youth.

[(20)](T) “Variance” is a minor, time limited, deviation from a rule that may be requested by a licensed residential treatment for children and youth agency on a form prescribed by the division and approved or denied by the division. Approval may be granted by the division when a variance does not negatively impact child health and safety and is not under the purview of another regulatory entity. Examples include, but are not limited to, time limited deviations in licensed capacity and age range.

[(21)] Volunteer is any person who provides direct services to children within an agency, either on or off the premises, without financial compensation.]

[(22)](U) “Well-known religious order, church, and religious organization” are defined as follows:

[(A)]1. A church, synagogue, or mosque;

[(B)]2. An entity that would qualify for federal tax exempt status as a not-for-profit religious organization under section 501(c) of the Internal Revenue Code of 1954; or

[(C)]3. An entity where the real property on which the residential treatment for children and youth operating site is located is exempt from local taxation because it is used for religious purposes.

AUTHORITY: sections 207.020, 210.506, and 660.017, RSMo [2000] 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021. This rule originally filed as 13 CSR 40-71.010. Original rule filed May 9, 1956, effective May 19, 1956. Refiled March 12, 1976. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 17, 2021, effective Oct. 1, 2021, expires March 29, 2022. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

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

Title 13—DEPARTMENT OF SOCIAL SERVICES

Division 35—Children’s Division

Chapter 71—Rules for Residential Treatment Agencies for Children and Youth

EMERGENCY RULE

13 CSR 35-71.015 Background Checks for Personnel of Residential Care Facilities and Child Placing Agencies

PURPOSE: This emergency rule establishes the processes and procedures for conducting background checks for personnel of child placing agencies, licensed residential care facilities and residential care facilities subject to the notification requirements under sections 210.1250 to 210.1286 RSMo as provided and authorized by sections 210.493 RSMo.

EMERGENCY STATEMENT: Section 210.493, RSMo, of House Bill (HB) 557 (2021) authorizes the Department of Social Services to promulgate regulations, including emergency regulations, to implement new requirements for background checks of officers, managers, contractors, volunteers with access to children, employees, other support staff, and owners of Licensed Residential Care Facilities (LRCF),

License-Exempt Residential Care Facilities (LERCFs) and Licensed Child Placing Agencies (CPAs). The law further authorizes the Department to promulgate regulations to implement the requirement that the Department conduct background checks on any person who has unsupervised contact with children and any adult who resides at a LERCF. The background checks are being conducted to help ensure that certain individuals who are associated with these facilities do not have a record of criminal conduct or substantiated incidents of child abuse or neglect which may pose a risk to the children served at these facilities. The background checks will include a finger-print based check of the individual’s criminal record, the sexual offender registry, the Family Care Safety Registry, the Central Registry and registries of other states where the individual resided. HB 557 included an emergency clause which declared HB 557 to be an emergency act within the meaning of the Missouri Constitution because immediate action is necessary to protect children, and it was necessary for the immediate preservation of the public health, safety, and welfare. The implementation of the background checks required in this regulation will immediately enable the Department to conduct background checks and to determine whether individuals are eligible for employment or presence at these institutions. The Department of Social Services has determined that promulgation of this regulation on an emergency basis is necessary to address the danger to public health, safety and/or welfare of children in Missouri identified by the Missouri General Assembly. The Department of Social Services therefore has a compelling governmental interest to promulgate this section on an emergency basis. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The Department of Social Services believes that this emergency rule is fair to all interested persons and parties under the circumstances. The Department of Social Services published a draft of this emergency rule on its website and solicited feedback from the public and stakeholders through e-mail and at public meeting held on August 5, 2021. A proposed rule, which covers this same material, is published in this issue of the Missouri Register. This emergency rule was filed September 17, 2021, becomes effective October 1, 2021, and expires March 29, 2022.

(1) Definitions. For the purpose of this regulation, unless otherwise specified in this subsection or unless the context clearly requires otherwise, the definitions of terms specified in sections 210.110, 210.481 and 210.1253, RSMo shall apply to this regulation. The singular includes the plural and plural includes the singular. In addition, the following terms are defined as follows:

(A) “Applicant” means any individual who applies or is required to successfully complete the background check requirements for employment or presence at the Licensed Residential Care Facility (“LRCF”), License Exempt Residential Care Facility (“LERCF”) or Child Placing Agency (CPA) by section 210.493 RSMo. For the purposes of Background Checks conducted by the Missouri State Highway Patrol of the Missouri Department of Public Safety the term “applicant” is further defined as specified in section 43.539 RSMo.

1. Except as otherwise provided in this regulation, applicants for LRCFs, LERCFs and CPAs who are required to complete the background check process include: officers; managers; contractors with unsupervised access to children; volunteers with unsupervised access to children; employees; other support staff; owners of LRCFs and LERCFs that will have access to the facilities; and owners of LERCF, LRCF and CPA that will have access to children.

2. Except as otherwise provided in this regulation, applicants for LERCFs who are required to complete a background check also include any applicant as defined in section 43.539 RSMo who has unsupervised contact with a resident of the LERCF. The following individuals or classes of individuals who may have unsupervised contact with a child who is a resident of a LERCF are not deemed to be applicants and are not required to submit to background checks as provided in this subsection unless otherwise required by law or court

order:

A. Legal parents, step-parents, grandparents, siblings, legal guardians and prospective adoptive parents who do not reside on or at the LERCF but who have contact or visits with a child who resides on the property of a LERCF;

B. Licensed or other lawfully qualified individuals who do not reside at or on the property of a LERCF; who are not employees, officers, volunteers, staff, support staff of the LERCF; and who provide occasional emergency professional services within the scope of their employment pertaining to a child who resides at or on the property of the LERCF such as: licensed physicians, licensed nurses, licensed emergency medical technicians, POST certified law enforcement officers, Juvenile Officers, division Employees, Prosecuting Attorneys, court appointed special advocates (CASA) assigned by a court to a child who resides at a LERCF, attorneys and court appointed guardians ad litem for children who reside at an LERCF.

C. Licensed or other lawfully qualified individuals who do not reside at or on the property of a LERCF; who are not employees, officers, volunteers, staff, support staff of the LERCF, and who provide reasonably necessary, professional services, maintenance in an emergency when it is necessary to protect the health and safety of individuals at the facility and background checks are not reasonably possible under the circumstances, or government inspections on the premises of a LERCF to ensure the health and safety of the residents such as fire, health and safety inspectors, and nationally recognized accrediting agencies, heating, construction, electrical and plumbing contractors.

(B) "Boarding School" includes any educational institution in which some or all of the children who attend the institution reside during their attendance at the institution. Boarding schools include facilities where the children lodge in dorms, in private homes whose owners are contracted with, associated or affiliated with the institution, or in homes owned or operated by the institution regardless of whether or not the child's residence is located on or off the institution's campus.

(C) The "Department" or the "division" shall refer to the Children's Division of the Missouri Department of Social Services.

(D) "Employee" is any individual who works in the service of a LERCF, LRCF or Child Placing Agency under an express or implied contract for hire, whether written or unwritten, full time or part time, under which the LERCF, LRCF or Child Placing Agency has the right to control the details of work performance in whole or in part. Staff can be employees and employees can be staff.

(E) "Licensed Residential Care Facility" or "LRCF" means a facility providing twenty-four-hour care in a group setting to children who are unrelated to the person operating the facility and who are unattended by a parent or guardian, and which is required to have a license to operate as a Residential Care Facility under section 210.516 RSMo. LRCFs do not include licensed foster family homes or unlicensed kinship placements mad pursuant to a juvenile or family court order.

(F) "License-Exempt Residential Care Facility" or "LERCF" means any place, facility, or home operated by any person who receives children who are not related to the operator and whose parent or guardian is not a resident of the same facility and that provides such children with supervision, care, lodging and maintenance for twenty-four hours a day, with or without transfer of custody; and that is not required to be licensed under section 210.516 RSMo. Unless exempted as provided below, LERCFs include, but are not limited to, boarding schools, juvenile detention facilities, license-exempt foster homes as defined in section 210.516, RSMo, and other congregate care facilities. LERCFs do not include:

1. Hospitals, sanitariums and clinics operated to provide medical care and treatment and operating pursuant to a valid license issued by the Missouri Department of Health and Senior Services (DHSS), the Missouri Department of Mental Health (DMH), the United States (such as Veterans' Administration Hospitals and hospitals administered by the armed forces of the United States);

2. Boarding schools operated by the Missouri Department of Elementary and Secondary Education (DESE), provided that DESE requires background checks equivalent or more stringent than the requirements of section 210.493 RSMo.

3. Foster homes and congregate care facilities or homes licensed or certified by the DMH, provided that DMH requires background checks equivalent or more stringent than the requirements of section 210.493 RSMo.

4. Juvenile corrections programs operated by the Department of Social Services, Division of Youth Services or juvenile detention facilities operated by Juvenile Officers or juvenile courts which are subject to the Prison Rape Elimination Act (PREA) standards and auditing;

5. Facilities operated by the Missouri Department of Corrections and county or local jails;

6. Any individual (but not a corporation, partnership, organization or association) who receives on a voluntary basis, the child of close, personal friends or relatives as an occasional and personal guest in their personal home or the home of the child's parent, guardian or legal custodian, who is otherwise unaffiliated with a LRCF or LERCF and who receives custody of or provides care of no other child unrelated by consanguinity, adoption or affinity;

7. Any individual (but not a corporation, partnership, organization or association) who is otherwise unaffiliated with a LRCF or LERCF who receives legal custody or guardianship of a child or sibling group pursuant to a judgment or order of a court of competent jurisdiction in cases where a state or local government is not a party; and, in cases where the judgment or order is entered by a court outside the state of Missouri, all of the requirements of the Uniform Child Custody and Jurisdiction Act, the Interstate Compact for the Placement of Children (ICPC) or the Interstate Compact for the Placement of Juveniles (ICJ) have been fully satisfied; and

8. Any camp which is not a Boarding School; which is operated solely during certain months of the year, not to exceed four months; which is conducted in good faith primarily to provide recreation or religious instruction for children; in which the children do not spend more than thirty consecutive overnight periods during any twelve month period; and not for ongoing residential or treatment purposes.

(G) "Manager" is any individual who administers or supervises the affairs of the LERCF, LRCF or Child Placing Agency, including, but not limited to: any individual who supervises any employees, staff or volunteers of the LERCF, LRCF or Child Placing Agency.

(H) "Missouri State Highway Patrol" or "MSHP" shall mean the Missouri State Highway Patrol of the Missouri Department of Public Safety.

(I) "Officer" is any individual who holds an executive position with the LERCF, LRCF or Child Placing Agency, including, but not limited to: Chairperson of the Board, President, Director, Vice President, Secretary, General Counsel, Headmaster, Principal, Head Teacher, Treasurer or any other individual listed as an officer of the LERCF, LRCF or Child Placing Agency.

(J) "Owner" of a LERCF, LRCF or Child Placing Agency is any individual who holds an equity interest in the LERCF, LRCF or Child Placing Agency.

(K) "Sponsoring Organization" shall mean the entity that sponsors the LERCF, LRCF or Child Placing agency, including, but not limited to the sponsoring church or religious organization.

(L) "Support Staff" or "Staff" of a LERCF, LRCF or Child Placing Agency include any individual who works for or performs services, including professional services, for the LERCF, LRCF or Child Placing Agency, whether compensated or not. Staff can be employees and employees can be staff.

(M) "Volunteer" of a LERCF, LRCF or Child Placing Agency is any individual who performs a service for or on behalf of the LERCF, LRCF or Child Placing Agency of their own free will without obligation, or without any expectation of reward or compensation.

(2) The Background Checks conducted pursuant to this regulation shall consist of the following:

(A) A Fingerprint Based Background Check of Open and Closed criminal history conducted in conjunction with the MSHP pursuant to subsection (3) of this regulation; and

(B) A search of the a national offender registry conducted by the division; and

(C) A search of the following registries, repositories, or databases in Missouri, the state where the applicant resides, and each state where the applicant resided during the preceding five years conducted by the division:

1. The state sex offender registry or repository (in Missouri this is a search of the MSHP Sex Offender Registry); and

2. The state family care safety registry (in Missouri this is a search of the Family Care Safety Registry); and

3. The state-based child abuse and neglect registry and database (in Missouri this is a search of the Central Registry of the division).

(3) All of the Fingerprint Based Background Checks of closed criminal history conducted under this regulation shall be performed in conjunction with the MSHP solely through the authority of the Missouri Volunteer and Employee Criminal History Service (VECHS) and the National Child Protection Act, Public Law 103-209, as amended. No fingerprint based, criminal background checks of federal records or closed criminal history shall be conducted under this regulation on clients, patients and students of the LERCF or LRCF unless the Fingerprint Based Background Check of closed criminal history is authorized by federal and state law and that individual is also an employee, staff or volunteer of the LERCF or LRCF. The Background Checks conducted in conjunction with the MSHP will be conducted pursuant to the law, statutes, regulations and policies governing the MSHP and will include a Fingerprint Background Check and a State Open Records Check as provided in this subsection.

(A) Fingerprint Background Check – A state and FBI background check is required for any person who is: actively employed by or seeks employment with; actively licensed or seeks licensure with; actively volunteers or seeks to volunteer with; actively contracted with or seeks to contract with; an owner or operator of a Licensed Residential Care Facility, a License-Exempt Residential Care Facility, or a Child Placing Agency, prior to having access to children.

1. The fingerprint background check will be conducted through the Missouri VECHS Program, pursuant to the National Child Protection Act, as amended.

2. Criminal history record information will consist of complete Missouri criminal history (open and closed) records, and criminal history from the Federal Bureau of Investigation. Criminal history will include convictions, arrests within 30 days, pending charges and suspended imposition of sentence (SIS) during probation, not guilty findings, charges nolle prossed, or dismissed cases, SIS cases after probation is completed, and arrests after thirty (30) days where no charges have yet been filed or reported by the prosecuting attorney, and will include a search of the state sex offender registry.

(B) State Open Records Check – required for any person that is not an employee, volunteer, contractor, owner/operator, who is eighteen years of age or older, who resides at or on the property, who has or may have unsupervised access to children for whom a Licensed-Exempt Residential Care Facility provides care. A state open record check consists of convictions, arrests within thirty (30) days, pending charges, suspended imposition of sentence (SIS) during probation, and will include a search of the state sex offender registry.

(4) Application of this Regulation. This regulation applies to CPAs, LRCFs and LERCFs which are subject to the notification requirements of sections 210.1250 to 210.1286, RSMo.

(A) Phase in Period. Every LRCF, LERCF, and Child Placing Agency operating on the date that section 210.493 and this regulation

become effective shall have until December 31, 2021, for all applicants complete Background Checks. The division may extend this deadline for any individual LRCF, LERCF and Child Placing Agency, due to unusual, compelling and extenuating circumstances beyond the control of the LRCF, LERCF or Child Placing Agency. The request for an extension shall be in writing and shall explain the reasons for the request for an extension. Any applicant who does not complete the background check process as specified in this regulation by the deadline shall be ineligible for employment or service with an LRCF, LERCF or Child Placing Agency until the background check process has been successfully completed.

(B) Any applicant who begins employment or service after the effective date of this regulation shall complete the background check process before beginning employment or service with a LRCF, LERCF or Child Placing Agency.

(5) Designation of Authority. The Department of Social Services hereby designates the Children's Division of the Department of Social Services to be the division within the Department of Social Services to administer background checks as required by section 210.493, RSMo. The Department of Social Services hereby designates the Administrative Hearings Unit within the Division of Legal Services of the Department of Social Services to process and decide all appeals of applicants as provided in this regulation.

(6) Application Process.

(A) The applicant shall apply for background screening through the division's on-line portal on forms promulgated by the division. The application forms and instructions are incorporated by reference and made a part of this rule as published by the Department of Social Services, Children's Division, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, MO 65101, at its website at <https://www.dss.mo.gov/provider-services/children/residential-program/background-checks.htm>, October 1, 2021. This rule does not incorporate any subsequent amendments or additions. The applicant shall submit the completed application form and upload any supporting or supplemental forms and documentation through the division's online portal. The application must be signed by the applicant (e-signature is acceptable).

1. The applicant may apply to the division for permission to file the application and supporting documentation by mail or private delivery service rather than through the on-line portal when there are unusual, compelling and extenuating circumstances which make filing the application through the on-line portal impossible. The applicant shall apply for permission to file the application form, supporting or supplemental materials with the division in writing, and shall explain the circumstances why the applicant cannot submit the application through the on-line portal. A copy of the application forms for use in submitting application by mail is incorporated by reference and made a part of this rule as published by the Department of Social Services, Children's Division, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, MO 65101, at its website at <https://www.dss.mo.gov/provider-services/children/residential-program/background-checks.htm>, October 1, 2021. This rule does not incorporate any subsequent amendments or additions. Applicants may download a copy of the forms. The applicant shall attach all documentation that may be necessary to complete the required application. If the division grants permission under this subsection, the applicant may submit the form with supporting materials by mail, by private delivery service, or in person to the offices of the division at Children's Division, Attn: Attn: Background Screening Team, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, Missouri 65101; or by e-mail at CDScreen@dss.mo.gov.

(B) The application shall contain all of the following information:

1. The applicant's current, full legal name, residence address, mailing address, business address, telephone number and e-mail address. The applicant's mailing address and e-mail addresses shall be the applicant's address of record for purposes of this regulation;

2. The applicant's Date of Birth and full social security number;

3. Any other names or aliases that the applicant has used or been known by during the five-year period preceding the application;

4. Any other residence address, mailing address, county and state of residence, business address, telephone number and e-mail address that the applicant has had during the five-year period preceding the application;

5. Whether the applicant is registered, or is required to be registered, on a state sex offender registry or repository or in the National Sex Offender Registry. If the applicant is so registered or required to be registered, the applicant shall provide the following additional information:

A. The national, federal, state or local jurisdiction in which the applicant is registered or required to be registered;

B. The specific crime or offense for which the applicant is registered or required to be registered including:

(I) The date or approximate date that the crime or offense was committed;

(II) The statute or section number of the crime or offense;

(III) The name and address of the Court where the case was adjudicated;

(IV) The case number; and

(V) The date of the plea, finding, judgment, or sentence.

6. Whether the applicant is listed as a perpetrator of child abuse or neglect under sections 210.109 to 210.183 RSMo., or any other finding of child abuse or neglect based on any other state's registry or database. In states where the official registry of substantiated findings of child abuse or neglect are made or kept by a county, this information must also be disclosed. If the applicant is listed, the applicant shall also provide:

A. The state or county registry or database in which the applicant is listed;

B. The specific finding(s) of the state or county agency and the conduct for which the applicant is listed, including:

(I) The date(s) of the conduct;

(II) The date the applicant was listed;

(III) The name and address of the state or local government entity that maintains the list.

7. Whether the applicant has ever been found guilty of or pled guilty or nolo contendere to any crime or offense listed in section 210.493.3(5) RSMo. If the applicant has ever been found guilty of or pled guilty or nolo contendere to any such crime or offense, the applicant shall also provide:

A. The national, federal, state or local jurisdiction where the applicant was found guilty of or pled guilty or nolo contendere;

B. The specific crime or offense for which the applicant is registered or required to be registered, including:

(I) The date or approximate date that the crime or offense was committed;

(II) The statute or section number of the crime or offense;

(III) The name and address of the Court where the case was adjudicated;

(IV) The case number; and

(V) The date of the plea, finding, judgment or sentence.

8. Whether the applicant consents to the division notifying the LRCF, LERCF or Child Placing Agency of its decision on eligibility or ineligibility and/or sending a copy of its eligibility or ineligibility finding to the LRCF, LERCF or Child Placing Agency.

9. Whether the person is requesting a response and notice of final decision by first class mail or by e-mail;

10. The name and address of any LRCF, LERCF or Child Placing Agency that the applicant wishes the division to send a finding of eligibility or ineligibility to upon the completion of the background check process. The applicant shall further provide the name and address of the Sponsoring Organization, when applicable.

11. A fully completed and signed MOVECHS Waiver Agreement and Statement (SHP-981G) form. The completed and signed Waiver form must be submitted with the application.

12. Acknowledgment and certification by the applicant, under penalty of perjury that: all submitted information is true, accurate and complete to the best of the applicant's knowledge; and the applicant understands that a knowing violation of section 210.493, RSMo. may constitute a criminal offense and knowingly making a materially false statement in connection with a background check shall render the applicant ineligible

13. Any other information and documents that the applicant wishes the division to consider in making its decision about eligibility.

14. An explanation of why the applicant is unable to provide any of the information that must be provided to support the application.

(C) The applicant shall register with the Family Care Safety Registry and execute any documents necessary for the division to access the applicant's results in the Family Care Safety Registry.

(D) The applicant shall execute any authorizations necessary to obtain information from state, local, and federal registries.

(E) The applicant shall submit fingerprint cards and any required fees to the Missouri State Highway Patrol's central repository and follow all of the Missouri State Highway Patrol's procedures for requesting a fingerprint based, criminal background check. The applicant shall further execute any documents and consents necessary for the Missouri State Highway Patrol to complete the fingerprint based criminal background check and to notify the division of any criminal history record, or lack of criminal history record information, discovered on the applicant as required by law.

(F) The applicant must submit a completed MOVECHS Waiver Agreement and Statement (SHP-981G) to the division with the application form to the division before reporting to be fingerprinted.

(G) The application will not be complete until the division receives a fully completed application form, MOVECHS Waiver Agreement and Statement (SHP-981G), form and the results of the fingerprint based criminal background check from the Missouri State Highway Patrol and the applicant is registered for the Family Care Safety Registry and executed any authorizations necessary to obtain information from any registries.

(H) Upon receipt of a complete application, and MOVECHS Waiver Agreement and Statement (SHP-981G) and consideration of the application, the division will notify the applicant of eligibility or ineligibility based on the background check by mailing a Notice to the applicant's address of record, and send a copy to the LRCF, LERCF or Child Placing Agency as indicated on the application.

1. The Notice will indicate whether the applicant is eligible or ineligible for employment or presence at the LRCF, LERCF or Child Placing Agency.

2. The Notice will advise the applicant of the applicant's right to request administrative review and appeal the decision and the process for requesting administrative review or appeal.

3. The Notice will advise the applicant of the applicant's responsibility to notify the division, LRCF, LERCF or Child Placing Agency of any event which would impact the applicant's eligibility as provided in section 210.493 and this regulation.

4. The Notice will advise the applicant that the finding of eligibility or ineligibility was based on a background check of records through the date of the notice and for the particular LRCF, LERCF or Child Placing Agency for which the background check was requested.

(I) If the division finds the applicant eligible, the division shall forward a copy of the finding to any LRCF, LERCF or Child Placing Agency indicated by the applicant. If the division finds the applicant ineligible, the division shall not send a copy of the notice to any indicated LRCF, LERCF or Child Placing Agency, until the division determines the applicant has exhausted the applicant's administrative remedies and the division has received a written consent from the applicant authorizing the division to disclose such information.

(7) Fees and Costs. The applicant, LRCF, LERCF or Child Placing Agency shall be responsible for the payment of any and all required

fees for processing the application, including any fees for the fingerprint-based background check and the Family Care Safety Registry.

(8) Notice and Communications. The division will send all communications and notices pertaining to an application and Request for Administrative Review or Appeal by first class mail unless the applicant or entity requesting Administrative Review or Appeal affirmatively notifies the division, in writing, that the applicant or person would like to receive communications by e-mail and provides the division with the e-mail address. It is the responsibility of the applicant or person to notify the division of any change in the applicant's or person's contact information. All notices shall be sent to the address or e-mail address of record, and all correspondence sent to that address shall be deemed received and sufficient service for all purposes.

(9) The division shall not reveal any information pertaining to any disqualifying crime, offense, or other related information regarding the applicant to the LRCF, LERCF or Child Placing Agency except as may be otherwise required by law.

(10) Continuing Obligation to Notify and Expiration of Determination.

(A) The division's decision of eligibility or ineligibility shall be based upon the information that the division receives through the background check process, and any additional information that may be made available to the division during administrative review and appeal.

(B) The division's finding is only valid through the date of the decision and only for the LRCF, LERCF or Child Placing Agency indicated by the applicant on the application. The applicant may designate more than one LRCF, LERCF or Child Placing Agency on a single application.

(C) The applicant shall be responsible for notifying the division of any change in circumstance which may render the applicant ineligible and shall submit a new application based upon the subsequent information.

(D) The applicant's fingerprint-based background check is valid for five (5) years from the date the fingerprints were taken, or until there is any change in the circumstances of the applicant which would render the applicant ineligible under the statute, whichever occurs first. It is the responsibility of the applicant to track the expiration date of the fingerprints and submit an application for a new background check.

(E) The division's finding automatically expires thirty (30) days from the date of the division's decision. It is the responsibility of the applicant to submit a new application for a new determination and fingerprint based criminal background check following the procedures specified in this regulation.

(11) In making a decision whether an applicant is eligible or ineligible under section 210.493 and this regulation, the division shall not consider the manner, content or the religious curriculum of the program, or ministry of a school or of a facility sponsored by a church or religious organization.

(12) Administrative Review and Appeal Procedure.

(A) The decision of the division shall be final unless the applicant or person who is aggrieved by a decision of the division under this regulation files a request for Administrative Review of the decision within fourteen (14) days of the mailing of the decision. Any request for Administrative Review that the division receives after the deadline is untimely and will not be subject to further administrative review or appeal.

(B) Administrative Review.

1. A request for Administrative Review shall be made in writing, either on a form provided by the division or by letter. The division will publish a form on its website. The request for

Administrative Review shall:

A. Include the name, address, telephone number and e-mail address of the person requesting administrative review;

B. State whether the division should provide the response and notice of final decision by first class mail or by e-mail;

C. Identify the decision the requestor wishes to be reviewed, the specific reasons the requestor believes the division's decision is erroneous and why the requestor is aggrieved by the decision;

D. Include copies of any relevant documents, materials or information that the requestor wishes to submit in support of the administrative review request; and

E. State whether the person requests that the review be considered on the basis of the materials submitted, or whether the person requests an in-person review conference. If the person requests a review conference, then the person shall also provide dates and times within the next thirty (30) days when the person may be available and the reasons why the administrative review cannot be processed on the basis of the materials presented.

1. The request for administrative review shall be submitted to the division by certified first class mail through the United States Postal Service return receipt requested to the address specified on the Notice of Ineligibility or submitted electronically by e-mail to the division to the e-mail address specified in the Notice of Ineligibility.

2. The Administrative Review shall be conducted and decided based upon the written materials submitted to the division and any information and materials presented at a review conference. The division will provide an in-person conference upon written request.

3. The review conference may take place by telephone conference call, video conference or in-person meeting.

4. The Administrative Review process shall be informal. The rules of evidence shall not apply. There is no right to conduct discovery. There shall be no right to compel the production of witnesses or evidence by subpoena or otherwise.

5. The Administrative Review shall be conducted by an individual designated by the Director of the Department or the division, who may be an employee of the division or the Department. However, the individual shall not have been involved in making the decision which is subject to review.

6. The individual conducting the Administrative Review shall conduct the administrative review and render a written decision no later than thirty (30) days from the date that the division received the request for administrative review.

7. The decision upon Administrative Review shall be the final decision of the Department as to any person that is not an applicant.

(C) Appeal.

1. Any applicant who is aggrieved by a decision upon Administrative Review shall have the right to appeal the decision to the Administrative Hearings Unit of the Division of Legal Services of the Department of Social Services. The applicant shall submit a Notice of Appeal to the division, within fourteen (14) days of the date of the Administrative Review decision, by certified first class mail through the United States Postal Service return receipt requested to the address specified on the Notice of Ineligibility or submitted electronically by e-mail to the division to the e-mail address specified in the Notice of Decision Upon Administrative Review. The division must receive the Notice of Appeal within fourteen (14) days of the date of the decision. Any Notice of Appeal that is received after the deadline is untimely and the appeal will be dismissed. Completion of the Administrative Review process is a condition precedent to the applicant's right to appeal.

2. The parties to the appeal shall be the division and the applicant.

3. All appeals shall be processed and decided by a Hearing Officer from the Administrative Hearings Unit of the Division of Legal Services of the Department of Social Services. The decision of the Hearing Officer shall be the final decision of the Department.

4. The following evidence shall be admitted and considered by the Hearing Officer on appeal as provided in this subsection without

further foundation:

A. A copy of the application form and all supporting documentation;

B. A copy of the record of the Court establishing that the applicant pled guilty or nolo contendere or has been found guilty of a crime or offense listed in 210.493 RSMo;

C. A copy of a letter or official communication from the applicable state, county or local government agency stating that the applicant is listed as a perpetrator of child abuse or neglect in the state, county or local government agency's registry or database of perpetrators of child abuse or neglect;

D. A copy of the report of the fingerprint based background check conducted pursuant to subsection (3) of this regulation; and

E. A copy of a letter, official communication, or a print out of the applicable page of the National Sex Offender Registry or state sex offender registry.

5. The applicant or division may object to the Hearing Officer considering the information outlined in this regulation. The burden shall be on the objecting party to establish that the items of evidence shall not be considered by the Hearing Officer.

6. The hearings held under this subsection shall be informal, but they shall be held on the record and testimony will be adduced under oath. The rules of evidence do not apply. The applicant may be represented by an attorney.

7. Upon written request the division will provide the applicant with a copy of the fingerprint-based state and FBI background check.

8. The hearing is and shall not be not an opportunity to collaterally attack or re-litigate the validity of the underlying plea of guilt, plea of nolo contendere, or the underlying finding of child abuse, neglect or maltreatment by the applicable state or local agency, or the accuracy of information in the federal, state or local registry or repository.

9. The hearing shall be based upon the written submissions of the parties unless the applicant or the division request a hearing by video or teleconference. The Hearing Officer may hold an in-person hearing only upon a showing that an in person hearing is necessary to accommodate a special need of an applicant or the division.

10. The Hearing Officer shall issue a decision in writing, which will be sent by first class mail (or by e-mail at the election of the applicant) to the applicant at the applicant's address of record. If the applicant is represented by an attorney the decision will be sent to the applicant's attorney. The written decision of the Hearing Officer shall be the final decision of the Department.

(D) Judicial Review

1. Any applicant aggrieved by the final decision of the Department after appeal may seek judicial review as provided in section 536.150 RSMo.

2. Any person who is not an applicant who is aggrieved by the final decision of the Department after Administrative Review may seek judicial review as provided in section 536.150, RSMo.

*AUTHORITY: sections 207.020 and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021. Emergency rule filed Sept. 17, 2021, effective Oct. 1, 2021, expires March 29, 2022. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

PUBLIC COST: This emergency rule will cost state agencies or political subdivisions an estimated three hundred one thousand seventy-eight dollars (\$301,078) in the time the emergency is effective.

PRIVATE COST: This emergency rule will cost private entities an estimated one hundred forty-one thousand one hundred thirty-two dollars (\$141,132) in the time the emergency is effective.

**FISCAL NOTE
 PUBLIC COST**

- I. Department Title:** Title 13–Social Services
Division Title: Division 35–Children’s Division
Chapter Title: Chapter 71–Licensing Rules for Residential Treatment Agencies for Children and Youth

Rule Number and Name:	13 CSR 35-71.015 Background Check Regulation
Type of Rulemaking:	Emergency 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	The cost is estimated to be \$301,078 for the first six months.

III. WORKSHEET

There are seven FTE needed to complete the background checks.

- 5 Administrative Support Assistants
- 1 Administrative Support Professional
- 1 Social Services Unit Supervisor

Cost breakout	
Salaries	\$127,213
Fringe	\$ 91,301
Equipment and Expense (including initial cube set-up)	\$ 82,564
TOTAL	\$301,078

IV. ASSUMPTIONS

In the original fiscal note, the Department requested Children’s Service Workers to complete these tasks. On further discussion, the classification of the people needed are Administrative Support Assistants, and an Administrative Support Professional. These positions cost less than the original estimate in the fiscal note, resulting in less cost than originally estimated.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Title 13–Social Services
- Division Title:** Division 35–Children’s Division
- Chapter Title:** Chapter 71–Licensing Rules for Residential Treatment Agencies for Children and Youth

Rule Number and Name:	13 CSR 35-71.015 Background Check Regulation
Type of Rulemaking:	Emergency Rule

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:
114	Licensed Residential Treatment Facilities	\$228,000 / 2 = \$114,000 for six months
69	Child Placing Agencies	\$14,250 / 2 = \$7,125 for six months
20	License Exempt Residential Treatment Facilities	\$40,014 / 2 = \$20,007 for six months

III. WORKSHEET

Classification	Estimate number of employees	Background cost \$41.75 fingerprints \$15.25 FCSR \$57.00 Total
Licensed Residential Treatment Facilities	4000	\$228,000 / 2 = \$114,000 for six months
Child Placing Agencies	250	\$14,250 / 2 = \$7,125 for six months
License Exempt Residential Treatment Facilities	702	\$40,014 / 2 = \$20,007 for six months
		\$141,132 (Total estimate for six months)

IV. ASSUMPTIONS

The estimated cost of compliance is based on the need to complete the full process of a background screening process, including the onetime registration fees for the Family Care Safety Registry.

Title 13—DEPARTMENT OF SOCIAL SERVICES

Division 35—Children’s Division

Chapter 71—[Licensing] Rules for Residential Treatment Agencies for Children and Youth

EMERGENCY AMENDMENT

13 CSR 35-71.020 Basic Residential Treatment for Children and Youth Core Requirements (Applicable To All Agencies)-Basis for Licensure and Licensing Procedures. The division is amending sections (1)-(6).

PURPOSE: The purpose of this amendment is to update the requirements for applying for an application to operate a licensed residential care facility in Missouri and to implement the new requirements of HB 557 (2021).

EMERGENCY STATEMENT: Section 210.493, RSMo, of House Bill (HB) 557 (2021) authorizes the Department of Social Services to promulgate regulations, including emergency regulations, to implement new requirements for background checks of officers, managers, contractors, volunteers with access to children, employees, other support staff and owners of Licensed Residential Care Facilities (LRCF), License-Exempt Residential Care Facilities (LERCFs) and Licensed Child Placing Agencies (CPAs). The law further authorizes the Department to promulgate regulations to implement the requirement that the Department conduct background checks on any person who has unsupervised contact with children and any adult who resides at a LERCF. The background checks are being conducted to help ensure that certain individuals who are associated with these facilities do not have a record of criminal conduct or substantiated incidents of child abuse or neglect which may pose a risk to the children served at these facilities. The background checks will include a finger-print based check of the individual’s criminal record, the sexual offender registry, the Family Care Safety Registry, the Central Registry and registries of other states where the individual resided. HB 557 also requires DSS to implement requirements that residential care facilities notify DSS that they are conducting operations in Missouri. See sections 210.1250 through 210.1286 RSMo. HB 557 included an emergency clause which declared HB 557 to be an emergency act within the meaning of the Missouri Constitution because immediate action is necessary to protect children, and it was necessary for the immediate preservation of the public health, safety, and welfare. The implementation of the background checks required in this regulation will immediately enable the Department to conduct background checks, to determine whether individuals are eligible for employment or presence at these institution and implement the new notification requirements. This regulation is part of a series of regulations which establish the general principles governing the implantation of all of the regulations governing residential care facilities in Missouri. The Department of Social Services has determined that promulgation of this regulation on an emergency basis is necessary to address the danger to public health, safety and/or welfare of children in Missouri identified by the Missouri General Assembly. The Department of Social Services therefore has a compelling governmental interest to promulgate this section on an emergency basis. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The Department of Social Services believes that this emergency amendment is fair to all interested persons and parties under the circumstances. The Department of Social Services published a draft of this emergency amendment on its website and solicited feedback from the public and stakeholders through e-mail and at public meeting held on August 5, 2021. A proposed amendment, which covers this same material, is published in this issue of the Missouri Register. This emergency amendment was filed September 17, 2021, becomes effective October 1, 2021, and expires March 29, 2022.

(1) Licensing Authority.

(A) Any person who desires to develop, establish, maintain or operate, or both, a residential treatment agency for children and youth, except for those persons exempt from licensing pursuant to section 210.516, RSMo, must file an application for licensure form with the division and must receive a license prior to accepting any child for care.

(B) Before a license may be granted, an agency must be in compliance with sections 210.481–210.536, RSMo, sections 210.1250 through 210.1286 RSMo, and these rules.

(2) Application [for Licensure] Procedures.

(A) [An agency shall submit the following documents in duplicate to the division—] To apply for a license to operate a Licensed Residential Care Facility (LRCF) in Missouri, the person, or the person’s legally authorized designee, shall file an application with the division on forms provided by the division.

1. [Application for licensure signed and dated by the applicant;] The application forms are published on the division’s website, and are incorporated by reference and made a part of this rule as published by the Department of Social Services, Children’s Division, PO Box 88, Jefferson City, MO 65103, and available at: <https://www.dss.mo.gov/provider-services/children/residential-program/licensed.htm>, October 1, 2021. This rule does not incorporate any subsequent amendments or additions. The person shall attach all additional supplementary materials and documentation that may be necessary to complete the required application. The person shall submit the form with supplementary materials to the division by e-mail at the following e-mail address: CDaskRPU@dss.mo.gov.

2. The application form shall be signed by the person, or the person’s legally authorized designee. The division will accept e-signatures.

(B) The Application shall contain the following information:

1. The name, street address, mailing address, fax number and phone number of the residential care facility.

2. The name, street address, mailing address, e-mail address and phone number of the Director, Owner and Operator of the LRCF.

3. The name, street address, mailing address, e-mail address, phone number and job title of the individual or individuals who are designated to submit the application on behalf of the residential care facility. This individual shall be an individual who is legally authorized to act on behalf of the residential care facility and to legally bind the residential care facility to the statements made and information provided in support of the application;

4. The name and description of the person operating the residential care facility, including a statement as to whether the person operating the residential care facility is a firm, corporation, benevolent association, partnership, association, agency, or an incorporated or unincorporated organization, regardless of the name used. If the owner or operator of the residential care facility is incorporated a corporation state the type of corporation, the state in which the corporation was incorporated in and the date of incorporation.

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

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

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

(C) The residential care facility shall submit the additional documentation and information in support of the application as provided in this subsection. This information may be submitted on a

form or forms provided by the division, or it may be submitted separately as attachment(s) to the application.

1. Local health department inspection certificates.

A. The residential care facility shall successfully complete and obtain any and all local health department inspection certificates required in the jurisdiction in which the facility operates. If the residential care facility operates in more than one county or local jurisdiction, then the residential care facility shall obtain the required certificates for each facility in each location.

B. The residential care facility shall submit a copy of all local health department inspection certificates with the application, and shall indicate the date of the inspection and the date that each certificate expires, if any.

C. If there is no local or county government health department in which the residential care facility is located, or if the local or county health department will not perform a health inspection, the residential care facility shall request that decision in writing and submit that information with the application.

D. If the residential care facility is unable, after exercising diligent efforts, and due to no fault of its own, to obtain a local inspection certificate, then the residential care facility shall submit a statement describing the efforts made to obtain the certificate(s) and the reason why the residential care facility was unable to obtain the certificate. The residential care facility shall attach copies of any correspondence from any state, county or local jurisdictions declining to conduct the inspection.

2. Proof that medical records are maintained for each child. The division will accept copies of the LRCF's administrative policy regarding the maintenance of medical records as prima facie proof that the LRCF is maintaining medical records for purposes of submitting an application. However, proof that the LRCF is maintaining medical records on each child will be subject of verification and monitoring. The LRCF shall provide the division access to the facility upon request to inspect the medical records maintained by the LRCF on the children served by the LRCF in order to verify that the medical records are being kept.

[2.]3. Evidence of compliance with local building and zoning requirements;

[3.]4. A floor plan of the proposed site in which the specific use of each room is identified;

[4.]5. A signed and dated copy of the civil rights agreement;

[5.]6. A chart depicting the agency's organizational structure and lines of supervision;

[6.]7. Written policies and procedures established by the board of directors which clearly set forth the authority and the responsibilities delegated to the executive director;

[7.]8. A copy of the articles of incorporation, bylaws, and board roster, including the mailing address and place of employment of each member, and a list of board officers;

[8.]9. A proposed budget for a period of not less than one (1) year, including sources of income and/or fund raising methods;

[9.]10. Verification of availability of not less than three (3) months' operating capital;

[10.]11. A copy of the residential care facility's written intake policy;

[11.]12. Written identification of specific program models or designs which shall include the methods of care and treatment to be provided;

[12.]13. The [J]job title, job description, and minimum qualifications for all staff;

[13.]14. A projected staffing plan for the anticipated capacity;

[14.]15. Written child abuse and neglect reporting policy;

[15.]16. Written personnel practices, including staff training and orientation;

[16.]17. Written discipline policy;

[17.]18. Written visitation policy;

[18.]19. Written health care policy;

[19.]20. Written restraint policy utilizing a recognized and

approved physical restraint program;

[20.]21. A needs assessment conducted and submitted as evidence of need for the type and scope of program proposed. This written assessment shall include, but is not limited to:

A. An identification and survey of potential referral sources, existing resources, and unmet community needs;

B. A business plan that details the agency's proposed venture explaining the vision, mission, current status, expected needs, defined markets, and projected results;

C. A description of how treatment will be provided and documented and how the proposed operating site meets therapeutic needs;

D. A description of how the agency will be financed and how fiscal viability will be maintained; and

E. A description of the results of a meeting planned and hosted by the agency with key community participants with the intent of enhancing communication, gathering information for the needs assessment, addressing interaction with community resources, and addressing community questions and comments regarding the proposed residential treatment agency for children and youth;

[21.]22. Evidence of compliance with fire safety requirements of the State Fire Marshal;

[22. Documentation that the agency's water supply and sewage disposal system is currently in compliance with the requirements of the Department of Health and Senior Services if not an approved public source;]

23. Verification of a medical examination that includes tests for communicable diseases including, but not limited to, tuberculosis and hepatitis when recommended by a licensed physician for all staff, completed by a licensed physician, certified nurse practitioner, advanced practice nurse in a collaborative practice agreement with a licensed physician, or a registered nurse who is under the supervision of a licensed physician, shall be submitted within thirty (30) days of initial licensure using the form prescribed by the division;

24. [Results of a check of the family care safety registry for all staff, as well as interns, volunteers, and contractors. Any employee who resides in another state and works in the state of Missouri, or who has relocated to the state of Missouri within the last five (5) years, shall provide documentation of child abuse/neglect and criminal background screening check(s) from those states. When an employee who lived in another state or states within the last five (5) years now resides in the state of Missouri, the documentation of child abuse/neglect and criminal background screening check(s) from the previous state(s) only needs to be completed upon initial employment. If the employee continues to reside in another state, the out-of-state check shall be done annually. Results of employee medical examinations and background screenings, along with family care safety registry documentation may be viewed by division licensing staff on site during routine record reviews] **A certification that all individuals who are required to complete a background check and be found eligible for employment or presence at the LRCF as provided in section 210.493 RSMo and 13 CSR 35-71.015;**

25. Verification of the education, licensing credentials, and experience for all professional staff;

26. A copy of the resume for all professional and administrative staff;

27. Written description of the recreational program, and the manner in which staff are qualified and prepared to create, organize, and supervise them;

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

29. A copy of the personnel manual for the agency;

30. A copy of the program manual for the agency;

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

32. Documentation that each operating site's food service is in

compliance with the requirements of the Department of Health and Senior Services and/or any local applicable ordinances;

33. Written volunteer policies;
34. Written policy for the use of visiting resources;
35. Written confidentiality policy;
36. Written policy for the use of locked isolation;
37. Written instructions for fire, severe weather, and other emergency evacuations;
38. Written description of the agency's religious requirements and practices;

39. Written policy governing the use of medications, including psychotropic medications;

40. A copy of any newsletter, brochure, or flyer used by the agency for fundraising or marketing purposes; **and**

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

[42. A completed, signed, and dated copy of the agency self-study on a form prescribed by the division.]

(D) Upon receipt of the application form and supporting documentation, the division will send a request to the State Fire Marshal to conduct a fire and safety inspection and provide the LRCF and the division with a copy of the approved fire and safety certificate.

(E) The application will be complete when the residential care facility submits a completed application with all of the required supporting documents and information to include all required inspection certificates.

(3) Licensing Assessment.

(A) [A/When the application is complete the division will conduct a thorough assessment of the [agency shall be made by the division, including a review of the documents required in this rule and visits to the agency] residential care facility to determine whether the residential care facility meets all of the requirements for licensure in compliance with the licensing law and applicable rules.

(B) If an applicant for licensure is determined not to be in compliance with the licensing law and applicable rules, [and/]or if the division issues a provisional license and the residential care facility does not achieve full compliance [is not achieved] within [a] six [-] (6/-) months of the date of the issuance of the provisional license [period], the application [may] will be denied. A new application for licensure must be filed if the agency desires to pursue licensure.

(4) The License.

(F) An [licensed residential treatment agency] LRCF for children and youth may request a temporary variance from one (1) or more of the licensing requirements for a specified period of time on a form prescribed by the division that is approved or denied by the division. Approval may be granted by the division only in unusual situations when the division determines that the variance will not negatively impact child health and safety and is not under the purview of another regulatory entity. Examples may include, but are not limited to, time limited deviations in licensed capacity and age range. No variance will be granted for any licensing requirements which involve the health, safety, and welfare of children. Examples include, but are not limited to, compliance with fire and sanitary codes, food safety, building occupancy requirements, and other requirements imposed by law. In the event the licensed residential treatment agency for children and youth does not agree with the decision of the division, it may request administrative review pursuant to 13 CSR 35-71.030.

(5) License Amendment.

(A) An [agency] LRCF shall file an application for amendment with the division on a form prescribed by the division at least sixty (60) days prior to—

1. Relocation and/or address change;
2. Change in the name of the [agency] LRCF;
3. Change in the capacity, gender served, and/or age range of children; or
4. Any major change in the program.

(6) Licensing Renewal.

[(A) An application for licensure shall be mailed by the division to the agency.]

[(B)](A) The [agency] LRCF shall complete and return the application for license renewal to the division at least ninety (90) days prior to the expiration of the current license. The LRCF shall utilize the forms indicated in paragraph (2)(A)1. of this regulation to initiate the license renewal process. The LRCF shall attach all additional supplementary materials and documentation that may be necessary to complete the required application. The LRCF shall submit the form with supplementary materials by e-mail to the LRCF's designated division license consultant. The application form shall be signed by the Director of the LRCF or the Director's legally authorized designee. The division will accept e-signatures.

[(C)](B) The division shall initiate action on the completed application packet prior to the expiration of the existing licensure period.

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

1. Verification of a medical examination that includes tests for communicable diseases including, but not limited to, tuberculosis and hepatitis when recommended by a licensed physician, completed by a licensed physician, certified nurse practitioner, advanced practice nurse in a collaborative practice agreement with a licensed physician, or a registered nurse who is under the supervision of a licensed physician, for all staff working directly with children shall be submitted utilizing the form prescribed by the division;

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

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

4. A copy of a current organizational chart;

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

6. Annual results of a check of the family care safety registry for all staff, as well as interns, volunteers, and contractors. *[Any employee who resides in another state and works in the state of Missouri, or who has relocated to the state of Missouri within the last five (5) years, shall provide documentation of child abuse/neglect and criminal background screening check(s) from those states. When an employee who lived in another state or states within the last five (5) years now resides in the state of Missouri, the documentation of child abuse/neglect and criminal background screening check(s) from the previous state(s) only needs to be completed upon initial employment. If the employee continues to reside in another state, the out-of-state check shall be done annually. Results of employee medical examinations and background screenings, along with family care safety registry documentation may be viewed by division licensing staff on site during routine record reviews];*

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

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

[8.]9. Documentation that each operating site's water supply and sewage disposal system is currently in compliance with the requirements of the Department of Health and Senior Services if not

an approved public source;

[9.]10. A copy of the most recent financial audit and/or financial review [pursuant to 13 CSR 35-71.040(5)(B)];

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

[11.]12. Documentation that each operating site food service is currently in compliance with requirements of the Department of Health and Senior Services or any local applicable ordinance;

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

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

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

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

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

(D) Division staff may review the results of employee medical examinations and background screenings, along with family care safety registry during routine record reviews.

(E) Upon determination of compliance with the licensing law and applicable rules, the director shall issue a license for a period not to exceed two (2) years.

AUTHORITY: sections [210.516] 207.020, 210.506, and 660.017, RSMo [2000] 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021. This rule originally filed as 13 CSR 40-71.020. Original rule filed Nov. 9, 1978, effective Feb. 11, 1979. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Sept. 17, 2021, effective Oct. 1, 2021, expires March 29, 2022. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

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

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

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 71—[Licensing] Rules for Residential Treatment
Agencies for Children and Youth

EMERGENCY AMENDMENT

13 CSR 35-71.030 Hearings and Judicial Review. The division is amending sections (1), (2), and (3).

PURPOSE: This amendment is necessary to update the regulation to reflect current practice and to implement the requirements of HB 557 (2021).

EMERGENCY STATEMENT: Section 210.493, RSMo, of House Bill (HB) 557 (2021) authorizes the Department of Social Services to promulgate regulations, including emergency regulations, to implement new requirements for background checks of officers, managers, contractors, volunteers with access to children, employees, other support

staff, and owners of Licensed Residential Care Facilities (LRCF). The law further authorizes the Department to promulgate regulations to implement the requirement that the Department conduct background checks on any person who has unsupervised contact with children and any adult who resides at a LRCF. The background checks are being conducted to help ensure that certain individuals who are associated with these facilities do not have a record of criminal conduct or substantiated incidents of child abuse or neglect which may pose a risk to the children served at these facilities. The background checks will include a finger-print based check of the individual's criminal record, the sexual offender registry, the Family Care Safety Registry, the Central Registry and registries of other states where the individual resided. HB 557 also requires DSS to implement requirements that residential care facilities notify DSS that they are conducting operations in Missouri. See sections 210.1250 through 210.1286 RSMo. HB 557 included an emergency clause which declared HB 557 to be an emergency act within the meaning of the *Missouri Constitution* because immediate action is necessary to protect children, and it was necessary for the immediate preservation of the public health, safety, and welfare. The implementation of the background checks required in this regulation will immediately enable the Department to conduct background checks, to determine whether individuals are eligible for employment or presence at these institution and implement the new notification requirements. This regulation is part of a series of regulations which establish the general principles governing the implantation of all of the regulations governing residential care facilities in Missouri. The Department of Social Services has determined that promulgation of this regulation on an emergency basis is necessary to address the danger to public health, safety and/or welfare of children in Missouri identified by the Missouri General Assembly. The Department of Social Services therefore has a compelling governmental interest to promulgate this section on an emergency basis. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the *Missouri and United States Constitutions*. The Department of Social Services believes that this emergency regulation is fair to all interested persons and parties under the circumstances. The Department of Social Services published a draft of this emergency amendment on its website and solicited feedback from the public and stakeholders through e-mail and at public meeting held on August 5, 2021. A proposed amendment, which covers this same material, is published in this issue of the *Missouri Register*. This emergency amendment was filed September 17, 2021, becomes effective October 1, 2021, and expires March 29, 2022.

(1) License Denial or License Revocation.

(A) The division may refuse to issue a license to an applicant, or may deny or revoke the license of a licensee, who—

1. Fails consistently to comply with the applicable provisions of sections 210.481–210.536, and 210.1250 through 210.1286, RSMo, and the applicable corresponding rules;

2. Violates any of the provisions of its license;

3. Violates federal or state laws or rules relating to the protection of children;

4. Abuses or neglects children, or is the subject of multiple or serious reports of child abuse or neglect which upon investigation results in a [court adjudicated, probable cause, and/or preponderance of evidence finding, or (effective August 4, 2008) are] substantiated finding of child abuse or neglect; or is found guilty, pleads guilty, or pleads no contest to [felony crimes against persons as specified in Chapters 565, 566, 567, 568, and 573, RSMo, and (effective the date of this amendment) felony possession, delivery, distribution, manufacturing, or production of controlled substance crimes as specified in Chapter 195, RSMo, or the same serious crimes against persons regardless of the state or country in which the crime was committed and/or court adjudicated, probable cause,

and/or preponderance of evidence child sexual abuse and/or serious child physical abuse and/or serious child neglect. An agency shall also exclude from employment persons who are on the respective Department of Health and Senior Services and/or the Department of Mental Health lists that exclude child or adult care employment and/or licensure and the agency fails to take corrective action acceptable to the division. The division may make limited exceptions to the above exclusionary employment criteria in extraordinary circumstances where the agency and the employee establish that the potential employee is essential to the success of the licensed residential treatment agency for children and youth, the employee poses no risk to the welfare, health, and safety of the children in placement, the employee is not listed on the sexual offender registry and has no history of court adjudicated, probable cause, and/or preponderance of evidence sexual abuse. The division may require that the prospective employee and the agency submit proof that the employee or prospective employee has successfully completed any and all sentences imposed and any reasonably necessary or required medical, psychiatric, and/or mental health treatment necessary to assure that the employee or prospective employee poses no danger to the health, safety, and welfare of children. The agency shall file a written application for an exception to the requirements of this section. The application shall contain detailed information and documentation supporting the request. In the event that the division denies the request the employee or prospective employee and the agency may file a written request for an informal meeting pursuant to paragraph (1)(A)11. of this section] **any crime which would render an individual ineligible for employment or presence at the LRCF pursuant to section 210.493 RSMo ;**

5. Employs persons who the division has found ineligible for employment or presence at the LRCF pursuant to section 210.493, RSMo and 13 CSR 35-71.015, or who abuses or neglects children[, persons who are the subjects of multiple or serious reports of child abuse or child neglect which upon investigation results in a court adjudicated, probable cause, and/or preponderance of evidence finding or (effective August 4, 2008) are found guilty, plead guilty, or plead no contest to are found guilty, plead guilty, or plead no contest to felony crimes against persons as specified in Chapters 565, 566, 567, 568, and 573, RSMo, and (effective the date of this amendment) felony possession, delivery, distribution, manufacturing, or production of controlled substance crimes as specified in Chapter 195, RSMo, or the same serious crimes against persons regardless of the state or country in which the crime was committed and/or court adjudicated, probable cause, and/or preponderance of evidence child sexual abuse and/or serious child physical abuse and/or serious child neglect. An agency shall also exclude from employment persons who are on the respective Department of Health and Senior Services and/or the Department of Mental Health lists that exclude child or adult care employment and/or licensure and the agency fails to take corrective action acceptable to the division. The division may make limited exceptions to the above exclusionary employment criteria in extraordinary circumstances where the agency and the employee establish that the potential employee is essential to the success of the licensed residential treatment agency for children and youth, the employee poses no risk to the welfare, health, and safety of the children in placement, the employee is not listed on the sexual offender registry and has no history of court adjudicated, probable cause, and/or preponderance of evidence sexual abuse. The division may require that the prospective employee and the agency submit proof that the employee or prospective employee has successfully completed any and all sentences imposed and any reasonably necessary or

required medical, psychiatric, and/or mental health treatment necessary to assure that the employee or prospective employee poses no danger to the health, safety, and welfare of children. The agency shall file a written application for an exception to the requirements of this section. The application shall contain detailed information and documentation supporting the request. In the event that the division denies the request the employee or prospective employee and the agency may file a written request for an informal meeting pursuant to paragraph (1)(A)11. of this section];

6. Furnishes or makes any misleading or false statements or reports to the division;

7. Refuses to submit any reports or refuses to make available to the division any records required in making an investigation;

8. Fails or refuses to submit to an investigation by an authorized and identified representative of the division at any reasonable time;

9. Fails to provide, maintain, equip, and keep in safe and sanitary condition the premises established or used for the care of children as required by law, rule, or ordinance applicable to the location of a facility;

10. Fails to provide adequate financial resources for the satisfactory care of children being served, or the upkeep of the premises, or both; [or]

11. [When a potential employee of a licensed residential treatment agency for children and youth is excluded from employment pursuant to paragraphs 13 CSR 35-71.030(1)(A)4. and 5. above, the Children's Division may grant an informal meeting only if the potential employee and the licensed residential treatment agency for children and youth request the informal meeting in writing and explain, based on the specified criteria, the reason the employee would be hired and how children in residence at the operating site would be protected. When the written request is received, the division shall schedule an informal meeting as soon as practicable. The meeting shall take place before the division director/designee. The division shall notify the agency of the date and time of the meeting. The meeting may be continued at the request of the agency, but the employment exclusion shall remain in effect pending the meeting. The meeting shall be informal, the rules of evidence shall not apply and both the agency and the division may submit any information relevant to the employment issues. The purpose of the meeting will be to determine the potential employee's suitability for employment based on the criteria listed in paragraphs 13 CSR 35-71.030(1)(A)4. and 5. above. Upon receipt of the final decision of the division, the agency may decide to accept the final decision or file petition for a hearing on administrative review pursuant to section (5) of this rule.] **Fails to satisfactorily comply with all fire, safety, health, and sanitation inspections as may be required by state law or local ordinance and required under section 210.252, RSMo; or**

12. Is a health or safety concern for the children at the LRCF.

(2) License Suspension.

(A) The division shall have the authority to suspend the license of an agency when—

1. The division determines that the suspension of the license is necessary to protect the health, safety, and welfare of children who are or may be placed at the operating site; and

2. The division determines that one (1) or more of the criteria set out in sections 210.496, and 210.1250 through 210.1286, RSMo and/or subsection (1)(A) of this rule may exist; and

3. The division has reasonable cause to believe that the agency will be able to develop and effectively implement a corrective action plan to resolve the concerns which gave rise to the suspension of the license.

(3) Suspension of Intake.

(A) The division shall have the authority to suspend the authorization of the agency to admit additional children into placement during time periods proscribed by the division when the division determines that the agency is not in compliance with the requirements of sections **210.493**, **210.496**, and **210.1250 through 210.1286, RSMo** and/or subsection (1)(A) of this rule and—

1. The addition of additional children to the agency is not in the best interests of the children already placed within the agency or who may be placed with the agency; and

2. Allowing the placement of additional children with the agency may pose a risk to the health, safety, and welfare of children already placed with the agency or who may be placed with the agency.

AUTHORITY: sections 207.020, 210.506 [and], 210.526, and 660.017, RSMo [2000] 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021. This rule originally filed as 13 CSR 40-71.030. Original rule filed Nov. 9, 1978, effective Feb. 11, 1979. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 17, 2021, effective Oct. 1, 2021, expires March 29, 2022. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

PRIVATE COST: This emergency amendment is anticipated to cost private entities approximately thirty thousand dollars (\$30,000) in the time the emergency amendment is effective.

**FISCAL NOTE
 PRIVATE COST**

- I. Department Title:** Title 13–Department of Social Services
Division Title: Division 35–Children’s Division
Chapter Title: 71–Licensing Rules for Residential Treatment Agencies for Children and Youth

Rule Number and Title:	13 CSR 35-71.030 Hearing and Judicial Review
Type of Rulemaking:	Emergency 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:
60	Licensed Residential Agencies	$\$1,000 \times 60 = \$60,000.00 / 2 = \$30,000.00$ for six months

III. WORKSHEET

Average of 1 employees x \$1,000 for hiring and training cost = \$1,000 average per residential agency for 60 agencies equals \$60,000.00 (divided by 2 for only 6 months of the year) equals \$30,000.00

IV. ASSUMPTIONS

This new regulation contains new exclusionary criteria for residential agency employment in HB 557 and 560, residential agencies will have to terminate an estimated 1 employees per agency. An estimate of \$1,000 per employee for job posting, hiring, orientation and training cost for new staff.

This estimate is based on an average of 1 employees per agency and an estimated cost to hire and train new employees.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 71—[Licensing] Rules for Residential Treatment
Agencies for Children and Youth

EMERGENCY AMENDMENT

13 CSR 35-71.045 Personnel. The Department of Social Services is amending sections (1), (2), (3), and (5).

PURPOSE: This emergency amendment sets forth the requirements for child abuse/neglect and criminal background screenings, medical examinations, personnel records, job descriptions, and staff orientation and training.

EMERGENCY STATEMENT: Section 210.493, RSMo, of HB 557 (2021) authorizes the Department of Social Services to promulgate regulations, including emergency regulations, to implement new requirements for background checks of officers, managers, contractors, volunteers with access to children, employees, other support staff and owners of Licensed Residential Care Facilities (LRCF). The law further authorizes the Department to promulgate regulations to implement the requirement that the Department conduct background checks on any person who has unsupervised contact with children and any adult who resides at a LRCF. The background checks are being conducted to help ensure that certain individuals who are associated with these facilities do not have a record of criminal conduct or substantiated incidents of child abuse or neglect which may pose a risk to the children served at these facilities. The background checks will include a finger-print based check of the individual’s criminal record, the sexual offender registry, the Family Care Safety Registry, the Central Registry and registries of other states where the individual resided. HB 557 also requires DSS to implement requirements that residential care facilities notify DSS that they are conducting operations in Missouri. See sections 210.1250 through 210.1286 RSMo. HB 557 included an emergency clause which declared HB 557 to be an emergency act within the meaning of the **Missouri Constitution** because immediate action is necessary to protect children, and it was necessary for the immediate preservation of the public health, welfare, peace and safety. The implementation of the background checks required in this regulation will immediately enable the Department to conduct background checks, to determine whether individuals are eligible for employment or presence at these institutions and implement the new notification requirements. This regulation is part of a series of regulations which establish the general principles governing the implantation of all of the regulations governing residential care facilities in Missouri. The Department of Social Services has determined that promulgation of this regulation on an emergency basis is necessary to address the danger to public health, safety and/or welfare of children in Missouri identified by the Missouri General Assembly. The Department of Social Services therefore has a compelling governmental interest to promulgate this section on an emergency basis. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the **Missouri and United States Constitutions**. The Department of Social Services believes that this emergency amendment is fair to all interested persons and parties under the circumstances. The Department of Social Services published a draft of this emergency amendment on its website and solicited feedback from the public and stakeholders through e-mail and at public meeting held on August 5, 2021. A proposed amendment, which covers this same material, is published in this issue of the **Missouri Register**. This emergency amendment was filed September 17, 2021, becomes effective October 1, 2021, and expires March 29, 2022.

(1) General Requirements.

(A) The [agency] LRCF shall have a written statement of person-

nel practices which are approved by the governing body and provided to all staff at the time of employment.

(B) The [agency] LRCF shall evaluate and investigate application information carefully to determine whether employment or service of an applicant with the LRCF is in the best interests of the children in care.

(C) [The agency shall require that each employee, intern, volunteer, and any contracted personnel secure and provide to the agency upon initial employment and annually thereafter, a child abuse/neglect and criminal background screening utilizing the family care safety registry from the Department of Health and Senior Services.] All officers, managers, contractors, volunteers with access to children, employees, other support staff and owners of such LRCF who will have access to the facilities of the LRCF shall submit to a background check and shall be found eligible for employment or presence at the LRCF as provided in section 210.493 RSMo and 13 CSR 35-71.015 before commencing service or being afforded access to the facilities of the LRCF. These individuals shall notify the LRCF and the division of any change in circumstances which would render them ineligible for employment or presence at the LRCF. After the individual completes the background check, the LRCF shall further require all officers, managers, contractors, volunteers with access to children, employees, other support staff and owners of the LRCF who will have access to the facilities of the LRCF to successfully complete an annual check of the Family Care Safety Registry. The LRCF shall maintain documentation of the Family Care Safety Registry checks in its personnel records.

(D) [Any employee who resides in another state and works in the state of Missouri, or who has relocated to the state of Missouri within the last five (5) years, shall provide documentation of background screening(s) from those states to include, but not limited to, child abuse/neglect and criminal background screening check(s). When an employee who lived in another state or states within the last five (5) years now resides in the state of Missouri, the documentation of child abuse/neglect and criminal background screenings check(s) from the previous state(s) only needs to be completed upon initial employment. If the employee continues to reside in another state, the out-of-state check shall be done annually. An agency shall exclude from employment (effective August 4, 2008) staff who are found guilty, plead guilty, or plead no contest to felony crimes against persons as specified in Chapters 565, 566, 567, 568, and 573, RSMo, and (effective the date of this amendment) felony possession, delivery, distribution, manufacturing, or production of controlled substance crimes as specified in Chapter 195, RSMo, or the same serious crimes against persons regardless of the state or country in which the crime was committed and/or court adjudicated, probable cause, and/or preponderance of evidence child sexual abuse and/or serious child physical abuse and/or serious child neglect. An agency shall also exclude from employment persons who are on the respective Department of Health and Senior Services and/or the Department of Mental Health lists that exclude child or adult care employment and/or licensure.] After the individual completes the background check, the LRCF shall require all officers, managers, contractors, volunteers with access to children, employees, other support staff, and owners of the LRCF who will have access to the facilities of the LRCF, and who reside outside of the state of Missouri, to successfully complete an annual background screening which shall consist of a check of the child abuse and neglect registry and a criminal background check of the state or jurisdiction in which the individual resides. LRCFs shall further implement and apply policies which require all personnel who are otherwise required to submit to a background check pursuant to section 210.493, RSMo to immediately notify the LRCF if they are listed in a state or local government registry as

a perpetrator or child abuse or neglect, or if they arrested or charged with any crime listed in section 210.493 RSMo.

(E) *[If an employee is hired with a child abuse/neglect/criminal history that does not otherwise exclude the employee from employment, the agency administrator/executive director shall document in writing in the employee's file the reason for hiring the employee and how children in residence at the operating site will be protected.]* Any person who makes a materially false statement in connection with an application for licensure or relicensure as a LRCF shall be ineligible for employment or presence at the LRCF.

(F) Prior to the employment of any person for a position requiring credit hours, a degree, or both from an accredited college or university, a resume and an official college transcript, or a copy of the diploma, shall be on file at the *[agency]* LRCF. Any person employed in a position requiring general educational development certificate or high school diploma shall provide documentation of such within thirty (30) days of employment.

(G) An *[agency]* LRCF shall require the names of at least three (3) persons for each employee, volunteer, or *[s]*staff person, who are unrelated to the *[staff member]* individual, who can provide character references. At least two (2) of the three (3) persons shall be professional references from a previous employer, internship, or volunteer position. If the individual is a student then this requirement may be satisfied by providing the references from the individual's professor, guidance counselor, teacher, or academic advisor.

[(H)] An agency shall require references for each staff person from all previous employers within the last five (5) years and a history of any previous employment in child care settings.]

[(I)](H) *[All references shall be]* The LRCF shall contact^[ed] all references and *[documented by the agency with letters or verification in the record of verbal contacts, providing the date, person making the contact, and the content of the contact]* maintain documentation of the reference checks in the LRCF's employee records.

[(J)](I) The *[agency]* LRCF shall require an annual driver record check for any staff, employee, intern, volunteer, or contract personnel who transport residents. No *[staff]* individual with a suspended or revoked driver's license or record of driving while under the influence of alcohol or any other intoxicating substance within the last five (5) years shall transport residents.

(2) *[Medical Examinations]* Health Verification.

(A) All staff, employees, interns, volunteers, and contracted personnel shall be free of *[signs]* symptoms of *[highly]* communicable disease or other evidence of ill health which poses a threat to children. *[This shall be verified by a medical examination by a licensed physician, certified nurse practitioner, advanced practice nurse in a collaborative practice agreement with a licensed physician, or a registered nurse who is under the supervision of a licensed physician before employment, or within ten (10) days following employment, and biennially thereafter.]*

[(B)] Medical examinations shall include tests and/or procedures that indicate they are free from communicable disease including, but not limited to, tuberculosis and hepatitis when recommended by a licensed physician.]

[(C)](B) Staff, interns, volunteers and contracted personnel shall be free of any conditions which would adversely affect their ability to care for, or pose a threat to children.

[(D)](C) If the division has reason to question the capabilities of any *[person]* individual working directly with children served by the LRCF, the division may require *[additional examinations]* the individual to submit to a medical examination and obtain a report of an appropriate medical professional that the individual is medically fit to perform the services for the LRCF without rea-

sonable risk to the children.

(3) Personnel Records. *[Personnel records shall be maintained]* The LRCF shall maintain personnel records for each staff member, employee, intern, volunteer, and contracted employee as indicated below. The LRCF shall maintain the staff records on site, and shall keep the records for at least five (5) years following the date of separation from the LRCF.

(A) For *[an employee]* staff members and employees, the personnel record shall include—

1. Verification of education and experience, and a copy of professional license, if applicable;

2. Verification of the names of three (3) persons, unrelated to the staff member, who can provide character and professional references;

3. Verification of employer references for the past five (5) years and *[a history of any]* previous employment in child care settings;

4. A copy of the job description signed and dated by the employee;

[5. Reports of initial and biennial medical examinations that indicate that they appear to be free from communicable disease;]

[6.]5. Results of annual checks of the family care safety registry;

[7.]6. *[Results of background screenings from other states in which employees have resided and/or have lived or worked within the past five (5) years, including an annual out-of-state check if the person resides in another state]* Documentation that the individual has completed the background checks and that the division has found the individual eligible for employment or presence at the LRCF pursuant to section 210.493, RSMo. and 13 CSR 35-71.015;

[8.]7. The date of employment, date of separation, reason(s) for separation;

[9.]8. Copies of *[an initial six (6) months']* annual performance evaluations *[and each subsequent annual evaluation];*

[10.]9. Results of an annual driver record check for any employee, intern, volunteer, and any contracted personnel who transport residents;

[11.]10. A signed and dated copy of the confidentiality statement;

[12.]11. A signed and dated copy of the discipline policy;

[13.]12. A signed and dated copy of the mandated child abuse/neglect reporting policy;

[14.]13. A signed and dated copy of an acknowledgement of receipt of program and personnel policies and manuals;

[15.]14. A signed and dated copy of the acknowledgment of completed agency orientation;

[16.]15. Documentation that the staff member has successfully completed all *[of staff]* training required for the successful performance of the individual's duties;

[17.]16. Documentation of current first aid/cardio pulmonary resuscitation training and certification; and

[18.]17. Documentation of current medical aid certification, when applicable.

(B) For Interns, volunteers, and contracted employees who have direct contact with children, the personnel record shall include—

1. Copy of professional credentials *[(if applicable)];*

2. Documentation of initial and *[biennial]* subsequent medical examinations *[that indicates that they are free from communicable disease including, but not limited to, tuberculosis and hepatitis];*

3. Results of annual checks of the family care safety registry and documentation that the individual has completed the background check process and been found eligible for service as provided in section 210.493, RSMo. and 13 CSR 35-71.015;

[4. Results of background screenings from other states in which interns/volunteers who have direct contact with

children have resided and/or have lived or worked within the past five (5) years, including an annual out-of-state check if the person resides in another state;

[5.]4. A signed and dated copy of the contract or any agreement outlining purpose of presence on site;

[6.]5. A signed and dated copy of the confidentiality policy;

[7.]6. A signed and dated copy of the discipline policy;

[8.]7. A signed and dated copy of the mandated child abuse/neglect **and critical incident** reporting policies;

[9.]8. A signed and dated copy of the acknowledgement of receipt of **manuals and** policies related to *[their]* **the** agreement/contract; and

[10.]9. Documentation of staff orientation participation.

(5) Staff Orientation. Immediately before or within one (1) week following appointment, an employee, intern, volunteer, and any contracted personnel shall be oriented to the agency's programs, practices, and the duties and expectations of his/her position. The orientation program shall include, but not be limited to:

(D) The family's role in the **child's** care and the worker's role and responsibilities in relation to the family;

*AUTHORITY: sections 207.020, 210.506, and 660.017, RSMo [2000] 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021. This rule originally filed as 13 CSR 40-71.045. Emergency rule filed Nov. 1, 1993, effective Nov. 12, 1993, expired March 11, 1994. Emergency rule filed March 2, 1994, effective March 12, 1994, expired July 9, 1994. Original rule filed Nov. 1, 1993, effective June 6, 1994. Emergency amendment filed July 25, 2008, effective Aug. 4, 2008, expired Jan. 30, 2009. Moved to 13 CSR 35-71.045 and amended: Filed July 25, 2008, effective Jan. 30, 2009. Amended: Filed Dec. 16, 2013, effective June 30, 2014. Emergency amendment filed Sept. 17, 2021, effective Oct. 1, 2021, expires March 29, 2022. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

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

PRIVATE COST: This emergency amendment is estimated to cost private entities thirty thousand dollars (\$30,000) in the time the emergency is effective.

**FISCAL NOTE
 PRIVATE COST**

- I. Department Title:** Title 13–Department of Social Services
Division Title: Division 35–Children’s Division
Chapter Title: Chapter 71–Licensing Rules for Residential Treatment Agencies for Children and Youth

Rule Number and Title:	13 CSR 35-71.045 Personnel
Type of Rulemaking:	Emergency 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:
60	Licensed Residential Agencies	\$1,000 x 60 agencies = \$60,000.00 / 2 = \$30,000.00 for six months

III. WORKSHEET

Average of 1 employees x \$1,000 for hiring and training cost = \$1,000 average per residential agency for 60 agencies equals = \$60,000.00 divided by 2 for a total costs of \$30,000.00 for 6 months.

IV. ASSUMPTIONS

This new regulation contains new exclusionary criteria for residential agency employment in HB 557 and 560, residential agencies will have to terminate an estimated 1 employees per agency. An estimate of \$1,000 per employee for job posting, hiring, orientation and training cost for new staff.

This estimate is based on an average of 1 employees per agency and an estimated cost to hire and train new employees.

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

EMERGENCY RULE

13 CSR 35-71.300 Notification Requirements for License-Exempt Residential Care Facilities

PURPOSE: This emergency rule implements the notification requirements for License-Exempt Residential Care facilities in Missouri as required by sections 210.1250 through 210.1286, RSMo, as enacted into law in House Bill 557 (2021).

EMERGENCY STATEMENT: This regulation implements the requirements of the Residential Care Facility Notification Act, Sections 210.1250 to 210.1286 RSMo, which was enacted into law in HB 557 (2021). The Act requires License-Exempt Residential Care Facilities (LERCF) and Licensed Residential Care Facilities (LRCF) to notify the Department of Social Services of their operations in Missouri within three (3) months of the effective date of the Act. The Act became law on July 14, 2021; therefore, these residential care facilities have until October 12, 2021, to comply with the notification requirements of the Act. This is a new law, and there are no regulations which provide guidance and instructions to these facilities so that they can comply with the requirements of the Act. The Act requires the Department of Social Services to promulgate regulations to implement the requirements of the Act. Section 210.1286 RSMo. Promulgation of an emergency regulation is the only way to ensure that the necessary regulations are in place to enable the Department and impacted agencies to comply with the Act. HB 557 (2021) included an emergency clause which declared HB 557 to be an emergency act within the meaning of the Missouri Constitution because immediate action is necessary to protect children, and it was necessary for the immediate preservation of the public health, welfare, peace and safety. The implementation of the notification requirements of the Act will immediately enable the Department to process the notifications from these facilities and maintain a list of LERCFs and LRCFs operating in Missouri in compliance with the emergency declared in HB 557 (2021). Compiling and maintaining this information is a critical component of Missouri’s child protection system in that it will help ensure that personnel of residential care facilities comply with the new criminal background check requirements of section 210.493, RSMo, which was included in HB 557 (2021), and it will help the Department in conducting its responsibilities of administering Missouri’s Child Welfare System. The Department of Social Services has determined that promulgation of this regulation on an emergency basis is necessary to address the danger to public health, safety and/or welfare of children in Missouri identified by the Missouri General Assembly. The Department of Social Services therefore has a compelling governmental interest to promulgate this section on an emergency basis. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The Department of Social Services believes that this emergency rule is fair to all interested persons and parties under the circumstances. The Department of Social Services published a draft of this emergency rule on its website and solicited feedback from the public and stakeholders through e-mail and at public meeting held on August 5, 2021. A proposed rule, which covers this same material, is published in this issue of the Missouri Register. This emergency rule was filed September 17, 2021, becomes effective October 1, 2021, and expires March 29, 2022.

(1) Definitions. For the purpose of this regulation, unless otherwise specified in this subsection or unless the context clearly requires otherwise, the definitions of terms specified in sections 210.110,

210.481, 210.1253, RSMo and 13 CSR 35-71.010 and 35-71.015 shall apply to this regulation. The singular includes the plural and plural includes the singular. In addition, the following terms are defined as follows:

(A) “Residential Care Facility Notification Act” or “RCFNA” refers to sections 210.1250 through 210.1286, RSMo.

(2) Designation of Authority. The Department of Social Services hereby designates the Children’s Division of the Department of Social Services to be the division within the Department of Social Services to administer background checks as required by section 210.493 RSMo., 13 CSR 35-71.015 and the RCFNA.

(3) Application and Purpose of this Regulation. This regulation implements the requirements of the RCFNA. It applies to License-Exempt Residential Care Facilities (LERCFs).

(4) All LERCFs shall notify the division of their operation within Missouri before they accept any children as provided in this regulation and the RCFNA. LERCFs operating in Missouri and providing Residential Care Facility services to children on July 14, 2021, shall register with the division no later than Tuesday, October 12, 2021.

(5) Notification Procedures.

(A) To notify with the division, the director of the LERCF, or his or her designee, shall file a notification using the division’s online portal, or as may be otherwise provided in this regulation.

1. The online notification form, instructions and filing the notification are incorporated by reference and made a part of this rule as published by the Department of Social Services, Children’s Division, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, MO 65103, at its website at <https://www.dss.mo.gov/provider-services/children/residential-program/license-exempt.htm>, September 17, 2021. This rule does not incorporate any subsequent amendments or additions. The LERCF shall submit the completed notification form and upload any supporting or supplemental forms and documentation through this online portal. The LERCF shall attach all documentation that may be necessary to complete the required notification and upload the documentation with the notification form.

2. The LERCF may apply to the division for permission to file the notification and supporting documentation by mail or private delivery services rather than through the on-line portal when there are unusual, compelling, and extenuating circumstances which make filing the notification through the on-line portal impossible. The LERCF shall apply for permission to file the notification form, supporting or supplemental materials with the division in writing, and shall explain the circumstances why the LERCF cannot submit the notification through the on-line portal. A copy of the notification form for use in submitting notification by mail is incorporated by reference and made a part of this rule as published by the Department of Social Services, Children’s Division, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, MO 65103, at its website <https://www.dss.mo.gov/provider-services/children/residential-program/license-exempt.htm>, October 1, 2021. LERCFs may download a copy of the form. The LERCF shall attach all documentation that may be necessary to complete the required notification. If the division grants permission under this subsection the LERCF may submit the form with supporting materials by mail, by private delivery service or in person to the offices of the division at Residential Program Unit, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, Missouri 65102; or by e-mail at CD.NotifyRPU@dss.mo.gov.

(B) The notification form shall be signed by the director of the LERCF, or his or her designee, attesting that the information contained in the notice and the supplemental materials are true, accurate, complete, and subject to penalties of perjury. The division will accept e-signatures.

(C) The notification form shall designate the individual within the

LERCF to be the point of contact between the LERCF and division. The point of contact between the division and the LERCF shall be the director unless otherwise specified by the LERCF. The notification form shall further indicate whether the LERCF prefers to receive communications by mail through the United States Postal Services or electronically by e-mail.

(D) The notification shall contain the information required in this subsection and otherwise in this regulation.

1. The LERCF shall list its full name, street address, mailing addresses, e-mail address, and phone number. The mailing address and e-mail addresses shall be the addresses of record of the LERCF and all official correspondence to the LERCF will be sent to the mailing or e-mail address on record.

2. The LERCF shall identify the name of the director, owner, operator, all staff members, volunteers, and any individual eighteen years of age or older who resides at or on the property of the LERCF. The LERCF shall provide the name, street address, physical and electronic mailing addresses, and phone number of the director or director's designee who will serve as the point of contact between the division and the LERCF.

3. The LERCF shall provide a full description of the agency or organization operating the LERCF, including a statement as to whether the agency or organization is incorporated.

A. The description of the agency or organization shall specify the type of agency or organization.

B. If the agency or organization is incorporated then the LERCF shall provide the state in which the LERCF was incorporated in and the corporate name of the LERCF.

4. The LERCF shall identify the name and address of the sponsoring organization of the residential care facility, if applicable.

5. The LERCF shall identify the school or schools attended by the children served by the residential care facility. The LERCF shall list the name and address of each school.

6. Fire and safety inspection certificates.

A. The LERCF shall include with the notification a copy of any and all fire and safety inspection certificates required by law in the jurisdiction where the LERCF operates, and shall indicate the date of the inspection and the date that each certificate expires, if any. If the LERCF operates in more than one county or local jurisdiction then the LERCF shall submit the required certificates for each facility at each location. The LERCF shall indicate the date of the inspection and the date that each certificate expires, if applicable.

B. LERCFs operating in jurisdictions where there are no required fire and safety inspections shall include a statement to that effect in the notification form.

C. If the LERCF is unable, after exercising diligent efforts, and due to no fault of its own, to obtain fire and safety inspection certificates in jurisdictions where such certificates are required by state law or local ordinance, then the LERCF shall submit a statement describing the efforts made to obtain the certificate(s) and the reason why the LERCF was unable to obtain the certificate. The LERCF shall attach copies of any correspondence from any state, county, or local jurisdictions declining to conduct the inspection when available.

7. Local health department inspection certificates.

A. The LERCF shall include with the notification a copy of any and all state or local health department inspection certificates required in the jurisdiction in which the facility operates. If the LERCF operates in more than one county or local jurisdiction, then the LERCF shall obtain the required certificates for each facility at each location. The LERCF shall indicate the date of the inspection and the date that each certificate expires, if any.

B. LERCFs operating in jurisdictions where there are no required local or county government health department inspections shall include a statement to that effect in the notification form.

C. If the LERCF is unable, after exercising diligent efforts, and due to no fault of its own, to obtain any required local health department inspection certificates in jurisdictions where such certificates are required by state law or local ordinance, then the LERCF

shall submit a statement describing the efforts made to obtain the certificate(s) and the reason why the LERCF was unable to obtain the certificate. The LERCF shall attach copies of any correspondence from any state, county or local jurisdictions declining to conduct the inspection when available.

8. Proof that medical records are maintained for each child.

A. The division will accept a written attestation, made under oath, subject to penalty of perjury, and executed by the director of the LERCF, that the LERCF actually maintains medical records for each child served by the LERCF according to the written policy of the LERCF, which shall be attached to the attestation.

B. The LERCF shall provide the division access to the facility upon request to inspect the medical records maintained by the LERCF on the children served by the LERCF in order to verify that the medical records are being kept. The division will request access to this information only when the division has reasonable basis to believe that the LERCF is not maintaining records for any child as required by law.

9. Background Check completion/eligibility. The director of the LERCF, or his or her authorized designee, shall certify, under oath subject to the penalties of perjury that all individuals who are required to complete a background check have successfully completed the background checks and have been found eligible for employment or presence at the LERCF pursuant to section 210.493, RSMo and 13 CSR 35-71.015.

A. Phase in period for LERCFs in operation as of July 14, 2021. For all original notifications submitted by LERCFs which were both in operation and had children in its facility as of July 14, 2021, the division will accept a written certification from the director of the LERCF that all individuals who are required to submit to a background check pursuant to section 210.493 RSMo, and 13 CSR 35-71.015 either have completed the background check requirements or will have successfully completed the background check by December 31, 2021. Upon completion of this process the director or the director's designee shall provide written or electronic notice to the division certifying that the background check process for these individuals has been successfully completed. The division may extend this period for up to an additional one hundred twenty (120) days if the LERCF establishes, in writing, that it is unable to successfully complete the process by the deadline.

(E) When the division is satisfied that the LERCF has complied with all of the requirements for notification, the division will issue a letter to the LERCF:

1. Confirming the receipt of the completed Notification;

2. Informing the LERCF that the records of the division reflect that the LERCF has successfully completed all of the notification process as of the date of the letter, that the LERCF may accept children pursuant to section 210.1259, RSMo, and that the division will include the LERCF on the list of LERCFs as specified in section 210.1280, RSMo, and section (9) of this regulation; and

3. Notifying the LERCF of the deadlines for submitting any supplemental notifications as provided in subsection (5)(F).

(F) Duty to Supplement. The LERCF shall have a continuing duty to submit a supplemental notification within fifteen (15) calendar days if or when:

1. The LERCF terminates its operations in Missouri;

2. The LERCF has any change in its physical address, mailing address, or e-mail address, or other address on record; or

3. There is a change in the name, mailing address, e-mail address, or other contact information for the director of the LERCF or designated point-of-contact of the LERCF.

4. The supplemental notification form shall be signed by the director of the LERCF or his or her designee attesting that the information contained in the form and the supplemental materials are true, accurate and complete, and subject to penalties of perjury. The division will accept e-signatures.

(6) Nothing in this regulation shall give the division jurisdiction or

authority to regulate or attempt to regulate, control, or influence the form, manner, or content of the religious curriculum, program, or ministry of the LERCF.

(7) When the department or the division is advised or has reason to believe that any LERCF is operating without proper notification in accordance with the RCFNA and the division's implementing regulations, the division shall give the director of the LERCF written notice by certified mail that the director shall file notification in accordance with the RCFNA and the division's implementing regulations, or the department may request a court injunction as provided under section 210.1271 RSMo or take other action as may be authorized by law. The division shall send its written notice to the address of record of the LERCF when an address has been provided.

(A) The division may extend the time for the LERCF to comply with the notification requirements for up to sixty (60) days upon request of the LERCF and a showing by the LERCF that the LERCF has reasonable cause for the delay in completing the notification requirements and that the health and safety of the children will not be at risk.

(B) The division may further condition an extension of time upon the LERCF submitting a time limited, corrective action plan to complete the notification requirements that is mutually satisfactory to the LERCF and the division.

(8) Administrative Review and Judicial Review.

(A) Any LERCF which is aggrieved by a decision of the department or division under this regulation may file a request for administrative review of the decision within fourteen (14) days of the mailing of the decision as provided in this regulation.

(B) Administrative Review.

1. A request for administrative review shall be made in writing, either on a form provided by the division or by letter or submitted electronically by e-mail to the division to the e-mail address specified in the division's decision. The request for administrative review shall include the following information:

A. The name, address, telephone number, and e-mail address of the LERCF making the request for administrative review;

B. Specify whether the LERCF is requesting a response and notice of final decision by first class mail or by e-mail;

C. Identify the division's decision to be reviewed, and why the LERCF is aggrieved by the decision;

D. The LERCF shall include copies of any relevant documents, materials or information that the LERCF wishes to submit in support of the request for administrative review; and

E. Specify whether or not the LERCF requests that the review be considered on the basis of the materials submitted, or whether the LERCF requests an in-person review conference. If the LERCF requests an in-person review conference then the LERCF shall also provide dates and times within the next thirty (30) days when the LERCF will be available and the reasons why the administrative review cannot be processed on the basis of the materials presented.

2. The LERCF may be represented by legal counsel.

3. The administrative review shall be conducted and decided based upon the written materials submitted to the division and any information and materials presented at an in-person review conference. If the LERCF establishes that there is a good reason to hold an in-person review conference then the division will hold an in-person review conference.

4. The in-person review conference may take place by telephone conference call, video conference, or in-person review conference at a date and time during regular working hours that are mutually convenient to the division and the LERCF requesting the conference.

5. The administrative review process and in-person review conference shall be informal. The rules of evidence shall not apply. There is no right to conduct discovery. There shall be no right to compel the production of witnesses or evidence by subpoena or oth-

erwise.

6. The administrative review shall be conducted by an individual designated by the director of the department or division, who may be an employee of the division or the department. However, the individual shall not have been involved in making the decision which is subject to review.

7. The individual conducting the administrative review shall conduct the administrative review and render a written decision no later than thirty (30) days from the date that the division received the request for administrative review.

8. The decision upon administrative review shall be the final decision of the department.

(9) The division will maintain a list of all LERCFs which are in compliance with the requirements of sections 210.1250- 210.1286, RSMo and this regulation:

(A) The list shall include the following information:

1. The name, physical address and mailing address of the LERCF;

2. The name of the director of the LERCF; and

3. Whether the LERCF has submitted any fire and safety, or health department certificates with the notification.

(B) The division will provide a copy of the list to anyone who asks, upon request submitted to the Children's Division, Residential Program Unit, 205 Jefferson Street, PO Box 88, Jefferson City, Missouri 65102; or by e-mail at CD.NotifyRPU@dss.mo.gov.

(C) The director of any LERCF may submit written request to correct any errors in the list or to supplement the list with updated information.

(D) The division will update the list when errors or updates are brought to its attention. Except in cases where there is a scrivener's error, the division will provide notice and an opportunity to object making any changes about the LERCF on the list. The LERCF may seek administrative review of any changes in the list following the procedures specified in this regulation.

AUTHORITY: sections 207.020 and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021. Emergency rule filed Sept. 17, 2021, effective Oct. 1, 2021, expires March 29, 2022. A proposed rule covering this same material is published in this issue of the Missouri Register.

PUBLIC COST: This emergency rule is estimated to cost state agencies or political subdivisions two hundred eighty-three thousand nine hundred seventy-four dollars (\$283,974) in the time the emergency is effective.

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

**FISCAL NOTE
 PUBLIC COST**

- I. Department Title:** Title 13–Department of Social Services
- Division Title:** Division 35–Children’s Division
- Chapter Title:** Chapter 71–Licensing Rules for Residential Treatment Agencies for Children and Youth

Rule Number and Name:	13 CSR 35-71.300 Notification Requirements for License-Exempt Residential Care Facilities
Type of Rulemaking:	Emergency Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services	The cost is estimated to be \$283,974 for the first six months.
Department of Public Safety	\$0
Department of Health and Senior Services	\$0

III. WORKSHEET

This rule will require 5 FTE.

Cost breakout	
Salaries	\$118,908
Fringe	\$ 74,502
Equipment and Expense (including a safe portal for submission)	\$ 90,564
TOTAL	\$283,974

IV. ASSUMPTIONS

DSS assumes that license-exempt residential care facilities are already compliant with local ordinances and requirements specific to inspections provided by the Department of Public Safety and the Department of Health and Senior Services.

It remains unknown how many license exempt residential care facilities currently exist in Missouri to date; however, DSS based fiscal impact estimates utilizing the assumption that there are 100 license exempt agencies currently operating in the state.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 73—Child Placing Agencies**

EMERGENCY AMENDMENT

13 CSR 35-73.010 Scope and Definitions. The division is amending the title of the rule, moving sections (1)-(44) into subsections under a new section (2), and is adding a new section (1).

PURPOSE: The emergency amendment to this rule establishes the general principles governing the implementation and interpretation of the regulations in this Chapter 73. The amendment to this rule also updates the definitions of words and phrases utilized in Chapter 73 and updates the title.

EMERGENCY STATEMENT: Section 210.493, RSMo, of HB 557 (2021) authorizes the Department of Social Services to promulgate regulations, including emergency regulations, to implement new requirements for background checks of officers, managers, contractors, volunteers with access to children, employees, other support staff and owners of Licensed Residential Care Facilities (LRCF), License-Exempt Residential Care Facilities (LERCFs) and Licensed Child Placing Agencies (CPAs). The background checks are being conducted to help ensure that certain individuals who are associated with these facilities do not have a record of criminal conduct or substantiated incidents of child abuse or neglect which may pose a risk to the children served at these facilities. The background checks will include a finger-print based check of the individual’s criminal record, the sexual offender registry, the Family Care Safety Registry, the Central Registry and registries of other states where the individual resided. HB 557 included an emergency clause which declared HB 557 to be an emergency act within the meaning of the Missouri Constitution because immediate action is necessary to protect children, and it was necessary for the immediate preservation of the public health, welfare, peace and safety. The implementation of the background checks required in this regulation will immediately enable the Department to conduct background checks and to determine whether individuals are eligible for employment or presence at these institutions. This regulation is part of a series of regulations which establish the general principles governing the implantation of all of the regulations governing licensed Child Placing Agencies and Residential Care Facilities in Missouri. This includes the requirements for conducting the required Background Checks required in §210.493 RSMo. The Department of Social Services has determined that promulgation of this regulation on an emergency basis is necessary to address the danger to public health, safety and/or welfare of children in Missouri identified by the Missouri General Assembly. The Department of Social Services therefore has a compelling governmental interest to promulgate this section on an emergency basis. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The Department of Social Services believes that this emergency amendment is fair to all interested persons and parties under the circumstances. The Department of Social Services published a draft of this emergency amendment on its website and solicited feedback from the public and stakeholders through e-mail and at public meeting held on August 5, 2021. A proposed amendment, which covers this same material, is published in this issue of the Missouri Register. This emergency amendment was filed September 17, 2021, becomes effective October 1, 2021, and expires March 29, 2022.

(1) The following principles shall apply to all decisions made pursuant to this chapter:

- (A) The safety and welfare of children is paramount;**
- (B) All providers of direct services to children and their families will be evaluated in a uniform, transparent, objective, and consistent basis;**

(C) Services to children and their families shall be provided in a timely manner to maximize the opportunity for successful outcomes, and such services shall be tracked and routinely evaluated through a quality assurance program;

(D) Any provider of direct services to children and families shall have the appropriate and relevant training, education, and expertise to provide the highest quality of services possible which shall be consistent with federal and state standards;

(E) Resources and efforts of the division and Child Placing Agencies shall be committed to pursue the best possible opportunity for a successful outcome for each child. In the case of children and youth who are in the foster care system, successful outcomes may include preparing youth for a productive and successful life as an adult outside the foster care system, such as independent living. For those providers that work with children requiring intensive twenty-four-hour treatment services, successful outcomes shall be based on the least restrictive alternative possible based on the child’s needs as well as the quality of care received; and

(F) All licensed service providers shall prioritize methods of reducing or eliminating a child’s need for residential treatment through community-based services and supports.

(2) Unless the context clearly requires otherwise, the definitions of terms specified in sections 210.110, 210.481 and 210.1253 RSMo. and 13 CSR 35-71.010 and 13 CSR 35-71.015 shall apply to all regulations in this chapter (13 CSR 35-73). The singular includes the plural and the plural includes the singular. In addition, the following terms are defined as:

[(1)](A) “Adoption” means the act of receiving a child into one’s family by choice and acquiring a parent-child relationship by legal process.

[(2)](B) “Adoption agency” means a licensed public or private organization whose purpose or parts of its purpose is to provide adoption services to children, adoptees, adoptive applicants, and birth and/or adoptive parents.

[(3)](C) “Adoption services” means the provision of pre-placement or foster care services to birth and/or adoptive parents, the completion of birth parent, social and medical histories, the completion of adoptive family assessments, post-placement services to birth and/or adoptive parents, post-adoption services to birth and/or adoptive parents, or other related activities, including those requested by courts and other adoption agencies and organizations.

[(4)](D) “Adoptive applicant” means a prospective adoptive parent who has applied to adopt a child but who has not yet received a child for adoptive placement. It also includes an adoptive parent who has adopted one (1) or more children and who is requesting to adopt another child.

[(5)](E) “Adoptive parent” means a person with whom a child has been placed for adoption or who has adopted one (1) or more children.

[(6)](F) “Alternative care” means care provided a child in a foster home, a group home, residential treatment agency, child care institution, or any combination thereof.

(G) “Background Check” means the background check required by section 210.493 RSMo and 13 CSR 35-71.015.

[(7)](H) “Birth parent(s)” means the biological father and/or mother of a child.

[(8)](I) “Child” means any person under eighteen (18) years of age.

[(9)](J) “Child placing agency” means any person or organization, other than the parents, who places a child outside the home of the child’s parents or guardian, or advertises or holds him/herself forth as performing such services, but excluding the attorney, physician, or clergyman of the parents per section 453.014(4), RSMo.

[(10)](K) “Confidentiality” means complying with all federal and state laws governing the confidentiality of [the act of holding in trust] both identifying and non-identifying information about clients, families and other individuals receiving services from a

licensed child placing agency.

[(11)](L) “Custody” means the right of care and control of a child and the duty to provide food, clothing, shelter, ordinary medical care, education, and discipline for a child. Temporary custody of a child may be granted for a limited time only, usually pending further action or review by the court.

[(12)](M) “Director” means the director of the Children’s Division.

[(13)](N) “Division” means the Children’s Division of the Department of Social Services.

[(14)](O) “Facility” is any building of a licensed agency in which children reside.

[(15)](P) “Family Assessment” means a formal evaluation of the capacity and readiness of foster parent or adoptive applicants to receive a child, which includes a written report and recommendation.

[(16)](Q) “Finalization” means the issuance of a court order by an appropriate court which declares the child to be the child of adoptive petitioners as though born to them with full rights of inheritance.

[(17)](R) “Foster care” see alternative care.

[(18)](S) “Foster Home” means a private residence of one (1) or more family members providing twenty-four (24) hour care to one (1) or more, but less than six (6) children who are unattended by parent or guardian and who are unrelated to either foster parent by blood, marriage, or adoption.

[(19)](T) “Foster parent” means a person of age twenty-one (21) or older who is licensed to provide twenty-four (24) hour care to one (1) or more, but less six (6), children who are unattended by parent or guardian, and who is unrelated to the child(ren) by blood, marriage, or adoption.

[(20)](U) “Governing body” means the legal entity with ultimate authority and responsibility for the agency’s overall operation.

[(21)](V) “Home study” see family assessment.

[(22)](W) “ICAMA” means the Interstate Compact on Adoption and Medical Assistance (ICAMA). A contract enacted into law among twenty-eight (28) states (as of May 1994) whereby medical assistance (Medicaid) may be granted to an adopted child in the state where the child lives, based upon certain criteria, one (1) of which is the provision of adoption subsidy through an agreement between an agency and the adoptive parents.

[(23)](X) “ICPC” means the Interstate Compact on the Placement of Children (ICPC). A contract enacted into law among the fifty (50) states, the District of Columbia, and the Virgin Islands whereby approval must be obtained from the receiving state ICPC office prior to the placement of a child across state lines for the purpose of adoption or certain other types of placement.

[(24)](Y) “ICWA” means the Indian Child Welfare Act (ICWA).

[(25)](Z) “Immediate family” means a person related within the third degree of blood, marriage or adoption; parent, grandparent, brother, sister, half brothers, half sisters, stepparent, stepbrothers, step-sisters, uncle, aunt or first cousin.

[(26)](AA) “Independent adoption” means the placement of a child with a prospective adoptive parent by a birth parent or some other person, acting as allowed by state law, as an intermediary. Also referred to as a private, identified or designated adoption.

[(27)](BB) “International adoption” means the adoption of a child from a country other than the United States or of a child who is not a United States citizen by birth or naturalization.

[(28)](CC) “Legal father” is the husband of a natural mother at the time the child was conceived.

[(29)](DD) [“License” means the document issued by the division in accordance with the applicable provisions of sections 210.481 to 210.536, RSMo (Supp. 1995) to a foster home, residential care facility, or child placing agency which authorizes the foster home, residential care facility, or child placing agency to operate its program in accordance with the applicable provisions of sections 210.481 to 210.536, RSMo (Supp. 1995) and rules issued pursuant thereto. (30)] “MEPA” means Multi-Ethnic Placement Act (MEPA), Public Law

103-382 (1994) as amended.

[(31)](EE) “Office” means the place where business is transacted and where the functions of an agency are performed.

[(32)](FF) “Operating capital” means sufficient assets on hand to cover the initial start-up expenses for the initial period of licensure.

[(33)](GG) “Permanency plan” means moving children to permanent homes, birth or adoptive, in a purposeful and timely manner.

[(34)](HH) “Placement services” means any and all services offered to prospective adoptive children and families, ranging from selection of a particular family for a particular child through the physical arrival of the child in the adoptive home.

[(35)](II) “Post-legal adoption services” means any and all services offered to any party involved in an adoption after the adoption is granted or finalized by the appropriate court.

[(36)](JJ) “Post-placement services” means any and all services offered to any member of an adoptive family from the placement of the child to finalization of the adoption.

[(37)](KK) “Power of attorney” means an instrument authorizing another to act as one’s agent or attorney.

[(38)](LL) “Pre-placement services” means any and all services offered to birth parent(s) and child(ren) to evaluate and prepare them for an adoptive placement.

[(39)](MM) “Private adoption” see independent adoption.

[(40)](NN) “Private agency adoption” means the services offered by a licensed agency in placing a child for adoption.

[(41)](OO) “Public agency adoption” means the services offered by a state public child welfare agency in placing a child for adoption.

[(42)](PP) “Social worker” means a professional person who possesses the qualifications and appropriate licensure to work directly with children, adoptees, birth and/or adoptive parents and other relevant individuals. If the person is a contracted person of a licensed child placing agency, such person must possess a valid license from the Division of Professional Registration and must, at a minimum, possess either a Bachelor’s Degree or a Master’s Degree in Social Work from an accredited institution.

[(43)](QQ) “Subsidy/adoption assistance” means the provision of financial assistance to adoptive families who are adopting a child with special needs as defined in state and federal law.

[(44)](RR) “Termination of parental rights” (TPR) means a legal action which severs the parent-child relationship and allows the child to be adopted.

AUTHORITY sections 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021. This rule originally filed as 13 CSR 40-73.010. Original rule filed Sept. 18, 1956, effective Sept. 28, 1956. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 17, 2021, effective Oct. 1, 2021, expires March 29, 2022. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

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

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 73—Child Placing Agencies**

EMERGENCY AMENDMENT

13 CSR 35-73.012 Basis for Licensure and Licensing Procedures. The division is amending sections (2)-(4), and (6), and deleting the

proceeding forms as they are being incorporated by reference.

PURPOSE: The purpose of the emergency amendment to this rule is to update the procedures for applying for a license to operate a Child Placing Agency in Missouri, and to ensure that the regulations are in compliance with the new requirements of HB 557 (2021).

EMERGENCY STATEMENT: Section 210.493, RSMo, of House Bill (HB) 557 (2021) authorizes the Department of Social Services to promulgate regulations, including emergency regulations, to implement new requirements for background checks of officers, managers, contractors, volunteers with access to children, employees, other support staff and owners of Licensed Residential Care Facilities (LRCF), License-Exempt Residential Care Facilities (LERCFs) and Licensed Child Placing Agencies (CPAs). The background checks are being conducted to help ensure that certain individuals who are associated with these facilities do not have a record of criminal conduct or substantiated incidents of child abuse or neglect which may pose a risk to the children served at these facilities. The background checks will include a finger-print based check of the individual's criminal record, the sexual offender registry, the Family Care Safety Registry, the Central Registry and registries of other states where the individual resided. HB 557 included an emergency clause which declared HB 557 to be an emergency act within the meaning of the Missouri Constitution because immediate action is necessary to protect children, and it was necessary for the immediate preservation of the public health, welfare, peace and safety. The implementation of the background checks required in this regulation will immediately enable the Department to conduct background checks and to determine whether individuals are eligible for employment or presence at these institutions. This regulation is part of a series of regulations which establish the general principles governing the implantation of all of the regulations governing licensed Child Placing Agencies and Residential Care Facilities in Missouri. This includes the requirements for conducting the required Background Checks required in §210.493 RSMo. The Department of Social Services has determined that promulgation of this regulation on an emergency basis is necessary to address the danger to public health, safety and/or welfare of children in Missouri identified by the Missouri General Assembly. The Department of Social Services therefore has a compelling governmental interest to promulgate this section on an emergency basis. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The Department of Social Services believes that this emergency amendment is fair to all interested persons and parties under the circumstances. The Department of Social Services published a draft of this emergency amendment on its website and solicited feedback from the public and stakeholders through e-mail and at public meeting held on August 5, 2021. A proposed amendment, which covers this same material, is published in this issue of the Missouri Register. This emergency amendment was filed September 17, 2021, becomes effective October 1, 2021, and expires March 29, 2022.

(2) Application for Licensure.

(A) *[The application for license shall be completed by the officers of the governing board of the child placing agency, or its authorized representative, on a form prescribed and furnished by the division and shall be forwarded to the division.] To apply for a license to operate a Child Placing Agency Missouri the individual legally authorized to act on behalf of the Child Placing Agency shall file an application with the division on forms provided by the division.*

1. The application forms are published on the division's website, and are incorporated by reference and made a part of this rule as published by the Department of Social Services, Children's Division, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, MO 65103, and on the web at

<https://www.dss.mo.gov/provider-services/children/residential-program/child-placing.htm>, October 1, 2021. This rule does not incorporate any subsequent amendments or additions. The Child Placing Agency shall attach all additional supplementary materials and documentation that may be necessary to complete the required application. The Child Placing Agency shall submit the form with supplementary materials to the division by e-mail at the following e-mail address CD.CHILDPLACINGAPPS@dss.mo.gov.

2. The application form shall be signed by the legally authorized representative of the Child Placing Agency. The division will accept electronic signatures (e-signatures).

3. The Child Placing Agency may apply to the division for permission to submit its application and supporting documentation by mail or private delivery services rather than e-mail when there are unusual, compelling and extenuating circumstances which make submission by e-mail impossible. The Child Placing Agency shall apply for permission to file the materials with the division in writing, and shall explain the circumstances why it cannot submit the materials by e-mail. The Child Placing Agency shall attach all documentation that may be necessary to complete the required notification. If the division grants permission under this subsection the LERCF may submit the form with supporting materials by mail, by private delivery service or in person to the offices of the division at Residential Program Unit, 205 Jefferson Street, 10th Floor, PO Box 88, Jefferson City, Missouri 65102; or by e-mail to CD.CHILDPLACINGAPPS@dss.mo.gov.

(B) An agency shall submit the following documents to the division along with the application:

1. Documentation of the legal basis for operation;
2. A certified copy of the current Articles of Incorporation;
3. A copy of the current by-laws;
4. A list of the names and addresses of the current members of the governing board and a notarized letter of acceptance from each;
5. A completed personnel report on a form prescribed by the division;
6. Verification of the education, experience, and character of the administrator, all professional staff, and all contracted personnel;
7. Verification of a physical examination for all staff working directly with children, completed by a licensed physician or a registered nurse who is under the supervision of a licensed physician;
8. *[Results of a check of the Child Abuse and Neglect Central Registry Unit (CA/N CRU) for all staff and volunteers] Certification that all individuals who are required to complete a Background Check are eligible for employment or presence at the Child Placing Agency as required in §210.493 RSMo and 13 CSR 35-71.015 ;*
9. *A criminal records check for each employee from a state law enforcement agency;]*
10. *9.* A chart depicting the agency's organizational structure and lines of supervision;
11. *10.* A proposed budget for a period of not less than twelve (12) months duration which shows both anticipated expenses and income for the period;
12. *11.* An itemized schedule of all fees to be assessed to applicants;
13. *12.* Verification of availability of not less than ninety (90) days operating capital;
14. *13.* A copy of the Civil Rights Agreement signed by the president of the governing board or the agency director;
15. *14.* An outline of the agency's proposed program and the specific geographic area to be served (this shall be directly related to the number of staff and the geographic area to which it can actually provide services);
16. *15.* A projected staffing plan for the anticipated capacity and programming of the agency;
17. *16.* A written statement clearly setting forth the authority and responsibilities delegated to a director, administrator, or supervisor, if other than the owner. When the responsibility for the operation of an agency rests with the governing board, that governing

board shall establish written policies and procedures which clearly establish the lines of responsibility governing the operation of the agency. These shall include a statement of the kind and extent of authority delegated to the director employed to carry out the program;

[18.]17. A written description of intake policies which delineates the types of services to be provided, specific programs offered, and the methods of care and treatment to be provided;

[19.]18. Job title, job description, and minimum qualifications for all staff;

[20.]19. Written child abuse and neglect reporting policy;

[21.]20. Written personnel practices, including staff training and orientation;

[22.]21. Written discipline policy for children in care;

[23.]22. Written visitation policy for children in care;

[24.]23. Written health care policy for children in care which shall include preventive, medical, eye, hearing, and dental care;

[25.]24. A written statement of any religious practices or religious restrictions;

[26.]25. A written plan for all foster parent training; and

[27.]26. Proof of professional and commercial general liability insurance.

(C) The application shall be complete when the Child Placing Agency has submitted and the division has received a fully completed application form and all necessary supporting documentation.

(D) A new application shall be filed—

1. If the agency fails to follow through with completing the requirements for licensure within six (6) months of initial application;

2. When an application for licensure has been withdrawn, and the agency seeks to reapply;

3. When there is a change of ownership or corporate status of the agency;

4. When the division has revoked or refused to renew a license, and a new license is sought; *[and] or*

5. When a license or application has been voluntarily surrendered or withdrawn by the applicant.

(3) Licensing Assessment.

(A) After the application is complete the division will conduct a thorough assessment of the agency [shall be made by the division], including a review of the documents required in this rule and visits to the agency to determine compliance with the licensing law and applicable rules.

(B) If an applicant for licensure is determined not to be in compliance with the licensing law and applicable rules, and if compliance is not achieved within a six- (6-) month period, a new Application for Licensure must be filed if the agency desires to pursue licensure.

(4) The License.

(A) Upon determination of compliance with the licensing law and applicable rules, the director shall issue a license for an initial six- (6-) month probationary term.

(B) Following the probationary period, upon determination of continued compliance with Missouri statutes and applicable licensing rules, the director shall extend the term of the license for a period not to exceed two (2) years.

(C) The license shall be posted in a conspicuous place on the premises of the facility.

(D) The license shall reference specific category of service(s) the agency is authorized to provide.

(E) The license shall not be transferable and applies only to the agency to whom it is issued.

(6) Licensing Renewal.

[(A) Application forms for renewal of licensure shall be mailed to the child placing agency by the division at least

sixty (60) days prior to the expiration of the license.]

[(B)](A) The **Child Placing** *[a]*Agency shall complete and return the application to the division *[thirty (30)] sixty (60)* days prior to the expiration of the current license. **The Child Placing Agency shall utilize the forms indicated in paragraph (2)(A)1. of this regulation to initiate the license renewal process. The Child Placing Agency shall attach all additional supplementary materials and documentation that may be necessary to complete the required application. The Child Placing Agencies shall submit the form with supplementary materials by e-mail to the division to the following e-mail address: CD.CHILDPLACINGAPPS@dss.mo.gov. The application form shall be signed by the Director of the Child Placing Agency or the Director's authorized designee. The division will accept electronic signatures.**

[(C)](B) The division shall initiate action on the completed application prior to the expiration of the existing licensure period.

[(D)](C) When an agency has made timely and sufficient application for renewal of a license, and the division fails to render a decision on the application for renewal of the license prior to the expiration date on the license, the existing license shall continue in full force and effect for up to thirty (30) days until the final decision of the division has been made. The division may further extend the period in which such decision must be made in individual cases for up to thirty (30) additional days, if good cause is shown.

[(E)](D) In addition to the completed renewal application, the **Child Placing Agency shall [following documents shall be] submit[ted] the following documentation with the application:**

1. Verification of a biennial physical examination, completed by a licensed physician, registered nurse who is under the supervision of a licensed physician, or an advanced practice nurse in a collaborative agreement with a licensed physician for all staff working directly with children (see 13 CSR 35-73.030(3)(A));

2. A current governing board roster, with officers identified, including the addresses and a notarized letter of acceptance from each member;

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

4. A copy of the current organizational chart;

5. A completed personnel report on a form prescribed by the division;

6. **Certification that all individuals who are required to submit to a Background Check have completed their Background Checks and have been found eligible by the division for employment or presence at the Child Placing Agency as provided in §210.493 and 13 CSR 35-71.015**

7. Results of an annual check of the Child Abuse and Neglect CRU for all staff, contracted personnel, and volunteers working with children;

[7.]8. Results of the annual criminal records check for all staff, contracted personnel, and volunteers working with children;

[8.]9. A copy of a biennial financial audit and evaluation of the financial soundness of the operation conducted by a certified public accountant not employed by the agency;

[9.]10. A copy of the budget for the current calendar or fiscal year;

[10.]11. A statistical report on a form supplied by the division;

[11.]12. A list of the names and addresses of all current foster homes licensed by the agency;

[12.]13. An annual written plan for all foster parent training;

[13.]14. A written plan indicating how the agency will provide for the transfer of records on both open and closed cases in the event the agency closes;

[14.]15. An annual program evaluation;

[15.]16. An itemized schedule of all fees to be assessed to applicants; and

[16.]17. Copies of all written agreements (contracts) for the adoption process.

[(F)](E) **When an agency has made timely and sufficient**

application for renewal of a license, and the division fails to render a decision on the application for renewal of the license prior to the expiration date on the license, the existing license shall continue in full force and effect for up to thirty (30) days until the final decision of the division has been made. The division may further extend the period in which such decision must be made in individual cases for up to thirty (30) additional days, if good cause is shown.

(F) Upon determination of compliance with the licensing law and applicable rules, the director shall issue a license for a period not to exceed two (2) years.

AUTHORITY: sections 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021. This rule originally filed as 13 CSR 40-73.012. Original rule filed Feb. 6, 1997, effective July 30, 1997. Moved to 13 CSR 35-73.012 and amended: Filed Aug. 20, 2018, effective April 30, 2019. Emergency amendment filed Sept. 17, 2021, effective Oct. 1, 2021, expires March 29, 2022. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

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

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 73—Child Placing Agencies

EMERGENCY AMENDMENT

13 CSR 35-73.017 Hearings and Judicial Review. The division is amending section (1).

PURPOSE: This emergency amendment is to ensure that the rule is updated to reflect the needs of current practice and to ensure that the rules are consistent with the requirements of HB 557 (2021).

EMERGENCY STATEMENT: Section 210.493, RSMo, of House Bill (HB) 557 (2021) authorizes the Department of Social Services to promulgate regulations, including emergency regulations, to implement new requirements for background checks of officers, managers, contractors, volunteers with access to children, employees, other support staff and owners of Licensed Residential Care Facilities (LRCF), License-Exempt Residential Care Facilities (LERCFs) and Licensed Child Placing Agencies (CPAs). The background checks are being conducted to help ensure that certain individuals who are associated with these facilities do not have a record of criminal conduct or substantiated incidents of child abuse or neglect which may pose a risk to the children served at these facilities. The background checks will include a finger-print based check of the individual’s criminal record, the sexual offender registry, the Family Care Safety Registry, the Central Registry and registries of other states where the individual resided. HB 557 included an emergency clause which declared HB 557 to be an emergency act within the meaning of the Missouri Constitution because immediate action is necessary to protect children, and it was necessary for the immediate preservation of the public health, welfare, peace and safety. The implementation of the background checks required in this regulation will immediately enable the Department to conduct background checks and to determine whether individuals are eligible for employment or presence at these institutions. This regulation is part of a series of regulations which establish the general principles governing the implantation of all of the

regulations governing licensed Child Placing Agencies and Residential Care Facilities in Missouri. This includes the requirements for conducting the required background checks required in section 210.493, RSMo. The Department of Social Services has determined that promulgation of this regulation on an emergency basis is necessary to address the danger to public health, safety and/or welfare of children in Missouri identified by the Missouri General Assembly. The Department of Social Services therefore has a compelling governmental interest to promulgate this section on an emergency basis. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The Department of Social Services believes that this emergency amendment is fair to all interested persons and parties under the circumstances. The Department of Social Services published a draft of this emergency amendment on its website and solicited feedback from the public and stakeholders through e-mail and at public meeting held on August 5, 2021. A proposed amendment, which covers this same material, is published in this issue of the Missouri Register. This emergency amendment was filed September 17, 2021, becomes effective October 1, 2021, and expires March 29, 2022.

(1) License Denial, or Revocation.

(A) The division may refuse to issue a license to an applicant, or may deny or revoke the license of a licensee, who—

1. Fails consistently to comply with the applicable provisions of sections 210.481–210.536, and Chapter 453, RSMo if licensed as an adoption agency, and the applicable corresponding rules;
2. Violates any of the provisions of its license;
3. Violates state laws or rules relating to the protection of children;
4. **Abuses or neglects children, or [P]permits the abuse or neglect of children, or is the subject of multiple or serious reports of child abuse or neglect which upon investigation results in a finding of probable cause to suspect child abuse or neglect and fails to take corrective action acceptable to the division to ensure the safety of children;**
5. **Employs persons who the division has found ineligible for employment or presence at the Child Placing Agency pursuant to section 210.493 and 13 CSR 35-71.015, or who abuse or neglect children, or are the subjects of multiple or [serious] reports of child abuse or neglect which upon investigation results in a finding of [probable cause to suspect] preponderance of the evidence that the individual is responsible for child abuse or neglect and the agency fails to take corrective action acceptable to the division to ensure the safety of children;**
6. Furnishes or makes any misleading or false statements or reports to the division;
7. Refuses to submit any reports or to make available to the division any records required in making an investigation;
8. Fails or refuses to submit to an investigation by an authorized and identified representative of the division at any reasonable time;
9. Fails to provide, maintain, equip and keep in safe and sanitary condition the premises established or used for the care of children as required by law, rule or ordinance applicable to the location of a facility; or
10. Fails to provide adequate financial resources for the satisfactory care of children being served.

AUTHORITY: sections [210.481-210.536, RSMo (1994) and (Cum. Supp. 1996)] 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021. This rule originally filed as 13 CSR 40-73.017. Original rule filed Feb. 6, 1997, effective July 30, 1997. Moved to 13 CSR 35-73.017, effective June 30, 2018. Emergency amendment filed Sept. 17, 2021, effective Oct. 1, 2021, expires March 29, 2022. A proposed amendment covering this same material is published in this issue of the Missouri Register.

PUBLIC COST: This emergency amendment is estimated to cost state agencies or political subdivisions three hundred fifty-eight thousand ninety-four dollars (\$358,094) in the time the emergency is effective.

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

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** 13-Social Services
- Division Title:** 35-Children’s Division
- Chapter Title:** 73-Child Placing Agencies

Rule Number and Name:	13 CSR 35-73.017 Hearing and Judicial Review
Type of Rulemaking:	Emergency Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
DSS	\$358,094

III. WORKSHEET

Implementation of this rule will require 7 staff total.

Cost calculation (6 months)	
Salaries	\$178,983
Fringe Benefits	\$108,447
Equipment and Expense	\$ 70,664
Total	\$358,094

IV. ASSUMPTIONS

The Division of Legal Services anticipates the need for two litigation attorneys to advise and represent the Children’s Division (CD) in child health and safety assessment proceedings; injunctive proceedings to halt operations at residential care facilities; investigative subpoenas, proceedings regarding the removal and placement of children; to defend additional Children’s Division findings of child abuse or neglect in the circuit courts; and to advise CD on determinations of eligibility to be present or employed at licensed residential care facilities and child placing agencies and to be present or employed at license-exempt residential care facilities.

The Division of Legal Services further anticipates the need for 1 Hearings Officer and one Special Counsel for hearings regarding eligibility of those to be present or employed at licensed residential care facilities and child placing agencies and to be present or employed at license-exempt residential care facilities.

The Children’s Division will require 3 Children’s Service Workers to prepare information for hearings.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 73—Child Placing Agencies**

EMERGENCY AMENDMENT

13 CSR 35-73.030 Personnel Practices and Personnel. The division is amending sections (1), (2), (6), and (7).

PURPOSE: This emergency amendment implements House Bill 557 (2021) by adding requirements for any individual associated with a child placing agency to successfully complete a background check and an annual Family Care Safety Registry check before the division considers that person eligible for employment at the agency.

EMERGENCY STATEMENT: Section 210.493, RSMo, of HB 557 (2021) authorizes the Department of Social Services to promulgate regulations, including emergency regulations, to implement new requirements for background checks of officers, managers, contractors, volunteers with access to children, employees, other support staff and owners of Licensed Residential Care Facilities (LRCF), License-Exempt Residential Care Facilities (LERCFs) and Licensed Child Placing Agencies (CPAs). The background checks are being conducted to help ensure that certain individuals who are associated with these facilities do not have a record of criminal conduct or substantiated incidents of child abuse or neglect which may pose a risk to the children served at these facilities. The background checks will include a finger-print based check of the individual’s criminal record, the sexual offender registry, the Family Care Safety Registry, the Central Registry and registries of other states where the individual resided. HB 557 included an emergency clause which declared HB 557 to be an emergency act within the meaning of the Missouri Constitution because immediate action is necessary to protect children, and it was necessary for the immediate preservation of the public health, welfare, peace and safety. The implementation of the background checks and the ability of DSS to deny or revoke a license to operate a child placing agency on that basis as required in this regulation will immediately enable the Department to conduct background checks and to determine whether individuals are eligible for employment or presence at these institutions. This regulation is part of a series of regulations which establish the general principles governing the implantation of all of the regulations governing licensed Child Placing Agencies and Residential Care Facilities in Missouri. This includes the requirements for conducting the required background checks required in section 210.493, RSMo. The Department of Social Services has determined that promulgation of this regulation on an emergency basis is necessary to address the danger to public health, safety and/or welfare of children in Missouri identified by the Missouri General Assembly. The Department of Social Services therefore has a compelling governmental interest to promulgate this section on an emergency basis. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The Department of Social Services believes that this emergency amendment is fair to all interested persons and parties under the circumstances. The Department of Social Services published a draft of this emergency amendment on its website and solicited feedback from the public and stakeholders through e-mail and at public meeting held on August 5, 2021. A proposed amendment, which covers this same material, is published in this issue of the Missouri Register. This emergency amendment was filed September 17, 2021, becomes effective October 1, 2021, and expires March 29, 2022.

(1) Personnel Practices.

(D) The agency shall require that each [employee secure and provide to the agency an annual criminal records check from

a state law enforcement agency] individual associated with the agency who is required to submit to a background check pursuant to section 210.493, RSMo, 13 CSR 35-71.015, and 13 CSR 35-73.035 successfully complete the background check and be found eligible by the division for employment or presence at the licensed child placing agency.

(2) Child Abuse and Neglect Central Registry Unit (CA/N CRU) Checks.

(A) After the background checks have been completed, [7]the agency shall request from the division an annual check of the Family Care Safety Registry and the Child Abuse and Neglect Central Registry Unit to determine whether a child abuse and/or neglect report has been received on staff members, employees, contracted personnel, and volunteers working directly with children. [The CRU checks shall be submitted either at the time of employment or within ten (10) days following employment, and annually thereafter.] Results of the checks shall be on file at the agency.

(6) Staff Orientation. Immediately before or following appointment, a staff member shall be oriented to the agency’s programs, practices, and the duties and expectations of his/her position. The orientation program shall include, but not be limited to—

(G) The laws and procedures governing the [C]confidentiality of information and records;

(7) Staff Development.

(E) The training plan shall include, but not be limited to:

1. Developmental needs of children;
 2. The direct care and professional staff roles in the facility;
 3. Specific requirements of the applicable laws relating to adoption that effect the performance of their duties, as well as local court rules;
 4. Trans-racial and cross-cultural placement;
 5. Cultural diversity;
 6. Separation and attachment issues;
 7. Conducting a family assessment; [and]
 8. Adoption-related training, if agency provides such service;
- [A.]9. Interstate Compact for the Placement of Children (ICPC) and Interstate Compact on Adoption and Medical Assistance (ICAMA);
- [B.]10. Adoption subsidy;
- [C.]11. International adoptions;
- [D.]12. Adoption search issues;
- [E.]13. Adoption risk issues;
- [F.]14. Post-placement services; and
- [G.]15. Post-legal adoption services.

AUTHORITY sections 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021. This rule originally filed as 13 CSR 40-73.030. Original rule filed Sept. 18, 1956, effective Sept. 28, 1956. Refiled: March 12, 1976. Amended: Filed Nov. 6, 1981, effective Feb. 11, 1982. Rescinded: Filed Jan. 14, 1997, effective July 30, 1997. Readopted: Filed Feb. 6, 1997, effective July 30, 1997. Moved to 13 CSR 35-73.030 and amended: Filed Aug. 20, 2018, effective April 30, 2019. Emergency amendment filed Sept. 17, 2021, effective Oct. 1, 2021, expires March 29, 2022. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

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

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children’s Division
Chapter 73—Child Placing Agencies**

EMERGENCY AMENDMENT

13 CSR 35-73.035 Staff Qualifications and Requirements. The division is amending sections (1)-(8).

PURPOSE: The purpose of this emergency amendment is to ensure that the language of the rule is consistent with current practices, and to incorporate the requirements of House Bill 557 (2021).

EMERGENCY STATEMENT: Section 210.493, RSMo, of House Bill (HB) 557 (2021) authorizes the Department of Social Services to promulgate regulations, including emergency regulations, to implement new requirements for background checks of officers, managers, contractors, volunteers with access to children, employees, other support staff and owners of Licensed Residential Care Facilities (LRCF), License-Exempt Residential Care Facilities (LERCFs) and Licensed Child Placing Agencies (CPAs). The background checks are being conducted to help ensure that certain individuals who are associated with these facilities do not have a record of criminal conduct or substantiated incidents of child abuse or neglect which may pose a risk to the children served at these facilities. The background checks will include a finger-print based check of the individual’s criminal record, the sexual offender registry, the Family Care Safety Registry, the Central Registry and registries of other states where the individual resided. HB 557 included an emergency clause which declared HB 557 to be an emergency act within the meaning of the Missouri Constitution because immediate action is necessary to protect children, and it was necessary for the immediate preservation of the public health, welfare, peace and safety. The implementation of the background checks and the ability of DSS to deny or revoke a license to operate a child placing agency on that basis as required in this regulation will immediately enable the Department to conduct background checks and to determine whether individuals are eligible for employment or presence at these institutions. This regulation is part of a series of regulations which establish the general principles governing the implantation of all of the regulations governing licensed Child Placing Agencies and Residential Care Facilities in Missouri. This includes the requirements for conducting the required background checks required in section 210.493 RSMo. The Department of Social Services has determined that promulgation of this regulation on an emergency basis is necessary to address the danger to public health, safety and/or welfare of children in Missouri identified by the Missouri General Assembly. The Department of Social Services therefore has a compelling governmental interest to promulgate this section on an emergency basis. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The Department of Social Services believes that this emergency amendment is fair to all interested persons and parties under the circumstances. The Department of Social Services published a draft of this emergency amendment on its website and solicited feedback from the public and stakeholders through e-mail and at public meeting held on August 5, 2021. A proposed amendment, which covers this same material, is published in this issue of the Missouri Register. This emergency amendment was filed September 17, 2021, becomes effective October 1, 2021, and expires March 29, 2022.

(1) Employee Qualifications. The agency shall employ staff who are qualified by education, training, and experience for their assigned responsibilities. A current employee who has qualified for a position under the previous rule and is serving in that position shall be exempt from meeting any increased requirements defined by these rules. **Each individual associated with the agency who is required to submit to a background check pursuant to section 210.493 RSMo and 13 CSR 35-71.015 must also successfully complete the back-**

ground check and be found eligible by the division for employment or presence at the licensed child placing agency.

(2) Administrative Personnel.

(D) The administrator’s responsibilities include:

1. Developing, implementing, and maintaining policies and procedures for program and fiscal operation under the direction of the governing board **and maintaining compliance with all applicable requirements of federal and state law, including the background check and eligibility requirements of section 210.493, RSMo and 13 CSR 35-71.015;**

2. Keeping the governing board informed of the program and management of the agency;

3. Interpreting and implementing recognized standards for child welfare services;

4. Ensuring that the agency achieves and maintains compliance with the requirements of the licensing rules;

5. Employing, evaluating and discharging staff members, in accordance with the agency’s established personnel policies; and

6. Ensuring the maintenance of current client’s records and statistics.

(3) Supervisor of Placement Services.

(B) Supervisors of placement services are required to submit to background checks and be found eligible by the division for employment or presence at the licensed child placing agency pursuant to section 210.493, RSMo and 13 CSR 35-71.015.

(4) Professional Personnel.

(B) Professional staff who perform social work tasks, counseling with children and their families, therapeutic services, or planning of services for children and their families, shall have a master’s degree in social work, psychology, counseling, or a closely related clinical field from an accredited college **or university**. Professional staff may have a bachelor’s degree in social work, psychology, counseling, or a related area of study from an accredited school if s/he is under the direct supervision of a qualified supervisor of placement services (13 CSR 35-73.035(3)).

(E) Professional personnel are required to submit to background checks and be found eligible by the division for employment or presence at the licensed child placing agency pursuant to section 210.493, RSMo and 13 CSR 35-71.015.

(5) Contracted Personnel.

(E) A file shall be maintained for each contracted personnel which includes:

1. A copy of the signed contract;

2. Verification of education and experience;

3. Verification of character references from three (3) persons, unrelated to the staff member;

4. Verification of employer references for the past five (5) years and a history of any previous employment in child care settings;

5. A copy of the job description signed by the contractor;

6. Reports of initial and subsequent biennial physical examinations;

7. Results of annual checks of the Child Abuse and Neglect Central Registry Unit (CA/N CRU) Checks;

8. Copies of an annual performance evaluation;

9. *[Results of the annual criminal records check]* **Documentation that each individual associated with the agency who is required to submit to a background check pursuant to section 210.493, RSMo and 13 CSR 35-71.015 has successfully completed the background check and is found eligible by the division for employment or presence at the licensed child placing agency; and**

10. Documentation of orientation and annual staff training.

(6) Students and Interns.

(A) **Interns, [G]graduate students, and [or undergraduate] students** in a field work placement at the agency shall be subject to the general personnel policies of the agency, but shall not be considered

or used as substitutes for employed staff. A written plan for using students will include:

1. A plan for the selection, orientation, training, assignment and evaluation of students;
2. A description of what services the student is responsible for and what arrangement the agency has for supervising the students;
3. A signed statement of their understanding of confidentiality;
4. A copy of the written plan shall be given to each student, his/her school, and to the supervising staff members; and
5. A plan for coverage of caseload in student's absence.

(B) Interns, graduate students, and students are required to submit to background checks and be found eligible by the division for employment or presence at the licensed child placing agency pursuant to section 210.493, RSMo and 13 CSR 35-71.015.

(7) Clerical Staff [Shall Be Employed as Needed].

(A) Clerical staff shall not supervise or assist in the care of children without being qualified according to these rules.

(B) Clerical staff shall sign a statement of their understanding of confidentiality.

(C) Clerical staff shall submit to background checks and be found eligible by the division for employment or presence at the licensed child placing agency pursuant to section 210.493, RSMo and 13 CSR 35-71.015.

(8) An agency shall not be wholly dependent upon the use of volunteers to ensure the provision of services. If an agency uses volunteers as part of its program of services, the agency shall have written policies which include:

(G) Procedures for monitoring and evaluating volunteer activities;

(H) Maintaining a file for each volunteer, who works directly with children including applications, verification of CA/N CRU and [criminal records] background checks, and task assignments and annual evaluations;

(I) Procedures for observing professional ethics and confidentiality of records and information;

AUTHORITY: sections 207.020, 210.506, and 660.017, RSMo 2016, and sections 210.493 and 210.1286, RSMo Supp. 2021. This rule originally filed as 13 CSR 40-73.035. Original rule filed Feb. 6, 1997, effective July 30, 1997. Moved to 13 CSR 35-73.035 and amended: Filed Sept. 7, 2018, effective April 30, 2019. Emergency amendment filed Sept. 17, 2021, effective Oct. 1, 2021, expires March 29, 2022. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

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

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

EMERGENCY RULE

13 CSR 70-3.035 Violations Attested to by the Department of Health and Senior Services

PURPOSE: This emergency rule adds violations determined by the Department of Health and Senior Services as independent grounds for provider sanctions.

EMERGENCY STATEMENT: This emergency rule adds violations determined by the Department of Health and Senior Services (DHSS) as independent grounds for provider sanctions. Based upon recommendations of the Senate Interim Committee on Medicaid Accountability and Taxpayer Protection (Committee), it is imperative that DHSS and the Department of Social Services (DSS) are able to expedite the coordination between agency investigations of providers licensed by DHSS and enrolled as Medicaid (MO HealthNet) providers. These providers provide healthcare services to vulnerable populations making this regulation necessary to protect the health, safety, and welfare of all Missourians who receive healthcare through these licensed facilities. Following three public hearings held July 13, 2021, August 4, 2021, and September 23, 2021, the Committee issued its interim report on September 23, 2021. Per that report, both DSS and DHSS were strongly urged to promulgate such emergency rules as necessary to effectuate the state's compelling interest in ensuring the health, safety, and welfare of all Missourians, in all stages of life, through the provision of safe and quality health care. As a result of this Committee report and Missouri law as set forth in Section 1.205, RSMo, an emergency rule is necessary to carry out the Committee's recommendations. The DSS has a compelling governmental interest to implement the Committee's recommendations to expedite investigations between DHSS and DSS to protect the health, safety, and welfare of all Missourians. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. If an emergency is not enacted, the department would not be in compliance with the Committee's recommendations or Missouri's legal requirements to protect the health, safety, and welfare of all human life from conception to natural death. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of Social Services believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed October 1, 2021, becomes effective October 18, 2021, and expires April 15, 2022.

Violations of 13 CSR 70-3.030(3) identified by the Department of Health and Senior Services (DHSS) or its designee during the course of an investigation shall be considered for purposes of sanctions without the need for further investigation by the Medicaid Audit and Compliance Unit (MMAC). The DHSS shall report any such violations by sworn affidavit to MMAC. Prior violations of 13 CSR 70-3.030(3) or other program violations, including but not limited to program violations as determined by and attested to by affidavit by the DHSS, shall be considered in their totality to determine if there is an ongoing pattern of violations. Such pattern of violations shall weigh heavily to support invoking severe sanctions.

AUTHORITY: sections 1.205, 208.153, 208.201, and 660.017, RSMo 2016. Emergency rule filed Oct. 1, 2021, effective Oct. 18, 2021, expires April 15, 2022. A proposed rule covering this same material is published in this issue of the Missouri Register.

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

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

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 1—Controlled Substances**

EMERGENCY AMENDMENT

19 CSR 30-1.002 Schedules of Controlled Substances. The department is amending section (1).

PURPOSE: This emergency amendment updates the Schedules of Controlled Substances to be consistent with 21 CFR Part 1308.

EMERGENCY STATEMENT: The United States Department of Justice Drug Enforcement Administration (DEA) continually evaluates substances to determine their clinical application and potential for abuse. Based on their evaluation, the DEA issues scheduling actions to place substances in the appropriate controlled substance schedules. The majority of these scheduling actions consist of temporarily and permanently scheduling newly-discovered illicit substances in Schedule I. Proper scheduling of these substances allow law enforcement to take action to prevent the further distribution of these substances. Scheduling substances in Schedules II-V allows practitioners to be informed about the potential for addiction/abuse of the substances and prescribe the substances appropriately. Section 195.015, RSMo, charges the department with similarly controlling substances as they are controlled under federal law. Section 195.015.4 requires the Department of Health and Senior Services to submit emergency rules to the Secretary of State within thirty (30) days of a federal scheduling action to allow for similar inclusion, rescheduling, or deletion of controlled substances with this schedule. While this time frame is difficult to achieve given the various approvals and reviews needed prior to the Department scheduling any rule with the Secretary of State, the Department still acts to effectuate these scheduling actions as quickly as possible. This emergency amendment includes all federal scheduling actions since the last amendment of this rule in 2020. This emergency amendment is necessary to protect Missouri's governmental interest in keeping its controlled substances schedules up-to-date as much as practically possible in order to protect its citizens and to aid law enforcement in its prosecution of those who illegally distribute these substances. As a result, the Department of Health and Senior Services finds a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Department of Health and Senior Services believes this emergency amendment is fair to all interested persons and parties under the circumstances. Subject to section 536.025, this emergency amendment was filed September 28, 2021, becomes effective October 13, 2021, and expires April 10, 2022.

(1) Schedules of Controlled Substances.

(A) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the Drug Enforcement Administration (DEA) Controlled Substances Code Number set forth opposite it.

1. Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

A. Acetyl-alpha-methylfentanyl (N-(1-(1-methyl-2-phenethyl)- 4-piperidinyl)-N-phenylacetamide)	9815
B. Acetylmethadol	9601
C. Acetyl fentanyl (N-(1-phenethylpiperidin-4-yl)- N-phenylacetamide)	9821
D. N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other names: acryl fentanyl, acryloylfentanyl)	9811
E. AH-7921(3,4-dichloro-N-[(1-dimethylamino) cyclohexylmethyl] benzamide)	9551
F. Allylprodine	9602

G. Alphacetylmethadol (except levoalphacetylmethadol also known as levo-alpha-acetylmethadol levothadyl acetate or LAAM)	9603
H. Alphameprodine	9604
I. Alphamethadol	9605
J. Alpha-methylfentanyl (N-1-(alphamethyl-beta- phenyl) ethyl-4-piperidyl) propionanilide; 1-(1-methyl-2- phenylethyl)-4 ((N-propanilido) piperidine)	9814
K. Alpha-methylthiofentanyl (N-(1-methyl-2-(2-thienyl) ethyl-4-piperidinyl)-N- phenylpropanamide)	9832
L. Benzethidine	9606
M. Betacetylmethadol	9607
N. Beta-hydroxyfentanyl (N-(1-(2-hydroxy-2- phenethyl)-4-piperidinyl)- N-phenylpropanamide)	9830
O. Beta-hydroxy-3- methylfentanyl (other name: N-(1-(2-hydroxy-2-phenethyl)- 3-methyl-4-piperidinyl)-N- phenylpropanamide)	9831
P. N-[1-[2-hydroxy-2-(thiophen- 2-yl) ethyl]piperidin-4-yl]- N-phenylpropionamide (Other names: beta-hydroxythiofentanyl)	9836
Q. Betameprodine	9608
R. Betamethadol	9609
S. beta-Methyl fentanyl (N-phenyl-N-(1-(2-phenylpropyl)piperidin -4-yl) propionamide (Other name: β-methyl fentanyl)	9856
T. beta'-Phenyl fentanyl (N-(1-phenethylpiperidin -4-yl)-N,3-diphenylpropanamide (Other names: β'-phenyl fentanyl ; 3-phenylpropanoyl fentanyl)	9842
/S./U. Betaprodine	9611
/T./V. Clonitazene	9612
W. Crotonyl fentanyl ((E)-N-(1- phenethylpiperidin-4-yl)-N- phenylbut-2-enamide)	9844
X. N-(1-phenethylpiperidin-4-yl)-N- Phenylcyclopentanecarboxamide (Other name: cyclopentyl fentanyl)	9847
/U./Y. Cyclopropyl fentanyl (N-(1-phenethylpiperidin-4-yl) -N-phenylcyclopropanecar- boxamide)	9845
/V./Z. Dextromoramide	9613
/W./AA. Diampromide	9615
/X./BB. Diethylthiambutene	9616
/Y./CC. Difenoquin	9168
/Z./DD. Dimenoxadol	9617
/AA./EE. Dimepheptanol	9618
/BB./FF. Dimethylthiambutene	9619
/CC./GG. Dioxaphetyl butyrate	9621
/DD./HH. Dipipanone	9622
/EE./II. Ethylmethylthiambutene	9623
/FF./JJ. Etonitazene	9624
/GG./KK. Etoxadine	9625
LL. Fentanyl carbamate (ethyl (1-phenethylpiperidin -4-yl)(phenyl)carbamate)	9851

<i>[HH.]MM.</i> <i>N</i> -(4-fluorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)isobutyramide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other names: 4-fluoroisobutyryl fentanyl, <i>para</i> -fluoroisobutyryl fentanyl)	9824	(Other name: 2-methyl acetylfentanyl)	9848
NN. 2'-Fluoro <i>ortho</i> -fluorofentanyl (<i>N</i> -(1-(2-fluorophenethyl)piperidin-4-yl)- <i>N</i> -(2-fluorophenyl)propionamide (Other names: 2'-fluoro 2-fluorofentanyl)	9855	MMM. <i>ortho</i> -Methyl methoxyacetyl fentanyl (2-methoxy- <i>N</i> -(2-methylphenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl) acetamide (Other name: 2-methyl methoxyacetyl fentanyl)	9820
<i>[III.]OO.</i> <i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylfuran-2-carboxamide (Other names: furanyl fentanyl)	9834	NNN. <i>N</i> -(4-chlorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)isobutyramide, (Other name: <i>para</i> -chloroisobutyryl fentanyl)	9826
<i>[JJ.]PP.</i> Furethidine	9626	<i>[AAA.]OOO.</i> <i>para</i> -Fluorobutyryl fentanyl (<i>N</i> -(4-fluorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)butyramide)	9823
<i>[KK.]QQ.</i> Hydroxypethidine	9627	<i>[BBB.]PPP.</i> <i>Para</i> -fluorofentanyl(<i>N</i> -(4-fluorophenyl)- <i>N</i> -(1-(2-phenethyl)-4-piperidinyl)propanamide)	9812
RR. <i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylisobutyramide (Other name: isobutyryl fentanyl)	9827	QQQ. <i>para</i> -Fluoro furanyl fentanyl (<i>N</i> -(4-fluorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)furan-2-carboxamide)	9854
<i>[LL.]SS.</i> Ketobemidone	9628	RRR. <i>para</i> -Methoxybutyryl fentanyl (<i>N</i> -(4-methoxyphenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl) butyramide)	9837
<i>[MM.]TT.</i> Levomoramide	9629	SSS. <i>para</i> -Methylfentanyl (<i>N</i> -(4-methylphenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl) propionamide (Other Name: 4-methylfentanyl)	9817
<i>[NN.]UU.</i> Levophenacetylmorphan	9631	<i>[CCC.]TTT.</i> PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine)	9663
<i>[OO.]VV.</i> Methoxyacetyl fentanyl (2-methoxy- <i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylacetamide)	9825	<i>[DDD.]UUU.</i> Phenadoxone	9637
WW. 4'-Methyl acetyl fentanyl (<i>N</i> -(1-(4-methylphenethyl) piperidin-4-yl)- <i>N</i> -phenylacetamide)	9819	<i>[EEE.]VVV.</i> Phenampromide	9638
<i>[PP.]XX.</i> 3-Methylfentanyl (<i>N</i> -(3-methyl-1-(2-phenylethyl)-4-piperidyl)- <i>N</i> -phenylpropanamide), its optical and geometric isomers, salts, and salts of isomers	9813	<i>[FFF.]WWW.</i> Phenomorphan	9647
<i>[QQ.]YY.</i> 3-Methylthiofentanyl (<i>N</i> -(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl)- <i>N</i> phenylpropanamide)	9833	<i>[GGG.]XXX.</i> Phenoperidine	9641
<i>[RR.]ZZ.</i> Morpheridine	9632	YYY. Phenyl fentanyl (<i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylbenzamide (Other name: benzoyl fentanyl)	9841
<i>[SS.]AAA.</i> MPPP (1-methyl-4-phenyl-4-propionoxypiperidine)	9661	<i>[HHH.]ZZZ.</i> Piritramide	9642
<i>[TT.]BBB.</i> MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl) piperazine)	(9560)	<i>[III.]AAAA.</i> Proheptazine	9643
<i>[UU.]CCC.</i> Noracymethadol	9633	<i>[JJJ.]BBBB.</i> Properidine	9644
<i>[VV.]DDD.</i> Norlevorphanol	9634	<i>[KKK.]CCCC.</i> Propiram	9649
<i>[WW.]EEE.</i> Normethadone	9635	<i>[LLL.]DDDD.</i> Racemoramide	9645
<i>[XX.]FFF.</i> Norpipanone	9636	<i>[MMM.]EEEE.</i> <i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenyltetrahydrofuran-2-carboxamide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other name: tetrahydrofuranlyl fentanyl)	9843
<i>[YY.]GGG.</i> <i>N</i> -(2-fluorophenyl)-2-methoxy- <i>N</i> -(1-phenethylpiperidin-4-yl)acetamide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other name: ocfentanil)	9838	<i>[NNN.]FFFF.</i> Thiofentanyl (<i>N</i> -phenyl- <i>N</i> -(1-(2-thienyl)ethyl-4-piperidinyl)-propanamide)	9835
HHH. <i>ortho</i> -Fluoroacryl fentanyl (<i>N</i> -(2-fluorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl) acrylamide)	9852	GGGG. Thiofuranyl fentanyl (<i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylthiophene-2-carboxamide (Other names: 2-thiofuranyl fentanyl; thiophene fentanyl)	9839
III. <i>ortho</i> -Fluorobutyryl fentanyl (<i>N</i> -(2-fluorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl) butyramide (Other Name: 2-fluorobutyryl fentanyl)	9846	<i>[OOO.]HHH.</i> Tilidine	9750
<i>[ZZ]JJJ.</i> <i>ortho</i> -Fluorofentanyl (<i>N</i> -(2-fluorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)propionamide); other name: 2-fluorofentanyl)	9816	<i>[PPP.]III.</i> Trimeperidine	9646
KKK. <i>ortho</i> -Fluoroisobutyryl fentanyl (<i>N</i> -(2-fluorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)isobutyramide)	9853	2. Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:	
LLL. <i>ortho</i> -Methyl acetylfentanyl (<i>N</i> -(2-methylphenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl) acetamide)		A. Acetorphine	9319
		B. Acetyldihydrocodeine	9051
		C. Benzylmorphine	9052
		D. Codeine methylbromide	9070
		E. Codeine- <i>N</i> -Oxide	9053
		F. Cyprenorphine	9054
		G. Desomorphine	9055
		H. Dihydromorphine	9145
		I. Drotebanol	9335

J. Etorphine (except hydrochloride salt)	9056	ethanamine (2C-C)	7519
K. Heroin	9200	M. 2-(4-Ethylthio-2,5-dimethoxyphenyl)ethanamine (2C-T-2)	7385
L. Hydromorphenol	9301	N. 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I)	7518
M. Methyldesorphine	9302	O. 2-(4-Isopropylthio)-2,5-dimethoxyphenyl)ethanamine (2C-T-4)	7532
N. Methylhydromorphone	9304	P. 4-methoxyamphetamine	7411
O. Morphine methylbromide	9305	Some trade or other names: 4-methoxy-amethylphenethylamine; paramethoxyamphetamine; PMA;	
P. Morphine methylsulfonate	9306	Q. 5-methoxy-3,4-methylenedioxyamphetamine	7401
Q. Morphine-N-Oxide	9307	R. 4-methyl-2,5-dimethoxyamphetamine	7395
R. Myrophine	9308	Some trade and other names: 4-methyl-2, 5- dimethoxy-amethylphenethylamine; DOM; and STP;	
S. Nicocodeine	9309	S. 3,4-methylenedioxyamphetamine	7400
T. Nicomorphine	9312	T. 3,4-methylenedioxymethamphetamine(MDMA)	7405
U. Normorphine	9313	U. 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethylalpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, and MDEA)	7404
V. Pholcodine	9314	V. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4 (methylenedioxy)phenethylamine and N-hydroxy MDA)	7402
W. Thebacon	9315	W. 3,4,5-trimethoxyamphetamine	7390
3. Opiate Similar Synthetic Substances. Substances scheduled by the United States Drug Enforcement Administration as substances that share a pharmacological profile similar to fentanyl, morphine, and other synthetic opioids, unless specifically excepted or unless listed in another schedule. These substances are—		X. 5-MeO-DMT or 5-methoxy-N,N-dimethyltryptamine	7431
A. Butyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide)	9822	Y. Alpha-methyltryptamine	7432
B. U-47700 (3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)	9547	Z. Bufotenine	7433
C. N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide (Other name: valeryl fentanyl)	9840	Some trade and other names: 3-(b-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine;	
4. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation, which contains any quantity of the following hallucinogenic substances or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (For purposes of paragraph (1)(A)4. of this rule only, the term isomer includes the optical, position, and geometric isomers.):		AA. Diethyltryptamine	7434
A. Alpha-ethyltryptamine	7249	Some trade and other names: N, N-Diethyltryptamine; DET;	
Some trade or other names: etryptamine; Monase; alpha-ethyl-1 <i>H</i> -indole-3-ethenamine; 3-(2-aminobutyl)indole; alpha-ET; and AET;		BB. Dimethyltryptamine	7435
B. 4-bromo-2,5-dimethoxyamphetamine	7391	Some trade or other names: DMT;	
Some trade or other names: 4-bromo-2, 5- dimethoxy-a-methylphenethylamine; 4-bromo- 2, 5-DMA;		CC. 5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeODIPT)	7439
C. 4-bromo-2,5-dimethoxyphenethylamine	7392	DD. Ibogaine	7260
D. 2,5-dimethoxyamphetamine	7396	Some trade and other names: 7-Ethyl- 6,6β,7,8,9,10,12,13-octahydro-2-methoxy-6, 9-methano-5 <i>H</i> -pyrido [1',2':1,2] azepino[5,4-b] indole; Tabernanthe iboga;	
Some trade or other names: 2,5-dimethoxy-amethylphenethylamine; 2,5-DMA;		EE. Lysergic acid diethylamide	7315
E. 2,5-dimethoxy-4-ethylamphetamine	7399	FF. Marihuana	7360
Some trade or other names: DOET;		Some trade or other names: marijuana;	
F. 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7)	7348	GG. Mescaline	7381
G. 2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine (2C-P)	7524	HH. Parahexyl	7374
H. 2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine (2C-E)	7509	Some trade or other names: 3-Hexyl-1- hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl- 6 <i>H</i> -dibenzo[b,d]pyran; Synhexyl;	
I. 2-(2,5-Dimethoxy-4-methylphenyl) ethanamine (2C-D)	7508	II. Peyote	7415
J. 2-(2,5-Dimethoxy-4-nitrophenyl) ethanamine (2C-N)	7521	Meaning all parts of the plant presently classified botanically as <i>Lophophora williamsii</i> Lemaire, whether growing or not; the seeds	
K. 2-(2,5-Dimethoxyphenyl) ethanamine (2C-H)	7517		
L. 2-(4-Chloro-2,5-dimethoxyphenyl)			

thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or extracts;

JJ. N-ethyl-3-piperidyl benzilate	7482
KK. N-methyl-3-piperidyl benzilate	7484
LL. Psilocybin	7437
MM. Psilocyn	7438
NN. Tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis 7370 plant), as well as synthetic equivalents of the substances contained in the cannabis plant or in the resinous extractives of such plant, and/or synthetic substances, derivatives, and their isomers, or both, with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:	
(I) 1 cis or trans tetrahydrocannabinol and their optical isomers;	
(II) 6 cis or trans tetrahydrocannabinol and their optical isomers;	
(III) 3,4 cis or trans tetrahydrocannabinol and its optical isomers; and	
(IV) Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered;	
OO. Ethylamine analog of phencyclidine	7455
Some trade or other names: N-ethyl-1- phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl)-ethylamine, cyclohexamine, PCE;	
PP. Pyrrolidine analog of phencyclidine	7458
Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine PCPy, PHP;	
QQ. Thiophene analog of phencyclidine	7470
Some trade or other names: 1-(1-(2-thienyl)- cyclohexyl)-piperidine, 2-thienyl analog of phencyclidine, TCP, TCP;	
RR. 1-(1-(2-thienyl)cyclohexyl) pyrrolidine	7473
Some other names: TCPy;	
SS. Salvia divinorum	
TT. Salvinorin A	
UU. 3-Fluoromethcathinone	1233
VV. 4-Fluoromethcathinone	1238
WW. Mephedrone, or 4-methylmethcathinone	1248
XX. Methylenedioxy-pyrovalerone, MDPV, or (1-(1,3-Benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-pentanone	7535
YY. Methylone, or 3,4-Methylenedioxy-methcathinone	7540
ZZ. Quinolin-8-yl 1-pentyl-1Hindole-3-carboxylate (PB-22; QUPIC)	7222
AAA. Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22)	7225
BBB. N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1Hindazole-3-carboxamide (AB-FUBINACA)	7012
CCC. N-(1-amino-3, 3-dimethyl-1-	

oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (ADB-PINACA)	7035
DDD. (1-pentyl-1H-indol-3-yl) (2,2,3,3-tetramethylcyclopropyl) methanone (Other names: UR-144, 1-pentyl-3-(2,2,3,3-tetramethylcyclopropyl)indole)	7144
EEE. [1-(5-fluoro-pentyl)-1Hindol-3-yl](2,2,3,3-tetramethylcyclopropyl) methanone (Other names: 5-fluoro-UR-144, 5-F-UR-144, XLR11, 1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropyl)indole)	7011
FFF. N-(1-adamantyl)-1-pentyl-1Hindazole-3-carboxamide (Other names: APINACA, AKB48)	7048
GGG. 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (Other names: 25I-NBOMe; 2C-I-NBOMe; 25I; Cimbi-5)	7538
HHH. 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (Other names: 25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82)	7537
III. 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (Other names: 25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36)	7536
JJJ. 4-methyl-N-ethylcathinone (Other names: 4-MEC; 2-(ethylamino)-1-(4-methylphenyl)propan-1-one)	1249
KKK. 4-methyl- <i>alpha</i> pyrrolidinopropiophenone, (Other names: 4-MePPP; MePPP; 4-methyl- <i>alpha</i> -pyrrolidinopropiophenone; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)-propan-1-one)	7498
LLL. <i>alpha</i> pyrrolidinopentio-phenone (Other names: <i>alpha</i> -PVP; <i>alpha</i> -pyrrolidinovalerophenone; 1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one)	7545
MMM. Butylone (Other names: bk-MBDB; 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one)	7541
NNN. Pentedrone (Other names: <i>alpha</i> -methylaminovalerophenone; 2-(methylamino)-1-phenylpentan-1-one)	1246

OOO. Pentylone (Other names: bk-MBDP; 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one)	7542	fluorobenzyl)-1 <i>H</i> -indazole-3-carboxamido)-3,3-dimethylbutanoate (Other names: MDMB-FUBINACA)	7020
PPP. Naphyrone (Other names: naphthylpyrovalerone; 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one)	1258	BBBB. methyl 2-(1-(4-fluorobenzyl)-1 <i>H</i> -indazole-3-carboxamido)-3-methylbutanoate (Other names: FUB-AMB, MMB-FUBINACA, AMB-FUBINACA)	(7021)
QQQ. <i>alpha</i> -pyrrolidinobutio-phenone (Other names: α -PBP; 1-phenyl-2-(pyrrolidin-1-yl)butan-1-one)	7546	CCCC. 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)propan-1-one (ethylone)	7547
RRR. <i>N</i> -(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1 <i>H</i> -indazole-3-carboxamide (Other names: AB-CHMINACA)	7031	DDDD. 1-(5-fluoropentyl)-1 <i>H</i> -indole-3-carboxylate (Other names: NM2201; CBL2201)	7221
SSS. <i>N</i> -(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1 <i>H</i> indazole-3-carboxamide (Other names: AB-PINACA)	7023	EEEE. <i>N</i> -(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1 <i>H</i> -indazole-3-carboxamide (Other name: 5F-AB-PINACA)	7025
TTT. [1-(5-fluoropentyl)-1 <i>H</i> -indazol-3-yl](naphthalen-1-yl)methanone (Other names: THJ-2201)	7024	FFFF. 1-(4-cyanobutyl)- <i>N</i> -(2-phenylpropan-2-yl)-1 <i>H</i> -indazole-3-carboxamide (Other names: 4-CN-CUMYLBUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYLBINACA; CUMYL-4CNBINACA; SGT-78)	7089
UUU. <i>N</i> -(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1 <i>H</i> -indazole-3-carboxamide (Other names: MAB-CHMINACA; ADB-CHMINACA)	7032	GGGG. methyl 2-(1-(cyclohexylmethyl)-1 <i>H</i> -indole-3-carboxamido)-3-methylbutanoate (Other names: MMB-CHMICA; AMB-CHMICA)	7044
VVV. methyl 2-(1-(5-fluoropentyl)-1 <i>H</i> -indazole-3-carboxamido)-3,3-dimethylbutanoate (Other names: 5F-ADB; 5F-MDMB-PINACA)	7034	HHHH. 1-(5-fluoropentyl)- <i>N</i> -(2-phenylpropan-2-yl)-1 <i>H</i> -pyrrolo[2,3- <i>b</i>]pyridine-3-carboxamide (Other name: 5F-CUMYL-P7AICA)	7085
WWW. methyl 2-(1-(5-fluoropentyl)-1 <i>H</i> -indazole-3-carboxamido)-3-methylbutanoate (Other names: 5F-AMB)	7033	IIII. <i>N</i> -ethylpentylone (Other names: ephylone, 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one)	7543
XXX. <i>N</i> -(adamantan-1-yl)-1-(5-fluoropentyl)-1 <i>H</i> -indazole-3-carboxamide (Other names: 5F-APINACA, 5F-AKB48)	7049	JJJJ. methyl 2-(1-(4-fluorobutyl)-1 <i>H</i> -indazole-3-carboxamido)-3,3-dimethylbutanoate (4F-MDMB-BINACA, 4F-MDMB-BUTINACA)	7043
YYY. <i>N</i> -(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1 <i>H</i> -indazole-3-carboxamide (Other names: ADB-FUBINACA)	7010	KKKK. 1-(4-methoxyphenyl)- <i>N</i> -methylpropan-2-amine (Other names: <i>para</i> -methoxymethamphetamine, PMMA)	1245
ZZZ. methyl 2-(1-(cyclohexylmethyl)-1 <i>H</i> -indole-3-carboxamido)-3,3-dimethylbutanoate (Other names: MDMB-CHMICA, MMB-CHMINACA)	7042	<p><i>ICCCC./LLLLL.</i> Synthetic cannabinoids: Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:</p> <p>(I) Any compound structurally derived from 3-(1-naphthoyl)indole or 1<i>H</i>indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(<i>N</i>-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Including, but not limited to:</p> <p>(a) AM2201, or 1-(5-Fluoropentyl)-3-(1-naphthoyl)indole</p> <p>(b) JWH-007, or 1-pentyl-2-methyl-3-(1-naphthoyl)indole</p>	7201
AAAA. methyl 2-(1-(4-			

(c) JWH-015, or 1-propyl-2-methyl-3-(1-naphthoyl)indole		ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(<i>N</i> -methyl-2-piperidiny)methyl or 2-(4-morpholinyl)ethyl group, whether or not substituted in the cyclohexyl ring to any extent. Including, but not limited to:
(d) JWH-018, or 1-pentyl-3-(1-naphthoyl)indole	7118	(a) CP 47,497 & homologues, or 2-[(1 <i>R</i> ,3 <i>S</i>)-3-hydroxy-cyclohexyl]-5-(2-methyloctan-2-yl)phenol, where side chain n=5, and homologues where side chain n=4, 6, or 7 7297, 7298
(e) JWH-019, or 1-hexyl-3-(1-naphthoyl)indole	7019	(VI) Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(<i>N</i> -methyl-2-piperidiny)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Including, but not limited to:
(f) JWH-073, or 1-butyl-3-(1-naphthoyl)indole	7173	(a) AM-694, or 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole 7694
(g) JWH-081, or 1-pentyl-3-(4-methoxy-1-naphthoyl)indole	7081	(b) RCS-4, or 1-pentyl-3-(4-methoxybenzoyl)indole (SR-19 and RCS-4) 7104
(h) JWH-098, or 1-pentyl-2-methyl-3-(4-methoxy-1-naphthoyl)indole		(VII) CP 50,556-1, or [(6 <i>S</i> ,6 <i>aR</i> ,9 <i>R</i> ,10 <i>aR</i>)-9-hydroxy-6-methyl-3-[(2 <i>R</i>)-5-phenylpentan-2-yl]oxy-5,6,6 <i>a</i> ,7,8,9,10,10 <i>a</i> -octahydrophenanthridin-1-yl] acetate;
(i) JWH-122, or 1-pentyl-3-(4-methyl-1-naphthoyl)indole	7122	(VIII) HU-210, or (6 <i>aR</i> ,10 <i>aR</i>)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6 <i>a</i> ,7,10,10 <i>a</i> -tetrahydrobenzo[<i>c</i>]chromen-1-ol;
(j) JWH-164, or 1-pentyl-3-(7-methoxy-1-naphthoyl)indole		(IX) HU-211, or Dexanabinol,(6 <i>aS</i> ,10 <i>aS</i>)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6 <i>a</i> ,7,10,10 <i>a</i> -tetrahydrobenzo[<i>c</i>]chromen-1-ol;
(k) JWH-200, or 1-(2-(4-morpholinyl)ethyl)-3-(1-naphthoyl)indole	7200	(X) Dimethylheptylpyran, or DMHP.
(l) JWH-210, or 1-pentyl-3-(4-ethyl-1-naphthoyl)indole		5. Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
(m) JWH-398, or 1-pentyl-3-(4-chloro-1-naphthoyl)indole	7398	A. Gamma-hydroxybutyric acid and other names GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutonic acid; sodium oxybate; sodium oxybutyrate 2010
(II) Any compound structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(<i>N</i> -methyl-2-piperidiny)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent;		B. Mecloqualone 2572
(III) Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(<i>N</i> -methyl-2-piperidiny)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent;		C. Methaqualone 2565
(IV) Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(<i>N</i> -methyl-2-piperidiny)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent. Including, but not limited to:		6. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
(a) JWH-201, or 1-pentyl-3-(4-methoxyphenylacetyl)indole		A. Aminorex 1585
(b) JWH-203, or 1-pentyl-3-(2-chlorophenylacetyl)indole	7203	Some trade or other names: aminoxaphen; 2-amino-5-phenyl-2-oxazolone; 4,5-dihydro-5-phenyl-2-oxazolamine;
(c) JWH-250, or 1-pentyl-3-(2-methoxyphenylacetyl)indole	6250	B. <i>N</i> -benzylpiperazine (some other names: BZP, 1-benzylpiperzaine) 7493
(d) JWH-251, or 1-pentyl-3-(2-methylphenylacetyl)indole		C. Cathinone (Some trade or other names: 2-amino-1-phenyl-1-propanone, alphaaminopropiophenone, 2-aminopropiophenone and norephedrone) 1235
(e) RCS-8, or 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole	7008	D. 4,4'-Dimethylaminorex (4,4'-DMAR; 4,5-dihydro-4-methyl-5-(4-methylphenyl)-2-oxazolamine; 4-methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine) 1595
(V) Any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic		<i>D./E.</i> Fenethylline 1503
		<i>E./F.</i> Methcathinone 1237

Some trade or other names: 2-(methylamino)- propiophenone; alpha-(methylamino) propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-*N*-methylaminopropiophenone; monomethylpropion; ephedrone; *N*-methylcathinone; methylcathinine; AL-464; AL-422; AL-463 and URI 432;

/F./G. 4-methoxymethcathinone	
/G./H. cis-4-methylaminorex (cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine)	1590
/H./I. 4-Methyl-alpha-pyrrolidinobutiophenone, or MPBP	
/I./J. N-ethylamphetamine	1475
/J./K. N,N-dimethylamphetamine	1480

(some other names: *N,N*-alpha-trimethylbenzeneethanamine; *N,N*-alpha-trimethylphenethylamine)

7. A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture, or preparation which contains any quantity of the following substances:

A. <i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylacetamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: acetyl fentanyl)	9821
B. <i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylpentanamide, its isomers, esters, ethers, salts and salts of isomers, esters, and ethers (Other name: valeryl fentanyl)	9840
C. <i>N</i> -(4-methoxyphenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)butyramide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other name: para-methoxybutyryl fentanyl)	(9837)
D. <i>N</i> -(4-chlorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)isobutyramide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other name: para-chloroisobutyryl fentanyl)	(9826)
E. <i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylisobutyramide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other name: isobutyryl fentanyl)	(9827)
F. <i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylcyclopentanecarboxamide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other name: cyclopentyl fentanyl)	(9847)]
/G./A. Fentanyl-related substances, their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers.	9850

(I) Fentanyl-related substance means any substance not otherwise listed under another Administration Controlled Substance Code Number, and for which no exemption or approval is in effect under section 505 of the Federal Food, Drug, and Cosmetic Act 21

U.S.C. 355, that is structurally related to fentanyl by one (1) or more of the following modifications:

(a) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;

(b) Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino, or nitro groups;

(c) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino, or nitro groups;

(d) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or

(e) Replacement of the *N*-propionyl group by another acyl group.

/H. Naphthalen-1-yl 1-(5-fluoropentyl)-1 <i>H</i> -indole-3-carboxylate, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: NM2201; CBL2201)	(7221)
I. <i>N</i> -(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1 <i>H</i> -indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 5F-AB-PINACA)	(7025)
J. 1-(4-cyanobutyl)- <i>N</i> -(2-phenylpropan-2-yl)-1 <i>H</i> -indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 4-CN-CUMYLBUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYLBINACA; CUMYL-4CNBINACA; SGT-78)	(7089)
K. methyl 2-(1-(cyclohexylmethyl)-1 <i>H</i> -indole-3-carboxamido)-3-methylbutanoate, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: MMB-CHMICA, AMB-CHMICA)	(7044)
L. 1-(5-fluoropentyl)- <i>N</i> -(2-phenylpropan-2-yl)-1 <i>H</i> -pyrrolo[2,3- <i>b</i>]pyridine-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 5F-CUMYL-P7AICA)	(7085)
M. <i>N</i> -Ethylpentylone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: ephylone, 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one)	(7543)]

<p>[N.]B. ethyl 2-(1-(5-fluoropentyl)-1<i>H</i>-indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts, and salts of isomers (trivial name: 5F-EDMB-PINACA)</p>	7036	<p>names: MPHP; 4'-methyl-<i>alpha</i>-pyrrolidinohexanophenone; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one</p>	7446
<p>[O.]C. methyl 2-(1-(5-fluoropentyl)-1<i>H</i>-indole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts, and salts of isomers (trivial name: 5F-MDMB-PICA)</p>	7041	<p>[W.]K. <i>alpha</i>-Pyrrolidinoheptanophenone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: PV8; 1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one)</p>	7548
<p>[P.]D. <i>N</i>-(adamantan-1-yl)-1-(4-fluorobenzyl)-1<i>H</i>-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (trivial names: FUB-AKB48; FUB-APINACA; AKB48 <i>N</i>-(4-FLUOROBENZYL))</p>	7047	<p>[X.]L. 4'-Chloro-<i>alpha</i>-pyrrolidinovalerophenone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 4-chloro-α-PVP; 4'-chloro-<i>alpha</i>-pyrrolidinopentiophenone; 1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one)</p>	7443
<p>[Q.]E. 1-(5-fluoropentyl)-<i>N</i>-(2-phenylpropan-2-yl)-1<i>H</i>-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers (trivial names: 5F-CUMYL-PINACA; SGT-25)</p>	7083	<p>[Y.]M. <i>N,N</i>-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1<i>H</i>-benzimidazol-1-yl)ethan-1-amine, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other names: isotonitazene; <i>N,N</i>-diethyl-2-[[4-(1-methylethoxy)phenyl]methyl]-5-nitro-1<i>H</i>-benzimidazole-1-ethanamine)</p>	9614
<p>[R.]F. (1-(4-fluorobenzyl)-1<i>H</i>-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts, and salts of isomers (trivial name: FUB-144)</p>	7014	<p>N. 1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-1, 3-dihydro-2<i>H</i>-benzo[<i>d</i>]imidazol-2-one, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other names: brorphine; 1-[1-[1-(4-bromophenyl)ethyl]-4-piperidinyl]-1,3-dihydro-2<i>H</i>-benzimidazol-2-one)</p>	9098
<p>[S.]G. <i>N</i>-Ethylhexedrone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other name: 2-(ethylamino)-1-phenylhexan-1-one)</p>	7246	<p>8. Khat, to include all parts of the plant presently classified botanically as <i>catha edulis</i>, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seed, or extracts.</p>	7032
<p>[T.]H. <i>alpha</i>-Pyrrolidinohexanophenone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: α-PHP; <i>alpha</i>-pyrrolidinohexiophenone; 1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one)</p>	7544	<p>(B) Schedule II shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the Controlled Substances Code Number set forth opposite it.</p>	
<p>[U.]I. 4-Methyl-<i>alpha</i>-ethylaminopentiophenone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other names: 4-MEAP; 2-(ethylamino)-1-(4-methylphenyl)pentan-1-one)</p>	7245	<p>1. Substances, vegetable origin, or chemical synthesis. Unless specifically excepted or unless listed in another schedule, Schedule II shall include any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:</p>	
<p>[V.]J. 4'-Methyl-<i>alpha</i>-pyrrolidinohexiophenone, its optical, positional, and geometric isomers, salts, and salts of isomers (Other</p>		<p>A. Opium and opiate; and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxegol, naloxone, and naltrexone and their respective salts, but including the following:</p>	
		<p>(I) Raw opium 9600 (II) Opium extracts 9610 (III) Opium fluid 9620</p>	

(IV) Powdered opium	9639
(V) Granulated opium	9640
(VI) Tincture of opium	9630
(VII) Codeine	9050
(VIII) Dihydroetorphine	9334
(IX) Ethylmorphine	9190
(X) Etorphine hydrochloride	9059
(XI) Hydrocodone	9193
(XII) Hydromorphone	9150
(XIII) Metopon	9260
(XIV) Morphine	9300
(XV) Oripavine	9330
(XVI) Oxycodone	9143
(XVII) Oxymorphone	9652
(XVIII) Thebaine	9333

B. Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subparagraph (1)(B)1.A. of this rule shall be included in Schedule II, except that these substances shall not include the isoquinoline alkaloids of opium;

C. Opium poppy and poppy straw

9650

D. Coca leaves (9040) and any salt, compound, derivative, or preparation of coca leaves (including cocaine (9041) and ecgonine (9180) and their salts, isomers, derivatives, and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include:

(I) Decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine; or

(II) Ioflupane;

E. Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy)

9670

2. Opiates. Unless specifically excepted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan, and levopropoxyphene excepted:

A. Alfentanil	9737
B. Alphaprodine	9010
C. Anileridine	9020
D. Bezitramide	9800
E. Bulk Dextropropoxyphene (Non-dosage Forms)	9273
F. Carfentanil	9743
G. Dihydrocodeine	9120
H. Diphenoxylate	9170
I. Fentanyl	9801
J. Isomethadone	9226
K. Levo-alphaacetylmethadol	

Some other names: levo-alphaacetylmethadol, levomethadyl acetate,

LAAM	9648
L. Levomethorphan	9210
M. Levorphanol	9220
N. Metazocine	9240
O. Methadone	9250
P. Methadone-Intermediate, 4-cyano-2-dimethylamino- 4,4-diphenyl butane	9254
Q. Moramide-Intermediate, 2- methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid	9802
R. Oliceridine (N-[(3-methoxythiophen-2-yl) methyl] (2-[(9R)-9-(pyridin-2-yl)-6-oxaspiro [4.5]decan-9-yl]ethyl})amine fumarate)	9245

<i>/R./S.</i> Pethidine (Meperidine)	9230
<i>/S./T.</i> Pethidine-Intermediate-A, 4- cyano-1-methyl-4- phenylpiperidine	9232
<i>/T./U.</i> Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4- carboxylate	9233
<i>/U./V.</i> Pethidine-Intermediate-C, 1- methyl-4-phenylpiperidine- 4-carboxylic acid	9234
<i>/V./W.</i> Phenazocine	9715
<i>/W./X.</i> Piminodine	9730
<i>/X./Y.</i> Racemethorphan	9732
<i>/Y./Z.</i> Racemorphan	9733
<i>/Z./AA.</i> Remifentanil	9739
<i>/AA./BB.</i> Sufentanil	9740
<i>/BB./CC.</i> Tapentadol	9780
<i>/CC./DD.</i> Thiafentanil	9729

3. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

A. Amphetamine, its salts, optical isomers, and salts of its optical isomers	1100
B. Lisdexamfetamine, its salts, isomers, and salts of its isomers	1205
C. Methamphetamine, its salts, isomers, and salts of its isomers	1105
D. Phenmetrazine and its salts	1631
E. Methylphenidate	1724

4. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

A. Amobarbital	2125
B. Glutethimide	2550
C. Pentobarbital	2270
D. Phencyclidine	7471
E. Secobarbital	2315

5. Hallucinogenic substances:

A. Nabilone	7379
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Another name for nabilone: (\pm)trans-3-(1, 1-dimethylheptyl)-6, 6a,7,8,10,10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo(b,d)pyran-9-one.

B. Dronabinol [(-)-delta-9-trans tetrahydrocannabinol] in an oral solution in a drug product approved for marketing by the United States Food and Drug Administration. (7365)

6. Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

A. Immediate precursor to amphetamine and methamphetamine:	
(I) Phenylacetone	8501
Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone;	
B. Immediate precursors to phencyclidine (PCP):	
(I) 1-phenylcyclohexylamine	7460
(II) 1-piperidinocyclohexanecarbonitrile (PCC)	8603

- C. Immediate precursor to fentanyl:
 - (I) 4-anilino-*N*-phenethyl-4-piperidine (ANPP) 8333
 - (II) *N*-phenyl-*N*-(piperidin-4-yl)propionamide (norfentanyl) 8366

7. Any material, compound, mixture, or preparation which contains any quantity of the following alkyl nitrites:

- A. Amyl nitrite;
- B. Butyl nitrite.

(C) Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the DEA Controlled Substances Code Number set forth opposite it.

1. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- A. Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under 21 CFR 308.32 and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances
 - B. Benzphetamine 1228
 - C. Chlorphentermine 1645
 - D. Clortermine 1647
 - E. Phendimetrazine 1615

2. Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

- A. Any compound, mixture, or preparation containing—
 - (I) Amobarbital 2126
 - (II) Secobarbital 2316
 - (III) Pentobarbital 2271

or any salt thereof and one (1) or more other active medicinal ingredients which are not listed in any schedule;

- B. Any suppository dosage form containing—
 - (I) Amobarbital 2126
 - (II) Secobarbital 2316
 - (III) Pentobarbital 2271

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

- C. Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof 2100
- D. Chlorhexadol 2510
- E. Embutramide 2020
- F. Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomer, for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act; 2012

- G. Ketamine, its salts, isomer, and salts of isomers (some other names for ketamine: (±)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone) 7285
- H. Lysergic acid 7300
- I. Lysergic acid amide 7310
- J. Methyprylon 2575
- K. Perampanel, and its salts, isomers, and salts of isomers 2261

- L. Sulfondiethylmethane 2600
- M. Sulfonethylmethane 2605
- N. Sulfonmethane 2610
- O. Tiletamine and zolazepam or any salt thereof 7295

Some trade or other names for a tiletaminezolazepam combination product: Telazol.

Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone.

Some trade or other names for zolazepam: 4-(2-fluorophenyl)-6-8-dihydro-1,3,8-trimethylpyrazolo-(3,4-e) (1,4)-diazepin-7(1H)-one, flupyrzapon.

- 3. Nalorphine 9400

4. Narcotics drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or any salts thereof:

A. Not more than one and eight tenths grams (1.8gm) of codeine per one hundred milliliters (100 mL) or not more than ninety milligrams (90 mg) per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium 9803

B. Not more than one and eight tenths grams (1.8gm) of codeine per one hundred milliliters (100 mL) or not more than ninety milligrams (90 mg) per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts 9804

C. Not more than one and eight tenths grams (1.8gm) of dihydrocodeine per one hundred milliliters (100 mL) or not more than ninety milligrams (90 mg) per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts 9807

D. Not more than three hundred milligrams (300 mg) of ethylmorphine per one hundred milliliters (100 mL) or not more than fifteen milligrams (15 mg) per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts 9808

E. Not more than five hundred milligrams (500 mg) of opium per one hundred milliliters (100 mL) or per one hundred grams (100 gm) or not more than twenty-five milligrams (25 mg) per dosage unit, with one (1) or more active nonnarcotic ingredients in recognized therapeutic amounts 9809

F. Not more than fifty milligrams (50 mg) of morphine per one hundred milliliters (100 mL) or per one hundred grams (100 gm), with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts 9810

5. Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth below:

- A. Buprenorphine 9064

6. Anabolic steroids. Unless specially excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation. DEA has assigned code 4000 for all anabolic steroids. Anabolic steroids. Any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone) that promotes muscle growth, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration. If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, esters, and ethers:

- A. 3β,17β-dihydroxy-5α-androstane

- B. $3\alpha,17\beta$ -dihydroxy- 5α -androstane
 C. 5α -androstan-3,17-dione
 D. 1-androstenediol ($3\beta,17\beta$ -dihydroxy- 5α -androst-1-ene)
 E. 1-androstenediol ($3\alpha,17\beta$ -dihydroxy- 5α -androst-1-ene)
 F. 4-androstenediol ($3\beta,17\beta$ -dihydroxy-androst-4-ene)
 G. 5-androstenediol ($3\beta,17\beta$ -dihydroxy-androst-5-ene)
 H. 1-androstenedione ([5α]-androst-1-en-3,17-dione)
 I. 4-androstenedione (androst-4-en-3,17-dione)
 J. 5-androstenedione (androst-5-en-3,17-dione)
 K. Bolasterone ($7\alpha,17\alpha$ -dimethyl-17 β -hydroxyandrost-4-en-3-one)
 L. Boldenone (17 β -hydroxyandrost-1,4-diene-3-one)
 M. Boldione (androstra-1,4-diene-3,17-dione)
 N. Calusterone ($7\beta,17\alpha$ -dimethyl-17 β -hydroxyandrost-4-en-3-one)
 O. Clostebol (4-chloro-17 β -hydroxyandrost-4-en-3-one)
 P. Dehydrochloromethyltestosterone (4-chloro-17 β -hydroxy-17 α -methyl-androst-1,4-dien-3-one)
 Q. Desoxymethyltestosterone (17 α -methyl- 5α -androst-2-en-17 β -ol) (a.k.a. madol)
 R. $\Delta 1$ -dihydrotestosterone (a.k.a.'1-testosterone')(17 β -hydroxy- 5α -androst-1-en-3-one)
 S. 4-dihydrotestosterone (17 β -hydroxy-androstan-3-one)
 T. Drostanolone (17 β -hydroxy-2 α -methyl- 5α -androstan-3-one)
 U. Ethylestrenol (17 α -ethyl-17 β -hydroxyestr-4-ene)
 V. Fluoxymesterone (9-fluoro-17 α -methyl-11 $\beta,17\beta$ -dihydroxyandrost-4-en-3-one)
 W. Formebolone (Formebolone) (2-formyl-17 α -methyl-11 $\alpha,17\beta$ -dihydroxyandrost-1,4-dien-3-one)
 X. Furazabol (17 α -methyl-17 β -hydroxyandrostano[2,3-c]-furan)
 Y. 13 β -ethyl-17 β -hydroxygon-4-en-3-one
 Z. 4-hydroxytestosterone (4,17 β -dihydroxy-androst-4-en-3-one)
 AA. 4-hydroxy-19-nortestosterone (4,17 β -dihydroxy-estr-4-en-3-one)
 BB. Mestanolone (17 α -methyl-17 β -hydroxy- 5α -androstan-3-one)
 CC. Mesterolone (1 α -methyl-17 β -hydroxy-[5α]-androstan-3-one)
 DD. Methandienone (17 α -methyl-17 β -hydroxyandrost-1,4-dien-3-one)
 EE. Methandriol (17 α -methyl-3 $\beta,17\beta$ -dihydroxyandrost-5-ene)
 FF. Methasterone (2 $\alpha,17\alpha$ -dimethyl- 5α -androstan-17 β -ol-3-one)
 GG. Methenolone (1-methyl-17 β -hydroxy- 5α -androst-1-en-3-one)
 HH. 17 α -methyl-3 $\beta,17\beta$ -dihydroxy- 5α -androstane
 II. 17 α -methyl-3 $\alpha,17\beta$ -dihydroxy- 5α -androstane
 JJ. 17 α -methyl-3 $\beta,17\beta$ -dihydroxyandrost-4-ene
 KK. 17 α -methyl-4-hydroxyandrolone (17 α -methyl-4-hydroxy-17 β -hydroxyestr-4-en-3-one)
 LL. Methyldienolone (17 α -methyl-17 β -hydroxyestra-4,9(10)-dien-3-one)
 MM. Methyltrienolone (17 α -methyl-17 β -hydroxyestra-4,9,11-trien-3-one)
 NN. Methyltestosterone (17 α -methyl-17-hydroxyandrost-4-en-3-one)
 OO. Mibolerone ($7\alpha,17\alpha$ -dimethyl-17 β -hydroxyestr-4-en-3-one)
 PP. 17 α -methyl- $\Delta 1$ -dihydrotestosterone (17 β -hydroxy-17 α -methyl- 5α -androst-1-en-3-one) (a.k.a. 17- α -methyl-1-testosterone)
 QQ. Nandrolone (17 β -hydroxyestr-4-ene-3-one)
 RR. 19-nor-4-androstenediol ($3\beta,17\beta$ -dihydroxyestr-4-ene)
 SS. 19-nor-4-androstenediol ($3\alpha,17\beta$ -dihydroxyestr-4-ene)
 TT. 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione)
 UU. 19-nor-5-androstenediol ($3\beta,17\beta$ -dihydroxyestr-5-ene)
 VV. 19-nor-5-androstenediol ($3\alpha,17\beta$ -dihydroxyestr-5-ene)
 WW. 19-nor-4-androstenedione (estr-4-en-3,17-dione)
 XX. 19-nor-5-androstenedione (estr-5-en-3,17-dione)
 YY. Norbolethone (13 $\beta,17\alpha$ -diethyl-17 β -hydroxygon-4-en-3-one)
 ZZ. Norclostebol (4-chloro-17 β -hydroxyestr-4-en-3-one)
 AAA. Norethandrolone (17 α -ethyl-17 β -hydroxyestr-4-en-3-one)
 BBB. Normethandrolone (17 α -methyl-17 β -hydroxyestr-4-en-3-one)
 CCC. Oxandrolone (17 α -methyl-17 β -hydroxy-2-oxa-[5α]-androstan-3-one)
 DDD. Oxymesterone (17 α -methyl-4,17 β -dihydroxyandrost-4-en-3-one)
 EEE. Oxymetholone (17 α -methyl-2-hydroxymethylene-17 β -hydroxy-[5α]-androstan-3-one)
 FFF. Prostanazol (17 β -hydroxy- 5α -androstan[3,2-c]pyrazole)
 GGG. Stanolone ($\Delta 1$ -dihydrotestosterone (a.k.a. 1-testosterone)(17 β -hydroxy- 5α -androst-1-en-3-one)
 HHH. Stanozolol (17 α -methyl-17 β -hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole)
 III. Stenbolone (17 β -hydroxy-2-methyl-[5α]-androst-1-en-3-one)
 JJJ. Testolactone(13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-*oic* acid lactone)
 KKK. Testosterone(17 β -hydroxyandrost-4-en-3-one);
 LLL. Tetrahydrogestrinone (13 $\beta,17\alpha$ -diethyl-17 β -hydroxygon-4,9,11-trien-3-one)
 MMM. Trenbolone (17 β -hydroxyestr-4,9,11-trien-3-one)
 NNN. Any salt, ester, or isomer of a drug or substance described or listed in this subparagraph, if that salt, ester, or isomer promotes muscle growth except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of Health and Human Services for that administration.
7. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product 7369
 (Some other names for dronabinol: (6aRtrans)- 6a,7,8,10a-tetrahydro-6.6.9-trimethyl-3-pentyl-6H-dibenzo (b,d) pyran-1-ol, or (-) -delta-9-(trans)-tetrahydrocannabinol.)
- (D) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the DEA Controlled Substances Code Number set forth opposite it.
1. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or any salts thereof:
- A. Not more than one milligram (1 mg) of difenoxin (DEA Drug Code No. 9168) and not less than twenty-five micrograms (25 mcg) of atropine sulfate per dosage unit 9167
 B. Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane) 9278
 C. 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers, and salts of these isomers (including tramadol) 9752
 D. Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(I) Not more than two hundred milligrams (200 mg) of codeine per one hundred milliliters (100 mL) or per one hundred grams (100 gm);

(II) Not more than one hundred milligrams (100 mg) of dihydrocodeine per one hundred milliliters (100 mL) or per one hundred grams (100 gm); or

(III) Not more than one hundred milligrams (100 mg) of ethylmorphine per one hundred milliliters (100 mL) or per one hundred grams (100 gm).

2. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

A. Alfaxalone	2731
B. Alprazolam	2882
C. Barbitol	2145
D. Brexanolone	2400
E. Bromazepam	2748
F. Camazepam	2749
G. Carisoprodol	8192
H. Chloral betaine	2460
I. Chloral hydrate	2465
J. Chlordiazepoxide	2744
K. Clobazam	2751
L. Clonazepam	2737
M. Clorazepate	2768
N. Clotiazepam	2752
O. Cloxazolam	2753
P. Delorazepam	2754
Q. Diazepam	2765
R. Dichloralphenazone	2467
S. Estazolam	2756
T. Ethchlorvynol	2540
U. Ethinamate	2545
V. Ethyl loflazepate	2758
W. Fludiazepam	2759
X. Flunitrazepam	2763
Y. Flurazepam	2767
Z. Fospropofol	2138
AA. Halazepam	2762
BB. Haloxazolam	2771
CC. Ketazolam	2772
DD. Lemborexant	2245
EE. Loprazolam	2773
FF. Lorazepam	2885
GG. Lormetazepam	2774
HH. Mebutamate	2800
II. Medazepam	2836
JJ. Meprobamate	2820
KK. Methohexital	2264
LL. Methylphenobarbital (Mephobarbital)	2250
MM. Midazolam	2884
NN. Nimetazepam	2837
OO. Nitrazepam	2834
PP. Nordiazepam	2838
QQ. Oxazepam	2835
RR. Oxazolam	2839
SS. Paraldehyde	2585
TT. Petrichloral	2591
UU. Phenobarbital	2285
VV. Pinazepam	2883
WW. Prazepam	2764
XX. Quazepam	2881
YY. Remimazolam	2846
<i>YY./ZZ.</i> Suvorexant	2223

<i>/ZZ./AAA.</i> Temazepam	2925
<i>/AAA./BBB.</i> Tetrazepam	2886
<i>/BBB./CCC.</i> Triazolam	2887
<i>/CCC./DDD.</i> Zaleplon	2781
<i>/DDD./EEE.</i> Zolpidem	2783
<i>/EEE./FFF.</i> Zopiclone	2784

3. Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

A. Fenfluramine	1670
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4. Lorcaserin. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

A. Lorcaserin	1625
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5. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

A. Cathine ((+)- norpseudoephedrine)	1230
B. Diethylpropion	1610
C. Fencamfamin	1760
D. Fenproporex	1575
E. Mazindol	1605
F. Mefenorex	1580
G. Modafinil	1680
H. Pemoline (including organometallic complexes and chelates thereof)	1530
I. Phentermine	1640
J. Pipradrol	1750
K. Serdexmethylphenidate	1729
<i>/K./L.</i> Sibutramine	1675
<i>/L./M.</i> Solriamfetol (2-amino-3- phenylpropyl carbamate; benzenepropanol, beta- amino-, carbamate (ester))	1650
<i>/M./N.</i> SPA (-)-1-dimethylamino- 1,2-diphenylethane	1635

6. Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

A. Pentazocine	9709
B. Butorphanol (including its optical isomers)	9720
C. Eluxadolone (5-[[[(2S)-2- amino-3-[4-aminocarbonyl]- 2,6-dimethylphenyl]-1- oxopropyl] [(1S)-1-(4-phenyl- 1 H-imidazol-2- yl)ethyl]amino]methyl]-2- methoxybenzoic acid) (including its optical isomers) and its salts, isomers, and salts of isomers	9725

7. Ephedrine. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system including their salts, isomers, and salts of isomers:

A. Ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient.

(E) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this subsection.

1. Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows, which shall include one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

A. Not more than two hundred milligrams (200 mg) of codeine per one hundred milliliters (100 mL) or per one hundred grams (100 gm);

B. Not more than one hundred milligrams (100 mg) of dihydrocodeine per one hundred milliliters (100 mL) or per one hundred grams (100 gm);

C. Not more than one hundred milligrams (100 mg) of ethylmorphine per one hundred milliliters (100 mL) or per one hundred grams (100 gm);

D. Not more than two and five-tenths milligrams (2.5 mg) of diphenoxylate and not less than twenty-five micrograms (25 mcg) of atropine sulfate per dosage unit;

E. Not more than one hundred milligrams (100 mg) of opium per one hundred milliliters (100 mL) or per one hundred grams (100 gm); and

F. Not more than five-tenths milligram (0.5 mg) of difenoxin (DEA Drug Code No. 9168) and not less than twenty-five micrograms (25 mcg) of atropine sulfate per dosage unit.

2. Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system including its salts, isomers, and salts of isomers:

A. Pyrovalerone 1485

3. Any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or its salts or optical isomers, or salts of optical isomers or any compound, mixture, or preparation containing any detectable quantity of ephedrine or its salts or optical isomers, or salts of optical isomers if the drug preparations are starch-based solid dose forms, if such preparations are sold over the counter without a prescription. The following drug preparations containing ephedrine and pseudoephedrine are not scheduled controlled substances:

A. Drug preparations in liquid form;

B. Drug preparations that require a prescription in order to be dispensed.

4. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

A. Ezogabine [N-[2-amino-4(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester] 2779

B. Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide] 2746

C. Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid] 2782

D. Brivaracetam ((2S)-2-[[4R)-2-oxo-4-propylpyrrolidin-1-yl]butanamide) (also referred to as BRV; UCB-34714; Briviact) 2710

E. Lasmiditan [2,4,6-trifluoro-N-(6-(1-methylpiperidine-4-

carbonyl) pyridine-2-yl-benzamide] 2790

F. Cenobamate ([1R)-1-(2-chlorophenyl)-2-(tetrazol-2-yl)ethyl] carbamate; 2H-tetrazole-2-ethanol, alpha-(2-chlorophenyl)-, carbamate (ester), (alphaR)-; carbamic acid (R)-(+)-1-(2-chlorophenyl)-2-(2H-tetrazol-2-yl)ethyl ester) 2720

AUTHORITY: section 195.015, RSMo Supp. [2020] 2021, and section 195.195, RSMo 2016. Material found in this rule previously filed as 19 CSR 30-1.010. Original rule filed April 14, 2000, effective Nov. 30, 2000. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 28, 2021, effective Oct. 13, 2021, expires April 10, 2022. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

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

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 30—Ambulatory Surgical Centers and Abortion Facilities

EMERGENCY AMENDMENT

19 CSR 30-30.060 Standards for the Operation of Abortion Facilities. The department is amending Paragraph 8 of subsection (1)(A).

PURPOSE: This amendment updates the list of laws, regulations, and standards that governing bodies must ensure abortion facilities abide by or otherwise comply with.

EMERGENCY STATEMENT: This emergency amendment requires governing bodies operating abortion facilities within Missouri to ensure that their facilities abide with certain regulations governing their operation. In addition to requiring governing bodies ensure that their facilities are operating in compliance with the applicable state and federal laws and regulations, this emergency amendment requires violations of these laws and regulations to be immediately referred to the Medicaid Audit and Compliance Unit of the Department of Social Services. This information transfer will allow MMAC to evaluate (or reevaluate) Medicaid eligibility of the provider in consideration of current deficiencies and thereby increase further compliance with state and federal laws and regulations governing abortion facilities. As a result, the Department of Health and Senior Services finds that there is a compelling governmental interest that requires an early effective date as permitted under Section 536.025, RSMo, in order to ensure that abortion facilities are operated in accordance with all legal requirements and applicable standards of care. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of

Health and Senior Services believes this emergency amendment is fair to all interested persons and parties under the circumstances. Subject to section 536.025, this emergency rule was filed September 28, 2021, becomes effective October 13, 2021, and expires April 10, 2022.

(1) Governing Body, Administration, and Medical Staff.

(A) The facility shall have a governing body which may be an individual owner or owners, partnership, corporate body, association, or public agency.

1. The governing body shall have full legal responsibility for determining, implementing, and monitoring policies governing a facility's total operation and for ensuring that the policies are administered in a manner to provide acceptable care in a safe environment and in accordance with all legal requirements and standards of care.

2. The governing body shall select and employ an administrator who is a physician licensed in Missouri, a registered nurse licensed in Missouri, or an individual who has at least one (1) year of administrative experience in health care.

3. If there is any change in the designation of the administrator, the governing body shall notify the department within ten (10) calendar days of the change.

4. The governing body shall ensure that, in the absence of the administrator from the facility, a person who meets the qualifications of an administrator as defined in this regulation shall be present at the facility and fulfill the administrator's duties.

5. Bylaws of the governing body shall acknowledge that department surveyors shall be allowed to inspect the facility at any time the facility is in operation. Surveyors shall have due regard for the medical condition and reasonable privacy of the on-site patients.

6. Bylaws of the governing body shall require that the medical staff, facility personnel and all others providing services relative to the facility shall be directly or indirectly responsible to the governing body through the administrator.

7. The governing body, through the administrator, shall establish criteria for the content of patient records and shall provide for timely completion of those records and disciplinary action for noncompliance

8. The governing body, through the administrator, shall ensure that the abortion facility abides by all applicable state and federal laws and regulations. This shall include, but not be limited to, compliance with Chapter 188, RSMo./., **13 CSR 70-3.030(3)**, **failure to notify pathology lab of failed abortion within twenty-four (24) hours**, **failure to ensure the physician providing informed consent to the patient is the physician who performs the procedure**, **failure to ensure all medical records associated with abortions accurately reflect the date and time the record was created**, **failure to ensure the physician who performs the abortion performs a pelvic exam at least seventy-two (72) hours before an abortion unless, in the physician's clinical judgment, such pelvic exam is not medically necessary and said physician documents the reason for such determination**, **failure of any physician, nurse, or other health care provider, or their contracted agents, to cooperate with any Department of Health and Senior Services investigator upon written request of the investigator**, **failure to ensure all employees participate in annual fire drill**, **failure to ensure policies are written in accordance with regulatory requirements**, **failure to ensure endotracheal equipment is maintained and that staff is aware of the location of the equipment**, **failure to follow acceptable sterilization standards for surgery instruments and equipment**, or **failure to maintain controlled substance logs in accordance with published regulations**. Any violation of law or regulation shall be immediately referred, in writing, with details of said violation or violations, to the Medicaid Audit and Compliance Unit of the Department of Social Services.

9. The governing body, through the administrator, shall be responsible for developing, implementing, and enforcing a policy to ensure protection of facility employees, physicians, and volunteers

from retaliation or adverse employer actions by the facility for disclosing information regarding alleged infection control concerns; alleged facility mismanagement or fraudulent activity; or alleged violations of state or federal law or regulations regarding patient care, patient safety, or facility safety

AUTHORITY: section 197.225, RSMo Supp. [2019] 2021. Original rule filed July 15, 1987, effective Oct. 25, 1987. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 28, 2021, effective Oct. 13, 2021, expires April 10, 2022. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

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