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MATT BLUNT

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

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

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

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

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

Each department of state government is assigned a title. Each agency or division 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 paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

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

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 Publication required. Will be printed in the October 15, 2003 issue of this publication. Publication not required.

17. Signature and Title of Editor, Publisher, Business Manager, or Owner
James C. Angle, Director, Admin. Rules Division Date 10-15-03

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- In item 16, indicate the date of the issue in which this Statement of Ownership will be published.
- Item 17 must be signed.

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Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. 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) 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 70—Division of Medical Services
Chapter 15—Hospital Program**

ORDER TERMINATING EMERGENCY AMENDMENT

By the authority vested in the director of the Division of Medical Services under sections 208.201, 208.453 and 208.455, RSMo 2000, the director hereby terminates an emergency amendment effective September 18, 2003, as follows:

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA) is terminated.

A notice of emergency rulemaking containing the text of the emergency amendment was published in the *Missouri Register* on June 2, 2003 (28 MoReg 1023).

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 15—Hospital Program**

EMERGENCY AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA). The division is adding section (11).

PURPOSE: This emergency amendment adds section (11). This amendment will establish the Federal Reimbursement Allowance (FRA) assessment for SFY 2004 at five and twenty-three hundredths percent (5.23%).

EMERGENCY STATEMENT: The Division of Medical Services finds that this emergency amendment is necessary to preserve a compelling governmental interest of providing health care to individuals eligible for the Medicaid program. An early effective date is required in that the emergency amendment made adjustments to the Federal Reimbursement Allowance for SFY 2004 to ensure access to hospital services for indigent and Medicaid recipients at hospitals which have relied on Medicaid payments in meeting those needs. The Division of Medical Services also finds an immediate danger to public health and welfare which requires emergency actions. If this emergency amendment is not enacted, it will cause significant cash flow shortages and financial strain on all hospitals which serve more than nine hundred thousand (900,000) Medicaid recipients. This will, in turn, result in an adverse impact on the health and welfare of those in need of medical care and treatment. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the *Missouri* and *United States Constitutions*. The Division of Medical Services believes this emergency amendment to be fair to all interested parties under the circumstances. This emergency amendment was filed September 8, 2003, effective September 18, 2003, and expires March 15, 2004.

(11) Federal Reimbursement Allowance (FRA) for State Fiscal Year 2004. The FRA assessment for State Fiscal Year (SFY) 2004 shall be determined at the rate of five and twenty-three hundredths percent (5.23%) of the hospital's total operating revenue less tax revenue/other government appropriations plus non-operating gains and losses as published by the Missouri Department of Health and Senior Services, Section of Health Statistics. The base financial data for 2000 will be annualized, if necessary, and will be adjusted by the trend factor listed in 13 CSR 70-15.010(3)(B) to determine revenues for the current state fiscal year. The financial data that is submitted by the hospitals to the Missouri Department of Health and Senior Services is required as part of 19 CSR 10-33.030, Reporting Financial Data by Hospitals. If the pertinent information is not available through the Department of Health and Senior Services' hospital database, the Division of Medical Services will use the Medicaid data similarly defined from the Medicaid cost report that is required to be submitted pursuant to 13 CSR 70-15.010(5)(A).

AUTHORITY: sections 208.201, 208.453 and 208.455, RSMo 2000. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed April 29, 2003, effective May 9, 2003, terminated Sept. 18, 2003. Amended: Filed April 29, 2003. Emergency amendment filed Sept. 8, 2003, effective Sept. 18, 2003, expires March 15, 2004.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 15—Division of Senior Services
Chapter 4—Older Americans Act**

EMERGENCY AMENDMENT

19 CSR 15-4.060 State Long-Term Care Ombudsman Program. The department proposes to amend section (1).

PURPOSE: This amendment sets forth the procedures for notification of the state ombudsman if the regional coordinator or volunteer determines that a nursing home administrator is not willing to work with the ombudsman program to resolve complaints, in accordance with S.B. 556.

EMERGENCY STATEMENT: In 2003 the Missouri General Assembly passed House Committee Substitute for Senate Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 556 and 311. This legislation embodies major revisions and changes related to long-term care effective August 28, 2003. New regulations governing notification of the state ombudsman in situations where the nursing home administrator is not willing to work with the regional ombudsman program to resolve complaints were mandated by the new legislation. The "Office of State Ombudsman for Long-Term Care Facility Residents" was created by statute for the purpose of helping to assure the adequacy of care received by residents of long-term care facilities and to improve the residents' quality of life. One of the Office's duties is to receive, process, respond to, and resolve complaints made by or on behalf of residents of long-term care facilities relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies or of social service agencies, which may adversely affect the health, safety, welfare or rights of residents. When situations arise where a nursing home administrator is not willing to work with the regional ombudsman program to resolve complaints, the health, safety, welfare and/or rights of residents at the facility may be jeopardized, necessitating notification of the state ombudsman program. As a result, the Department of Health and Senior Services finds an immediate danger to the public health, safety and welfare and 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. This emergency amendment was filed September 12, 2003, effective September 22, 2003 and expires March 19, 2004.

(1) The statewide long-term care [(LTC)] ombudsman program (LTCOP) consists of the state office, regional offices and volunteers. The regional programs are housed in or subcontracted by the designated Area Agencies on Aging. The LTCOP—

(A) Identifies, [//]investigates and resolves complaints made by or [for older persons] on behalf of residents in long-term care (LTC) facilities [about administrative actions that] relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies or of social service agencies, which may adversely affect [their] the health, safety, welfare or rights of such residents[;]. If regional LTCOP coordinators, staff or volunteers determine that a nursing home administrator is not willing to work with the ombudsman program to resolve complaints, the regional LTCOP coordinator, staff or volunteer shall notify the state ombudsman in writing.

1. The state ombudsman, or his/her designee, may facilitate a meeting with the nursing home administrator, and the regional LTCOP coordinator, staff and/or volunteer. If deemed appropriate, the state ombudsman or his/her designee may notify the nursing facility's corporate staff (if applicable) of the meeting and its results.

2. The regional LTCOP coordinator or staff or the LTCOP state office staff may contact the section for long-term care (SLTC). The LTCOP state office staff will monitor cases where

the nursing home administrator is unwilling to work with the LTCOP and monitor the involvement and/or investigation conducted by SLTC;

(C) Provides information to public agencies about the problems of [older individuals] residents in LTC facilities;

(D) Trains LTCOP staff and volunteers and promotes and assists in the development of citizen organizations [to participate in the ombudsman program];

(E) Implements additional activities, as appropriate, that enhance the [LTC ombudsman program] LTCOP and are consistent with federal and state requirements and guidelines;

(F) Develops procedures to assure that representatives of the [LTC ombudsman program] LTCOP are given appropriate access to LTC facilities, appropriate private access to residents and appropriate access to the residents' personal and medical records; and

AUTHORITY: sections 660.050, RSMo [1986] 2000 and 660.603, RSMo Supp. 2003. This rule was previously filed as 13 CSR 15-6.065 and 13 CSR 15-4.060. Original rule filed Jan. 6, 1986, effective April 30, 1986. Moved to 19 CSR 15-4.060, effective Aug. 28, 2001. Emergency amendment filed Sept. 12, 2003, effective Sept. 22, 2003, expires March 19, 2004. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 30—Division of Health Standards and Licensure Chapter 82—General Licensure Requirements

EMERGENCY RULE

19 CSR 30-82.015 Long-Term Care Receiverships

PURPOSE: This rule establishes guidelines for the determination of qualified receivers, maintenance of the list of receivers, and the selection and removal of receivers.

EMERGENCY STATEMENT: In 2003 the Missouri General Assembly passed House Committee Substitute for Senate Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 556 and 311. This legislation embodies major revisions and changes related to long-term care effective August 28, 2003. This legislation requires the Department of Health and Senior Services to promulgate rules to establish guidelines for the determination of qualified receivers, procedures for maintaining the list of qualified receivers, and the selection or removal of such receivers. When the court receives a petition for appointment of a receiver for a facility, it appoints a receiver if it finds that any of the following conditions exist:

1. The operator is operating without a license;
2. The Department of Health and Senior Services (DHSS) has revoked the license of an operator or refused to grant an application for a license to the operator;
3. The DHSS has initiated revocation procedures and has determined that the lives, health, safety, or welfare of the residents cannot be adequately assured pending a full hearing on license revocation;
4. The facility is closing or intends to close and adequate arrangements for relocation of residents have not been made at least thirty (30) days prior to closure;
5. An emergency exists in the facility;
6. The operator is insolvent; or
7. An owner of the land or structure is insolvent and such insolvency substantially affects the operation of the facility; and if it finds that appointment of a receiver will contribute to the continuity of care or the orderly and safe transfer of residents in the facility. A court also has the authority to appoint an emergency receivership if the

court determines that there is probable cause to believe that an emergency exists in the facility. To ensure that the health, safety, welfare and rights of residents in a facility in receivership are protected, it is necessary to have rules regarding the determination of who is qualified to act as a receiver and the selection and removal of receivers. As a result, the Department of Health and Senior Services finds an immediate danger to the public health, safety and welfare and a compelling governmental interest, which requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. 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 Health and Senior Services believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed September 12, 2003, effective September 22, 2003 and expires March 19, 2004.

(1) A person requesting to act as a receiver shall submit a completed application to the department. The application shall include the following information:

(A) Full name of the receiver, date of birth and Social Security number;

(B) Information that establishes the receiver has the necessary experience to operate a long-term care facility or the ability to contract with another party for the operation of a facility; and

(C) Information that establishes the receiver has the financial capacity to operate a long-term care facility as a receiver in compliance with state laws and regulations.

(2) Based on the information submitted in the application, if the applicant has the necessary experience to operate a long-term care facility or the ability to contract with another party for the operation of a facility and the financial capacity to operate a facility, and the applicant does not have any disqualifying characteristics, the applicant will be approved to be a receiver. Disqualifying characteristics are defined as:

(A) The applicant has been convicted of a felony offense in any state or federal court arising out of conduct involving the operation or management of a long-term care facility or other health care facility or the provision or receipt of health care;

(B) The applicant has ever knowingly acted or knowingly failed to perform any duty which materially and adversely affected the health, safety, welfare or property of a resident of a long-term care facility, while acting in a management capacity; or

(C) The applicant is under exclusion from participation in the Title XVIII (Medicare) or Title XIX (Medicaid) program of any state or territory.

(3) Once a completed application is received and approved, the person will be placed on the list of qualified receivers. Receivers will be placed on the list in the order their completed application was received. If two (2) or more completed applications are received on the same day, and any two (2) or more are approved, they will be placed on the list of qualified receivers in alphabetical order according to the receivers' last names.

(4) If any of the information in an application changes, or if a qualified receiver has any change of status, including a change in disqualifying characteristics, that could affect his/her ability to serve as a receiver, he/she must notify the department in writing within ten (10) working days. Given the additional information, the department will make a determination as to whether the receiver remains qualified to act as a receiver. If the receiver is no longer qualified, his/her name will be removed from the list of qualified receivers. The department will notify the receiver in writing of the removal.

(5) If the department otherwise becomes aware of a change in any information in the application or a change in status of a qualified receiver that affects the receiver's ability to serve as a receiver, the department may remove the receiver from the list of qualified receivers. The department will notify the receiver in writing of the removal.

(6) If a receiver no longer wishes to be included on the list of qualified receivers, the receiver shall notify the department in writing of his/her desire to be removed from the list and the effective date of the removal.

AUTHORITY: sections 198.105, RSMo Supp. 2003 and 198.009, RSMo 2000. Emergency rule filed Sept. 12, 2003, effective Sept. 22, 2003, expires March 19, 2004. A proposed rule covering this same material is published in this issue of the Missouri Register.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of Health Standards and Licensure
Chapter 82—General Licensure Requirements**

EMERGENCY RULE

19 CSR 30-82.080 Nursing Facility Quality of Care Improvement Program

PURPOSE: This rule explains the requirements for receiving funding from the Nursing Facility Quality of Care (NFQC) Fund to improve the quality of service the facility provides to its residents.

EMERGENCY STATEMENT: In 2003 the Missouri General Assembly passed House Committee Substitute for Senate Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 556 and 311. This legislation embodies major revisions and changes related to long-term care effective August 28, 2003. This legislation requires that fifty percent (50%) of the civil penalties collected due to violation(s) of standards be deposited in the nursing facility quality of care fund to be used for a program to assist qualified nursing facilities to improve the quality of service to their residents. This legislation also requires the Department of Health and Senior Services to promulgate rules to define qualified facilities and establish procedures for the selection of qualified facilities. Funds cannot be made available to facilities to improve their services until a definition of qualified facility is established. As a result, the Department of Health and Senior Services finds an immediate danger to the public health, safety and welfare and a compelling governmental interest, which requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. 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 Health and Senior Services believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed September 12, 2003, effective September 22, 2003 and expires March 19, 2004.

(1) Definitions.

(A) Qualified Facility—Any facility licensed pursuant to Chapter 198, RSMo, that has received a Class I or Uncorrected Class II Notice of Noncompliance within the past twelve (12) months in one (1) of the following areas:

1. For Residential Care Facility I (RCF I) and Residential Care Facility II (RCF II):

A. Administrative, Personnel and Resident Care (19 CSR 30-86.042);

B. Dietary (19 CSR 30-86.052); or

C. Resident Rights (19 CSR 30-88.010);

2. For Skilled Nursing Facility (SNF) and Intermediate Care Facility (ICF):

- A. Administration and Resident Care (19 CSR 30-85.042);
- B. Dietary (19 CSR 30-85.052); or
- C. Resident Rights (19 CSR 30-88.010).

(B) Quality Improvement Project for Missouri (QIPMO) consultation—Provides technical assistance and support to nursing facility staff throughout the state in order to improve the quality of care in nursing facilities using the Minimum Data Set (MDS) and on-site clinical consultation.

(2) Selection of Qualified Facilities.

(A) Qualified facilities may submit a written request to the department for funds from the Nursing Facility Quality of Care (NFQC) Fund to pay for QIPMO assistance and support. The department will provide a written response to the qualified facility's request approving or disapproving the use of NFQC funding for QIPMO assistance. In the absence of extraordinary circumstances, a qualified facility shall receive no more than one thousand dollars (\$1,000) per request. A qualified facility which wishes to receive more than one thousand dollars (\$1,000) per request must separately justify reimbursement in excess of one thousand dollars (\$1,000) by setting forth the extraordinary circumstances justifying reimbursement in excess of one thousand dollars (\$1,000). The department may, in its sole discretion, approve reimbursement in excess of one thousand dollars (\$1,000).

(B) Qualified facilities may also submit to the department proposals describing implementation of a quality improvement program, in lieu of the QIPMO Program. Such proposals shall address areas of noncompliance that have been cited in the notice of noncompliance issued in the past twelve (12) months. Upon approval of the proposal by the department, the department may use funds in the NFQC Fund that have been collected from state civil money penalties to fund the qualified facility's proposal. In the absence of extraordinary circumstances, a qualified facility shall receive no more than one thousand dollars (\$1,000) per proposal. A qualified facility which wishes to receive more than one thousand dollars (\$1,000) per proposal must separately justify reimbursement in excess of one thousand dollars (\$1,000) by setting forth the extraordinary circumstances justifying reimbursement in excess of one thousand dollars (\$1,000). The department may, in its sole discretion, approve reimbursement in excess of one thousand dollars (\$1,000).

(C) The department may impose upon a qualified facility a directed plan of correction, as set forth in section 198.066, RSMo, which includes QIPMO consultation. Funding for the QIPMO consultation may be taken from the NFQC Fund, not to exceed one thousand dollars (\$1,000), unless the department, in its sole discretion, determines reimbursement in excess of one thousand dollars (\$1,000) is justified by extraordinary circumstances.

(3) The qualified facility will submit to the department the paid invoice(s) for the QIPMO consultation or other quality improvement program. The department will reimburse the qualified facility for the amount granted.

AUTHORITY: section 198.067.6, RSMo Supp. 2003. Emergency rule filed Sept. 12, 2003, effective Sept. 22, 2003, expires March 19, 2004. A proposed rule covering this same material is published in this issue of the Missouri Register.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 30—Division of Health Standards and Licensure Chapter 83—Definition of Terms

EMERGENCY AMENDMENT

19 CSR 30-83.010 Definition of Terms. The department proposes to amend definition (24) and add new definition (32).

PURPOSE: This amendment revises the definition of protective oversight and adds a definition for voluntary leave, as included in S.B. 534.

EMERGENCY STATEMENT: In 2003 the Missouri General Assembly passed Senate Bill No. 534. This legislation defined the terms protective oversight and voluntary leave as they apply to long-term care facilities. These definitions were effective August 28, 2003. A change to the rule definition for protective oversight and the addition of a rule definition for voluntary leave are necessary to ensure consistency of regulatory and statutory definitions in order to avoid confusion. As a result, the Department of Health and Senior Services finds an immediate danger to the public health, safety and welfare and 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. This emergency amendment was filed September 12, 2003, effective September 22, 2003 and expires March 19, 2004.

(24) Protective oversight—Shall mean [having continuous] an awareness **twenty-four (24) hours a day of the location** of a resident [/'s whereabouts], the ability to intervene [if a crisis arises for] **on behalf of the resident**, supervision of nutrition, or medication, or actual provisions of care and [a **twenty-four (24)-hour**] the responsibility for the welfare of the resident, **except where the resident is on voluntary leave.**

(32) Voluntary leave—Shall mean an off-premises leave initiated by: **a) a resident that has not been declared mentally incompetent or incapacitated by a court; or b) a legal guardian of a resident that has been declared mentally incompetent or incapacitated by a court.**

AUTHORITY: sections 198.006, RSMo Supp. 2003 and 198.009, RSMo [1986] 2000. Emergency rule filed Sept. 7, 1979, effective Sept. 28, 1979, expired Jan. 24, 1980. This rule originally filed as 13 CSR 15-II.010. Original rule filed Sept. 7, 1979, effective Jan. 12, 1980. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 12, 2003, effective Sept. 22, 2003, expires March 19, 2004. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 30—Division of Health Standards and Licensure Chapter 85—Intermediate Care and Skilled Nursing Facility

EMERGENCY AMENDMENT

19 CSR 30-85.042 Administration and Resident Care Requirements for New and Existing Intermediate Care and Skilled Nursing Facilities. The department proposes to amend section (66).

PURPOSE: This amendment identifies the minimum voluntary leave procedures that a nursing facility must have in place, as included in S.B. 534.

EMERGENCY STATEMENT: In 2003 the Missouri General Assembly passed Senate Bill No. 534. This legislation defined the terms protective oversight and voluntary leave as they apply to long-term care facilities. These definitions were effective August 28, 2003. New regulations identifying the minimum procedures a long-term care facility must have in place to properly implement voluntary leave are necessary to protect the health, safety and welfare of residents at long-term care facilities. As a result, the Department of Health and Senior Services finds an immediate danger to the public health, safety and welfare and 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. This emergency amendment was filed September 12, 2003, effective September 22, 2003 and expires March 19, 2004.

(66) Each resident shall receive twenty-four (24)-hour protective oversight and supervision. **For residents departing the premises on voluntary leave, the facility shall have, at a minimum, a procedure to ensure that the resident or the resident's guardian notifies the facility of the resident's departure, that the resident or the resident's guardian notifies the facility of the resident's estimated length of absence from the facility, and that the resident or the resident's guardian notifies the facility of the resident's whereabouts while on voluntary leave. I/II**

AUTHORITY: sections 198.006, RSMo Supp. 2003 and 198.079, RSMo [1994] 2000. This rule originally filed as 13 CSR 15-14.042. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 12, 2003, effective Sept. 22, 2003, expires March 19, 2004. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

**Division 30—Division of Health Standards and Licensure
Chapter 86—Residential Care Facilities I and II**

EMERGENCY AMENDMENT

19 CSR 30-86.042 Administrative, Personnel and Resident Care Requirements for New and Existing Residential Care Facilities I and II. The department proposes to amend section (35).

PURPOSE: This amendment identifies the minimum voluntary leave procedures that a residential care facility must have in place, as included in S.B. 534.

EMERGENCY STATEMENT: In 2003 the Missouri General Assembly passed Senate Bill No. 534. This legislation defined the terms protective oversight and voluntary leave as they apply to long-term care facilities. These definitions were effective August 28, 2003. New regulations identifying the minimum procedures a long-term care facility must have in place to properly implement voluntary leave are necessary to protect the health, safety and welfare of residents at long-term care facilities. As a result, the Department of Health and Senior Services finds an immediate danger to the public health, safety and welfare and 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. This emergency amendment was filed September 12, 2003, effective September 22, 2003 and expires March 19, 2004.

(35) Protective oversight shall be provided twenty-four (24) hours a day. **For residents departing the premises on voluntary leave, the facility shall have, at a minimum, a procedure to ensure that the resident or the resident's guardian notifies the facility of the resident's departure, that the resident or the resident's guardian notifies the facility of the resident's estimated length of absence from the facility, and that the resident or the resident's guardian notifies the facility of the resident's whereabouts while on voluntary leave. I/II**

AUTHORITY: sections 198.006, RSMo Supp. 2003 and 198.076, RSMo [1994] 2000. This rule originally filed as 13 CSR 15-15.042. Original rule filed July 13, 1983, effective Oct. 13, 1983. Emergency amendment filed Aug. 1, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Amended: Filed Sept. 12, 1984, effective Dec. 13, 1984. Amended: Filed March 14, 1985, effective June 13, 1985. Amended: Filed May 13, 1987, effective Aug. 13, 1987. Amended: Filed April 17, 1990, effective June 30, 1990. Amended: Filed Feb. 13, 1998, effective Sept. 30, 1998. Moved to 19 CSR 30-86.042, effective Aug. 28, 2001. Emergency amendment filed Sept. 12, 2003, effective Sept. 22, 2003, expires March 19, 2004. A proposed amendment covering this same material is published in this issue of the Missouri Register.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2002.

EXECUTIVE ORDER 03-16

WHEREAS, on February 6, 2003, the director of the Missouri Department of Insurance issued the report "Medical Malpractice in Missouri: The Current Difficulties in Perspective;" and

WHEREAS, past proposals to deal with medical malpractice insurance crises have focused almost exclusively on tort reform and insurance industry reform; and

WHEREAS, it is equally appropriate to focus on problems such as inadequate provider/patient communications, improper clinical and administrative procedures, and preventable medical errors, which taken together, are the cause of many medical malpractice claims; and

WHEREAS, it is important to strike a balance between public accountability for the quality of health care and the need for health care providers to learn from medical errors.

NOW, THEREFORE, I, Bob Holden, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and the Laws of the State of Missouri, do hereby establish the Missouri Commission on Patient Safety, the composition of which shall be as follows:

The directors of the Department of Insurance and the Department of Health and Senior Services; the executive director of the State Board of Registration for the Healing Arts; 16 persons appointed by the Governor from a variety of professions and perspectives including, but not limited to, physicians, osteopathic physicians, pharmacists, nurses, hospital administrators and staff, risk managers, long-term care administrators and staff, medical educators, patient care review specialists, patient safety and quality improvement professionals, and health care consumers; and such other members as the Governor may from time-to-time appoint. The Governor will designate one member of the commission as chairperson and one member as vice-chairperson.

The purpose of the commission shall be to study and recommend legislative, administrative, clinical, behavioral, and technological measures to improve medical outcomes, prevent errors, upgrade health-care delivery systems, and improve education of medical providers and patients, all with a goal of reducing the incidence of preventable medical errors and reducing the number of medical malpractice claims.

The commission is assigned to the Missouri Department of Insurance for administrative purposes. Members of the commission shall serve without compensation but may be reimbursed for reasonable and necessary expenses arising from the commission's activities.

The commission will report its recommendations to the Governor by March 1, 2004.



ATTEST:

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson on this 1st day of October, 2003.

Bob Holden
Governor

Matt Blunt
Secretary of State