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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.state.mo.us/adrules/pubsched.asp>

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RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 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—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.



FROM THIS ANGLE ...

Updating Needed?

Has your agency reviewed your administrative rules that are published in the *Code of State Regulations* lately? Many agencies discover when reviewing the same that their rules and regulations are out-of-date! When was the last time your agency reviewed their rules? Of the approximately 10,000 pages in the *Code of State Regulations* the rulemakings of many agencies are out-of-date. Please look over your rules that are lodged in *Code* to see if you need to update the same. Remember, the rules and regulations that are published in the *Code of State Regulations* are the rules that are in effect.

Rules may have been superceded by court decision or statutory changes, and in those cases a state agency should take steps to make sure its rules accurately reflect such changes and that you notify our office of those changes so that they may be properly reflected in *Code*. This is the agency's responsibility.

Forms

This is another area where many agencies are revisiting what currently is contained in their rulemakings published in *Code*. Forms are often revised and/or amended, however, the form that currently is published in *Code* is also considered the "official" form. Many agencies have adopted the practice of referring the reader to their respective website address for the most current downloadable, fillable form, rather than making their forms a part of their rules. This is a win/win situation for the agency and the user. The agency's forms, and, therefore, their rules contain the most current content; and the user has access to the newest form and, therefore does not risk rejection of a form due to the improper version being utilized. If you need assistance with this, please contact our office.

Incorporated by Reference Material?

Do your rulemakings cite incorporated by reference material? If so, are those materials so incorporated on file in your office and in our office? By statute, we must have the incorporated by reference material on file here; and you must also retain a copy of the same in your office.

Moving rules . . . needing to move rules?

Is your agency or division being affected by legislation (either current or recently passed) that will move a division or department to another agency? Are your rules currently published in the *Code of State Regulations* reflective of this move? Do you need assistance from our staff in advising you the quickest, easiest manner for moving your rules? If so, give us a call! We meet with agencies on a regular basis to assist them in this manner.

And, finally, remember . . . to get text from us!!

If you find your rules do need revision and you are beginning to revise your rules, please call us for the text of your rules as they currently exist in the *Code of State Regulations*. We can send you an e-mail containing the electronic copy of your text. This will save you many keystrokes in revising your rulemakings! And, you will be beginning your revisions with the current published version of the rule, rather than an earlier version.

As always, please contact us if we may be of assistance to you in any way in the rulemaking process.



Lynne C. Angle
Director, Administrative Rules

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 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 5—General Program Procedures**

EMERGENCY RULE

9 CSR 10-5.220 Privacy Rule of Health Insurance Portability and Accountability Act of 1996 (HIPAA)

PURPOSE: This rule alerts providers to the possible HIPAA Privacy Rule requirements if the provider has determined that it is a covered entity as defined by HIPAA. Once that is established, this rule lists policies and procedures that the HIPAA Privacy Rule requires for each covered entity.

*EMERGENCY STATEMENT: This emergency rule requires providers who are subject to the HIPAA Privacy requirements to establish appropriate policies and procedures for implementing HIPAA regulations. An emergency rule is necessary because the federal HIPAA Privacy Rule becomes effective on April 14, 2003. For this reason the Department of Mental Health finds that the early effective date of the federal regulations related to HIPAA constitutes a compelling governmental interest, which requires an emergency rule. A proposed rule, which covers this 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 Mental Health believes this emergency rule is fair to*

all interested persons and parties under the circumstances. This emergency rule was filed on April 1, 2003, effective April 14, 2003 and expires October 14, 2003.

(1) This rule applies to all programs licensed, certified or funded by the Department of Mental Health.

(2) Definitions.

(A) HIPAA: the Health Insurance Portability and Accountability Act of 1996 (45 CFR parts 160 and 164) as it relates to Privacy.

(B) Protected Health Information (PHI): As defined by HIPAA (45 CFR section 164.501), PHI is individually identifiable health information that is—

1. Transmitted by electronic media;
2. Maintained in any medium described in the definition of electronic media; or
3. Transmitted or maintained in any other form or medium.

(C) Individually identifiable health information: As defined by HIPAA (45 CFR section 160.103), individually identifiable health information is any information, including demographic information, collected from an individual that is—

1. Created or received by a healthcare provider, health plan, employer, or healthcare clearinghouse; and
2. Related to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present, or future payment for the provision of healthcare to an individual, and which identifies the individual, or with respect to which there is reasonable basis to believe that the information can be used to identify the individual.

(D) Business associate: As defined by HIPAA (45 CFR section 160.103), a person who, on behalf of the covered entity or provider or of an organized healthcare arrangement in which the covered entity participates, but other than in the capacity of a member of the workforce of such covered entity or arrangement, performs, or assists in the performance of:

1. A function or activity involving the use or disclosure of individually identifiable health information, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and repricing; or
2. Any other function or activity regulated by this subchapter; or provides, other than in the capacity of a member of the workforce of such covered entity, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for such covered entity, or to or for an organized healthcare arrangement in which the covered entity participates, where the provision of the service involves the disclosure of individually identifiable health information from such covered entity or arrangement, or from another business associate of such covered entity or arrangement, to the person.

(3) All providers who determine that they qualify as covered entities must comply with the provisions of the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). A covered entity is defined as a healthcare provider, a health plan or a clearinghouse. The effective date of the Privacy Rule is April 14, 2003. IF this provider is a covered entity, THEN HIPAA requires the appropriate policies and procedures be in place to comply with the HIPAA Privacy Rule. HIPAA requires such policies and procedures to include, but not be limited to, the following topics: Notice of Privacy Practices, Amendment of Protected Health Information (PHI), Client Access to PHI, Accounting of Disclosures, Workforce Training, Verification, Authorization for Disclosures of PHI, HIPAA Complaint Process, Marketing (if applicable), Research (if applicable), Audit and Monitoring of HIPAA compliance, and Business Associates Agreements with those companies providing goods and

services which require the disclosure of PHI, etc. Where existing confidentiality protections provided by 42 CFR part 2, related to the release of alcohol and drug abuse records, are greater than HIPAA, then the department anticipates that the provider will consider any such provision of 42 CFR part 2 as the guiding law.

AUTHORITY: section 630.050, RSMo Supp. 2002, 45 CFR parts 160 and 164, the Health Insurance Portability and Accountability Act of 1996. Emergency rule filed April 1, 2003, effective April 14, 2003, expires Oct. 14, 2003. A proposed rule covering this same material is published in this issue of the *Missouri Register*.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 7—Core Rules for Psychiatric and Substance
Abuse Programs**

EMERGENCY AMENDMENT

9 CSR 10-7.090 Governing Authority and Program Administration. The department proposes to add a new section (6).

PURPOSE: This amendment will advise agencies subject to this rule of certain federal regulations related to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

EMERGENCY STATEMENT: This emergency amendment requires providers who are subject to the HIPAA Privacy requirements to establish appropriate policies and procedures for implementing HIPAA regulations. An emergency amendment is necessary because the federal HIPAA Privacy Rule becomes effective on April 14, 2003. For this reason the Department of Mental Health finds that the early effective date of the federal regulations related to HIPAA constitutes a compelling governmental interest, which requires an emergency amendment. A proposed amendment, which covers this 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 Mental Health believes this emergency amendment is fair to all interested persons under the circumstances. This emergency amendment was filed on April 1, 2003, effective April 14, 2003 and expires October 14, 2003.

(6) Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Regulatory Compliance. The organization must comply with other applicable requirements as set forth in 9 CSR 10-5.220.

AUTHORITY: sections 630.050 and 630.055, RSMo 2000 and 45 CFR parts 160 and 164, the Health Insurance Portability and Accountability Act of 1996. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Emergency amendment filed April 1, 2003, effective April 14, 2003, expires Oct. 14, 2003. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 3—Alcohol and Drug Abuse Programs**

EMERGENCY AMENDMENT

9 CSR 30-3.032 Certification of Alcohol and Drug Abuse Programs. The department proposes to add a new paragraph (3)(A)17.

PURPOSE: This amendment will advise agencies subject to this rule of certain federal regulations related to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

EMERGENCY STATEMENT: This emergency amendment requires providers who are subject to the HIPAA Privacy requirements to establish appropriate policies and procedures for implementing HIPAA regulations. An emergency amendment is necessary because the federal HIPAA Privacy Rule becomes effective on April 14, 2003. For this reason the Department of Mental Health finds that the early effective date of the federal regulations related to HIPAA constitutes a compelling governmental interest, which requires an emergency amendment. A proposed amendment, which covers this 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 Mental Health believes this emergency amendment is fair to all interested persons under the circumstances. This emergency amendment was filed on April 1, 2003, effective April 14, 2003 and expires October 14, 2003.

(3) Other Rules and Standards. In addition to standards for specific programs and services, the organization must comply with other applicable requirements.

(A) The following Core Rules for Psychiatric and Substance Abuse Programs must be met, unless otherwise stipulated in standards for specific programs and services:

1. 9 CSR 10-7.010 Treatment Principles and Outcomes;
2. 9 CSR 10-7.020 Rights, Responsibilities and Grievances;
3. 9 CSR 10-7.030 Service Delivery Process and Documentation;
4. 9 CSR 10-7.040 Quality Improvement;
5. 9 CSR 10-7.050 Research;
6. 9 CSR 10-7.060 Behavior Management;
7. 9 CSR 10-7.070 Medications;
8. 9 CSR 10-7.080 Dietary Services;
9. 9 CSR 10-7.090 Governing Authority and Program Administration;
10. 9 CSR 10-7.100 Fiscal Management;
11. 9 CSR 10-7.110 Personnel;
12. 9 CSR 10-7.120 Physical Plant and Safety;
13. 9 CSR 10-7.130 Procedures to Obtain Certification;
14. 9 CSR 10-7.140 Definitions;
15. 9 CSR 10-5.190 Criminal Record Review; [and]
16. 9 CSR 10-5.200 Report of Complaints of Abuse and Neglect/.; and
17. **9 CSR 10-5.220 Health Insurance Portability and Accountability Act of 1996.**

AUTHORITY: sections 302.540, RSMo Supp. 2001 and 630.050, 630.655 and 631.102, RSMo 2000. 45 CFR parts 160 and 164, the Health Insurance Portability and Accountability Act of 1996. Original rule filed Feb. 28, 2001, effective Oct. 30, 2001. Amended: Filed March 8, 2002, effective Sept. 30, 2002. Emergency amendment filed April 1, 2003, effective April 14, 2003, expires Oct. 14, 2003. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Mental Retardation and
Developmental Disabilities
Chapter 5—Standards**

EMERGENCY AMENDMENT

9 CSR 45-5.060 Procedures to Obtain Certification. The department proposes to add a new section (14).

PURPOSE: This amendment will advise agencies subject to this rule of certain federal regulations related to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

EMERGENCY STATEMENT: This emergency amendment requires providers who are subject to the HIPAA Privacy requirements to establish appropriate policies and procedures for implementing HIPAA regulations. An emergency amendment is necessary because the federal HIPAA Privacy Rule becomes effective on April 14, 2003. For this reason the Department of Mental Health finds that the early effective date of the federal regulations related to HIPAA constitutes a compelling governmental interest, which requires an emergency amendment. A proposed amendment, which covers this 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 Mental Health believes this emergency amendment is fair to all interested persons under the circumstances. This emergency amendment was filed on April 1, 2003, effective April 14, 2003 and expires October 14, 2003.

(14) The organization must comply with other applicable requirements as set forth in 9 CSR 10-5.220 Privacy Rule of Health Insurance Portability and Accountability Act of 1996 (HIPAA).

AUTHORITY: sections 630.050 and 630.655, RSMo 2000. 45 CFR parts 160 and 164, the Health Insurance Portability and Accountability Act of 1996. Emergency rule filed Feb. 13, 2002, effective March 1, 2002, expired Aug. 27, 2002. Original rule filed Feb. 13, 2002, effective Aug. 30, 2002. Emergency amendment filed April 1, 2003, effective April 14, 2003, expires Oct. 14, 2003. 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 40—Comprehensive Emergency Medical Services Systems Regulations

EMERGENCY AMENDMENT

19 CSR 30-40.309 Application and Licensure Requirements Standards for the Licensure and Relicensure of Ground Ambulance Services. The department is amending by adding a new section (13).

PURPOSE: This amendment sets forth the process for an existing ambulance service licensee to reduce their primary service area.

EMERGENCY STATEMENT: Since 1973 the Missouri Department of Health and Senior Services has had statutory authority and responsibility to license and regulate emergency medical services. In 1998 the Missouri General Assembly passed Conference Committee Substitute for House Substitute for Senate Bill No. 743. This legislation embodies major revisions and additions to the Department of Health and Senior Service's authority effective August 28, 1998. These revisions and additions included removal of the Department's authority to license individual ambulance vehicles and mandates licensure and regulation of ambulance services, emergency medical response agencies and EMS training entities. On August 28, 1998, the prior law was rescinded and the associated regulations governing emergency medical services became obsolete. New regulations governing emergency medical services by the Department of Health and Senior Services were necessary to assure patient safety and were promul-

gated under the new legislation. The new regulations did not address how the department would proceed with allowing an existing ambulance service to discontinue providing ambulance service to an area that the ambulance service had been licensed to operate within as the sole ambulance provider. In past years, the trend was for ambulance service providers to expand their service areas. However, as the economic environment changes, some services have reevaluated this strategy and have decided to reduce their service areas. To allow an ambulance service to discontinue service to a specific area without notice, or finding another licensed provider to provide service to the area, would create a potential to have certain areas of Missouri without emergency medical services. In the past two (2) years there have been three (3) instances in which ambulance services have requested to discontinue service to a particular portion of their primary service area. These areas have been in rural parts of Missouri. A loss of ambulance service in these areas would cause great delays or a lack of service all together leaving those that are ill or injured without help. There is no provision for decreasing the primary service area currently, yet still maintaining some responsibility to assure continued service is available and there is the possibility that portions of Missouri would be left without ambulance service coverage.

As a result, it is the finding of the department that this emergency regulation is necessary for the appropriate regulation and licensing of emergency medical services. The Missouri Department of Health and Senior Services find an immediate danger to the public health, safety and welfare and a compelling governmental interest to be preserved which requires emergency action to set an early effective date for the required new regulations governing emergency medical services.

In light of the necessity for appropriate departmental regulations and licensing governing emergency medical services on an ongoing and uninterrupted basis, there is a compelling governmental interest to enact these rules through emergency rulemaking.

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 regulation to be fair to all interested persons and parties under the circumstances. This emergency amendment was filed March 31, 2003, effective April 14, 2003 and expires October 11, 2003.

(13) An existing ambulance service licensee may apply for and be granted by Bureau of EMS a reduction in their primary service area if they meet the following requirements:

(A) Submit a completed application for licensure, requesting a reduction of their ambulance service area and include a detailed description of the affected area that will no longer be included in their primary service area; and

(B) Provide written documentation of an agreement with another licensed ambulance service, stating the service has agreed to provide ambulance service to the vacated service area through an expansion of their services, by either contract or mutual aid agreement or provide public notice to residents of the affected area.

1. Public notice to residents of the affected area includes:

A. Publishing notice in a newspaper of the largest general circulation, that is published in the county in the area affected by the decision to withdraw ambulance coverage, a minimum of one (1) year in advance of the proposed date of discontinuation of ambulance services. A completed affidavit of publication and an original clipping of published notice must accompany the application for licensure; and

B. Providing written notice to the county commission of any county that as a whole or in part, will be affected by the discontinuation of services, a minimum of one (1) year in advance of the proposed date of discontinuation of ambulance services.

*AUTHORITY: sections 190.103, 190.105, 109.107, 190.109, 190.120, 190.160, 190.165, 190.175, 190.176, RSMo Supp. 2001 and 190.185, 190.190, RSMo [Supp. 1998] 2000. Emergency rule filed Aug. 28, 1998, effective Sept. 7, 1998, expired March 5, 1999. Original rule filed Sept. 1, 1998, effective Feb. 28, 1999. Emergency amendment filed March 31, 2003, effective April 14, 2003, expires Oct. 11, 2003. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*