Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

PROPOSED RULE

19 CSR 30-86.043 Administrative, Personnel and Resident Care Requirements for Facilities Licensed as a Residential Care Facility II on August 27, 2006 that Will Comply with Residential Care Facility II Standards

PURPOSE: This rule establishes requirements for administration, personnel and resident care requirements for facilities licensed pursuant to section 198.005, RSMo that continue to comply with residential care facilities (RCF) II standards in effect on August 27, 2006.

EDITOR'S NOTE: All rules relating to long-term care facilities licensed by the department are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.

(1) This rule contains the administrative, personnel and resident care standards in effect on August 27, 2006 for residential care facility IIs (formerly published at 19 CSR 30-86.042 (effective 12/31/05)). These standards apply to facilities that were licensed as residential care facility IIs on August 27, 2006 and that choose to be inspected under these standards rather than the standards published at 19 CSR 30-86.047.

(2) A person shall be designated to be administrator who is currently licensed as a nursing home administrator under Chapter 344, RSMo. II

(3) By January 1, 1991, the administrator of a facility shall have successfully completed the state approved Level I Medication Aide course unless s/he is a physician, pharmacist, licensed nurse or a certified medication technician, or if the facility is operating in conjunction with a skilled nursing facility or intermediate care facility on the same premises, or if the facility employs on a full-time basis, a licensed nurse who is available seven (7) days per week. II/III

(4) The operator shall be responsible to assure compliance with all applicable laws and regulations. The administrator shall be fully authorized and empowered to make decisions regarding the operation of the facility and shall be held responsible for the actions of all employees. The administrator's responsibilities shall include oversight of residents to assure that they receive appropriate care. II/III

(5) The administrator shall devote sufficient time and attention to the management of the facility as is necessary for the health, safety and welfare of the residents. II

(6) The administrator cannot be listed or function in more than one (1) facility at the same time unless s/he serves no more than four (4) facilities which are within a thirty (30)-mile radius and licensed to serve in total no more than one hundred (100) residents. However, one (1) administrator may serve as the administrator of more than one (1) licensed facility if all facilities are on the same premises. II/III

(7) The administrator shall designate, in writing, a staff person in charge in his/her absence. If the administrator is absent for more than thirty (30) consecutive days, during which time s/he is not readily accessible for consultation by telephone with the person in charge or if the administrator is absent from the facility for more than sixty (60) working days during the course of a calendar year the person designated to be in charge shall be a licensed nursing home administrator. II/III

(8) The facility shall not care for more residents than the number for which the facility is licensed. II/III

(9) The facility's current license shall be posted in a conspicuous place and notices provided to the facility by the Department of Health and Senior Services (the department) granting exception(s) to regulatory requirements shall be posted alongside of the facility's license. III

(10) All personnel responsible for resident care shall have access to the legal name of each resident, name and telephone number of physician and next of kin or responsible party in the event of emergency. II/III

(11) All persons who have any contact with the residents in the facility shall not knowingly act or omit any duty in a manner which would materially and adversely affect the health, safety, welfare or property of residents. No person who is listed on the Employee Disqualification List maintained by the department as required by section 198.070, RSMo shall work or volunteer in the facility in any capacity whether or not employed by the operator. I/II

(12) Effective August 28, 1997, each facility shall, not later than two (2) working days of the date an applicant for a position to have contact with residents is hired, request a criminal background check, as provided in sections 43.530, 43.540 and 610.120, RSMo. Each facility must maintain in its record documents verifying that the background checks were requested and the nature of the response received for each such request. The facility must ensure that any applicant who discloses prior to the check of his/her criminal records that he/she has been convicted of, plead guilty or *nolo contendere* to, or has been found guilty of any Class A or B felony violation of Chapter 565, 566, or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or of section 568.020, RSMo, will not be allowed to work in contact with patients or residents until and unless a check of the applicant's criminal record shows that no such conviction occurred. II/III

(13) The facility must develop and implement written policies and procedures which require that persons hired for any position which is to have contact with any patient or resident have been informed of their responsibility to disclose their prior criminal history to the facility as required by section 660.317.5, RSMo. The facility must also develop and implement policies and procedures which ensure that the facility does not knowingly hire, after August 28, 1997, any person who has or may have contact with a patient or resident, who has been convicted of, plead guilty or *nolo contendere* to, in this state or any other state, or has been found guilty of any Class A or B felony violation of Chapter 565, 566 or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or of section 568.020, RSMo. II/III

(14) All persons who have or may have contact with residents shall at all times when on duty or delivering services wear an identification badge. The badge shall give their name, title and, if applicable, the status of their license or certification as any kind of health care professional. This rule shall apply to all personnel who provide services to any resident directly or indirectly. III

(15) All personnel shall be able physically and emotionally to work in a long-term care facility. I/II

(16) Personnel who have been diagnosed with a communicable disease may begin work or return to duty only with written approval by

a physician or physician's designee which indicates any limitations. II

(17) The administrator shall be responsible for monitoring the health of the employees. II/III

(18) Prior to or on the first day that a new employee works in the facility s/he shall receive orientation of at least one (1) hour appropriate to his/her job function. This shall include, at a minimum, job responsibilities, how to handle emergency situations, the importance of infection control and handwashing, confidentiality of resident information, preservation of resident dignity, how to report abuse/neglect to the department (1-800-392-0210), information regarding the Employee Disqualification List and instruction regarding the rights of residents and protection of property. II/III

(19) The administrator shall maintain on the premises an individual personnel record on each employee of the facility which shall include: the employee's name and address; Social Security number; date of birth; date of employment; experience and education including documentation of specialized training on medication and/or insulin administration, or both; references, if available; the results of background checks required by section 660.317, RSMo; position in the facility; written statement signed by a licensed physician or physician's designee indicating the person can work in a long-term care facility and indicating any limitations; record that the employee was instructed on residents' rights, facility's policies, job duties and any other orientation and reason for termination. Personnel records shall be maintained for at least one (1) year following termination of employment. III

(20) There shall be written documentation maintained in the facility showing actual hours worked by each employee. III

(21) No one individual shall be on duty with responsibility for oversight of residents longer than eighteen (18) hours per day. I/II

(22) Employees who are counted in meeting the minimum staffing ratio and employees who provide direct care to the residents shall be at least sixteen (16) years of age. III

(23) One (1) employee at least eighteen (18) years of age shall be on duty at all times. I/II

(24) Staffing.

(A) The facility shall have an adequate number and type of personnel for the proper care of residents and upkeep of the facility. At a minimum, the staffing pattern for fire safety and care of residents shall be one (1) staff person for every fifteen (15) residents or major fraction of fifteen (15) during the day shift, one (1) person for every twenty (20) residents or major fraction of twenty (20) during the evening shift and one (1) person for every twenty-five (25) residents or major fraction of twenty-five (25) during the night shift. I/II

Time	Personnel	Residents
7 a.m. to 3 p.m. (Day)*	1	3–15
3 p.m. to 9 p.m. (Evening)*	1	3–20
9 p.m. to 7 a.m. (Night)*	1	3–25

*If the shift hours vary from those indicated, the hours of the shifts shall show on the work schedules of the facility and shall not be less than six (6) hours. III

(B) The required staff shall be in the facility awake, dressed and prepared to assist residents in case of emergency. I/II

(C) In a facility of more than one hundred (100) residents, the administrator shall not be counted when determining the personnel required. II

(D) If assisted living facility is operated in conjunction with and is immediately adjacent to and contiguous to another licensed long-term care facility and if the resident bedrooms of the facility are on the same floor as at least a portion of a licensed intermediate care or skilled nursing facility; there is an approved call system in each resident's bedroom and bathroom or a patient-controlled call system; and there is a complete fire alarm system in the facility tied into the complete fire alarm system in the other licensed facility, then the following minimum staffing for oversight and care of residents, for upkeep of the facility and for fire safety shall be one (1) staff person for every eighteen (18) residents or major fraction of residents during the day shift, one (1) person for every twenty-five (25) residents or major fraction of residents during the evening shift and one (1) person for every thirty (30) residents or major fraction of residents during the night shift. I/II

Time	Personnel	Residents
7 a.m. to 3 p.m. (Day)*	1	3–18
3 p.m. to 9 p.m. (Evening)*	1	3–25
9 p.m. to 7 a.m. (Night)*	1	3–30

*If the shift hours vary from those indicated, the hours of the shifts shall show on the work schedules of the facility and shall not be less than six (6) hours. III

(E) There shall be a licensed nurse employed by the facility to work at least eight (8) hours per week at the facility for every thirty (30) residents or additional major fraction of thirty (30). The nurse's duties shall include, but shall not be limited to, review of residents' charts, medications and special diets or other orders, review of each resident's adjustment to the facility and observation of each individual resident's general physical and mental condition. The nurse shall inform the administrator of any problems noted and these shall be brought to the attention of the resident's physician. II/III

(25) All residents shall be physically and mentally capable of negotiating a normal path to safety unassisted or with the use of assistive devices. I/II

(26) Residents suffering from short periods of incapacity due to illness, injury or recuperation from surgery may be allowed to remain or be readmitted from a hospital if the period of incapacity does not exceed forty-five (45) days and written approval of a physician is obtained for the resident to remain in or be readmitted to the facility. II/III

(27) The facility shall not admit or continue to care for residents whose needs cannot be met. If necessary services cannot be obtained in or by the facility, the resident shall be promptly referred to appropriate outside resources or transferred to a facility providing the appropriate level of care. I/II

(28) In the event a resident is transferred from the facility, a report of the resident's current medical status shall accompany him/her. III

(29) Residents admitted to a facility on referral by the Department of Mental Health shall have an individual treatment plan or individual habilitation plan on file prepared by the Department of Mental Health, updated annually. III

(30) Residents under sixteen (16) years of age shall not be admitted. III

(31) Placement of residents in the building shall be determined by their abilities. Those residents who require the use of a walker or who are blind shall be housed on a floor which has direct exits at grade, a ramp or no more than two (2) steps to grade with a handrail. Those residents who use a wheelchair shall be able to demonstrate the ability to transfer to and from the wheelchair unassisted. They shall be housed near an exit and there shall be a direct exit at grade or a ramp. II

(32) Residents admitted or readmitted to the facility shall have an admission physical examination by a licensed physician. Documentation should be obtained prior to admission but shall be on file not later than ten (10) days after admission and shall contain information regarding the resident's current medical status and any special orders or procedures which should be followed. If the resident is admitted directly from a hospital or another long-term care facility and is accompanied on admission by a report which reflects his/her current medical status, an admission physical will not be required. II/III

(33) If at any time a resident or prospective resident is diagnosed with a communicable disease, the department shall be notified within seven (7) days and if the facility can meet the resident's needs, the resident may be admitted or does not need to be transferred. Appropriate infection control procedures shall be followed if the resident remains in or is accepted by the facility. I/II

(34) 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 inquire of the resident or resident's guardian of the resident's departure, of the resident's estimated length of absence from the facility, and of the resident's whereabouts while on voluntary leave. I/II

(35) Residents shall receive proper care to meet their needs. Physician orders shall be followed. I/II

(36) In case of serious illness, accident or death, appropriate action shall be taken and the person designated in the resident's record as the responsible party and, if applicable, the guardian shall be immediately notified. II/III

(37) Every resident shall be clean, dry and free of offensive body and mouth odor. I/II

(38) Except in the case of emergency, the resident shall not be inhibited by chemical and/or physical restraints that would limit self-care or ability to negotiate a path to safety unassisted or with assistive devices. I/II

(39) A supply of clean linen shall be available in the facility and provided to residents to meet their daily needs. II/III

(40) Beds shall be made daily and linen changed at least weekly or more often if needed to maintain a clean, dry bed. II/III

(41) The resident's unit shall be thoroughly cleaned and disinfected following a resident's death, discharge or transfer. II/III

(42) Commodes and urinals, if used, shall be kept at the bedside of the residents. They shall not be left open and the container shall be emptied promptly and thoroughly cleaned after each use. III

(43) Cuspidors shall be emptied and cleaned daily or disposable cartons shall be provided daily. III

(44) Self-control of prescription medication by a resident may be allowed only if approved in writing by the resident's physician and allowed by facility policy. If a resident is not taking any prescription medication, the resident may be permitted to control the storage and use of nonprescription medication unless there is a physician's written order or facility policy to the contrary. If not permitted, all medications for that resident, including over-the-counter medications, shall be controlled by the administrator unless the physician specifies otherwise. II/III

(45) Written approval for self-control of prescription medication shall be rewritten as needed but at least annually and after any period of hospitalization. III

(46) All medication shall be safely stored at proper temperature and shall be kept in a secured location behind at least one (1) locked door or cabinet. If access is controlled by the resident, a secured location shall mean in a locked container, a locked drawer in a bedside table or dresser or in a resident's private room if locked in his/her absence, although this does not preclude access by a responsible employee of the facility. II/III

(47) All prescription medications shall be supplied as individual prescriptions. All medications, including over-the-counter medications shall be packaged and labeled in accordance with applicable professional pharmacy standards, state and federal drug laws and regulations and the *United States Pharmacopeia (USP)*. Labeling shall include accessory and cautionary instructions as well as the expiration date, when applicable, and the name of the medication as specified in the physician's order. Over-the-counter medications for individual residents shall be labeled with at least the resident's name. II/III

(48) Injections shall be administered only by a physician or licensed nurse, except that residents who require insulin, upon written order of their physician, may administer their own insulin or the insulin may be administered by a person trained to do so by a licensed nurse or physician and the resident's condition shall be monitored by his/her physician. After December 31, 1990, unless insulin is self-administered or it is administered only by a physician or licensed nurse, it shall be administered by a certified medication technician or a level I medication aide who has successfully completed the state-approved course for insulin administration, taught by an approved instructor and who was recommended for training by an administrator or nurse with whom he or she works. Anyone trained prior to December 31, 1990, who completed the state-approved insulin administration course taught by an approved instructor shall be considered qualified to administer insulin in a facility. Anyone trained prior to December 31, 1990, to administer insulin by a licensed nurse or physician not using the state-approved course may qualify by challenging the final examination of the insulin administration course. I/II

(49) The administrator shall develop and implement a safe and effective system of medication control and use which assures that all residents' medications are administered or distributed by personnel at least eighteen (18) years of age, in accordance with physicians' instructions using acceptable nursing techniques. Until January 1, 1991, those facilities administering medications shall utilize personnel trained in medication administration (a licensed nurse, certified medication technician or level I medication aide) and shall employ a licensed nurse eight (8) hours per week for every thirty (30) residents to monitor each resident's condition. Distribution shall mean delivering to a resident his/her prescription medication either in the original pharmacy container, or for internal medication, removing an individual dose from the pharmacy container and placing it in a small container or liquid medium for the resident to remove from the container and self-administer. External prescription medication may be applied by facility personnel if the resident is unable to do so and the resident's physician so authorizes. After December 31, 1990, all persons who administer or distribute medication shall be trained in medication administration and, if not a physician or a licensed nurse,

shall be a certified medication technician or level I medication aide. I/II

(50) Medication Orders.

(A) Physician's instructions, as evidenced by the prescription label or by signed order of a physician, shall be accurately followed. If the physician changes the order which is designated on a prescription label, there shall be on file in the resident's record a signed physician's order to that effect with the amended instructions for use or until the prescription label is changed by the pharmacy to reflect the new order. II/III

(B) Physician's written and signed orders are not required, but if it is the facility's or physician's policy to use the orders, they shall include: name of medication, dosage and frequency of administration and the orders shall be renewed at least every three (3) months. II/III

(C) Verbal and telephone orders shall be taken only to a licensed nurse, medication technician, level I medication aide or pharmacist and shall be immediately reduced to writing and signed by that individual. If a telephone order is given to a medication technician or level I medication aide, an initial dosage of a new prescription shall not be initiated until the order has been reviewed by telephone or in person by a licensed nurse or pharmacist. II

(D) The review shall be documented by the nurse's or pharmacist's signature within seven (7) days. III

(E) The physician shall sign all verbal and telephone orders within seven (7) days. III

(F) The administration or distribution of medication shall be recorded on a medication sheet or directly in the resident's record and, if recorded on a medication sheet, shall be made part of the resident's record. The administration or distribution shall be recorded by the same person who prepares the medication and who distributes or administers it. II/III

(51) A stock supply of prescription medication may be kept in the facility. An emergency drug supply as recommended by a pharmacist or physician may be kept if approved by the department. Storage and use of medications in the emergency drug supply shall assure accountability. II/III

(52) Stock supplies of nonprescription medication may be kept for *pro re nata* (PRN) use in facilities as long as the particular medications are approved in writing by a consulting physician, a registered nurse or a pharmacist. II/III

(53) All controlled substances shall be handled according to state laws and regulations as given in and required by 19 CSR 30-1 and Chapter 195, RSMo. II/III

(54) A pharmacist or registered nurse shall review the drug regimen of each resident. This shall be done at least every other month in a facility. The review shall be performed in the facility and shall include, but shall not be limited to, possible drug and food interactions, contraindications, adverse reactions and a review of the medication system utilized by the facility. Irregularities and concerns shall be reported in writing to the resident's physician and to the administrator. If after thirty (30) days, there is no action taken by a resident's physician and significant concerns continue regarding a resident's or residents' medication order(s), the administrator shall contact or recontact the physician to determine if he or she received the information and if there are any new instructions. II/III

(55) Medications controlled by the facility shall be disposed of either by destroying, returning to the pharmacy or sending with residents on discharge. The following shall be destroyed within the facility within ninety (90) days: discontinued medication not returnable to the pharmacy, all discontinued controlled substances, outdated or deteriorated medication, medication of expired residents not returnable to the pharmacy and medications not sent with the resident on discharge. II/III

(56) Disposition of medication controlled by the facility shall be recorded listing the resident's name, the date and the name, strength and quantity of the drug and the signature(s) of the person(s) involved. Medication destruction shall involve two (2) persons, one (1) of whom shall be a pharmacist, a nurse or a state inspector. III

(57) Residents shall be encouraged to be active and to participate in activities. In a facility licensed for more than twelve (12) residents, a method for informing the residents in advance of what activities are available, where they will be held and at what times they will be held shall be developed, maintained and used. II/III

(58) A record shall be maintained in the facility for each resident which shall include:

(A) Admission information including the resident's name; admission date; confidentiality number; previous address; birth date; sex; marital status; Social Security number; Medicare and Medicaid number; name, address and telephone number of physician and alternate; name, address and telephone number of resident's next of kin, legal guardian, designee or person to be notified in case of emergency; and preferred dentist, pharmacist and funeral director; and III

(B) A resident's record, including a review monthly or more frequently, if indicated, of the resident's general condition and needs; a monthly review of medication consumption of any resident controlling his/her own medication, noting if prescription medications are being used in appropriate quantities; a daily record of distribution or administration of medication; any physician's orders; a logging of the drug regimen review process; a monthly weight; a record of each referral of a resident for services from an outside service; and a record of any patient incidents and accidents involving the resident. III

(59) A record of the resident census as well as records regarding discharge, transfer or death of residents shall be kept in the facility. III

(60) Resident records shall be maintained by the operator for at least five (5) years after the resident leaves the facility or after the resident reaches the age of twenty-one (21), whichever is longer. III

AUTHORITY: sections 198.005, 198.006 and 198.073, (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) 198.076, RSMo 2000. Original rule filed Aug. 23, 2006.

PUBLIC COST: This proposed rule will cost participating residential care facilities II operated by nursing home districts a total annual cost in the aggregate of four hundred fourteen thousand, eight hundred ninety-five dollars ($414,895).

PRIVATE COST: This proposed rule will cost residential care facilities II a total annual cost in the aggregate of $11,749,414.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty(30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	19 CSR 30-86.043 Administrative, Personnel and Resident Care Requirements for Facilities Licensed as a Residential Care Facility II on August 27, 2006 that will comply with Residential Care Facility II Standards
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected agency or political subdivision:	Estimated Cost of Compliance in the Aggregate
4 Facilities formerly Licensed as Residential Care Facility IIs Operated by Nursing Home Districts	Total Yearly Cost in the Aggregate ** $414,895

III and IV. WORKSHEET AND ASSUMPTIONS

CCS HCS SCS SB 616, (93rd General Assembly, Second Regular Session (2006)) provides that long-term care facilities licensed prior to August 28, 2006 as residential care facility II may continue to meet state laws and regulations in effect on August 27, 2006 for residential care facility IIs. The proposed rule 19 CSR 30-86.043 includes standards that were applicable to residential care facility IIs on August 27, 2006 that will continue to be applicable to facilities choosing to comply with residential care facility II standards in effect on August 27, 2006.

According to DHSS licensure records, there are currently 15 residential care facility IIs operated by nursing home districts. Based on comments received from the long term care industry, DHSS estimates 30% of these facilities will choose to comply with this proposed rule (15 facilities x .30 percentage of facilities choosing to comply with this proposed rule). All costs are based on this percentage (4 facilities). These four facilities represent 1% of the total number of licensed residential care facility IIs (4 facilities / 365 total facilities).

Administrator Costs - This proposed rule requires facility administrators to devote sufficient time and attention to the management of the facility. They are not required to be employed full time. This provision is the same as in existing rule as of August 27, 2006 (19 CSR 30-86.042). The number of hours of employment will depend on the size of the facility and the acuity level of residents. For purposes of this calculation, DHSS divided full-time employment (40 hours) by two. According to a study of administrator salaries conducted in 2000 by Keller & Company, LLC, the average salary of a full-time licensed nursing home administrator was $48,324. To reach a current salary of $53,156, this amount has been increased by 10% to account for increases in salary the past six years ($48,324 x 1.1 = $53,156). DHSS has added an additional amount for fringe benefits which is based on current fringe benefit rates for state employees.* DHSS estimates yearly costs for facilities in the aggregate to be $151,037 ($53,156 x .4207 fringe rate) + ($53,156) / (2 for half-time

employment) x (4 facilities). Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

Drug Regimen Review – This proposed rule requires facilities to contract with either a registered nurse or pharmacist to conduct resident drug regimen reviews. This review must be conducted every other month. Based on Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a registered nurse I is $35,076, DHSS estimates it will take one eight-hour workday to complete the reviews. DHSS estimates the total yearly cost for facilities in the aggregate to be $4,025 ($35,076 x .4207 fringe rate) + ($35,076) / (2080 hours in a work year) x (7 hours) x (6 times per year) x (4 facilities). Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

Staffing – This proposed rule requires facilities to have an adequate number an type of personnel for the proper care of residents and upkeep of the facility. The remaining requirements in this proposed rule other than training relate to tasks of staff employed by a facility. Facilities must have an employee with the qualifications to administer medications on duty at all times, therefore DHSS' estimate is based on the salary of a Level 1 Medication Aide. The proposed rule does not dictate the qualifications for the remaining staff, therefore facilities may use the following formula revised with their own figures to determine the cost to their facility. Based on staffing rations in the proposed rule, facilities will be required to employ 11 employees (day shift = 10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .01 percentage of facilities choosing to comply) / (22***) + (evening shift = 10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .01 percentage of facilities choosing to comply) / (30***) + (night shift = 10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .01 percentage of facilities choosing to comply) / (37***). DHSS estimates current yearly costs for facilities in the aggregate to be $245,636 ($15,718 x .4207 fringe rate) + (15,718) x (11 total employees). Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

In addition to the above requirements, this proposed rule requires facilities to employ a licensed nurse a minimum of eight hours per week for every 45 residents. Licensed nurse hours increase as the facility census increases. DHSS estimates 2 licensed nurses will be required to work eight hours per week (10,194 current census in residential care facility IIs according to DHSS monthly reports x .01 percentage of facilities choosing to comply) / (45****). Based on the Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a licenses practical nurse I is $24,984. DHSS estimates the total yearly cost for facilities in the aggregate to be $14,197 ($24,982 x .4207 fringe rate) + ($24,982) / (2080 hours in a work year) x (8 hours) x (52 weeks per year) x (2 LPNs). Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

*The state of Missouri fringe benefit rate for fiscal year 2007 is 42.07 percent which includes retirement contribution, medical insurance, basic life insurance, long-term disability and

Missouri deferred compensation. This rate was used throughout the fiscal note. Facilities can use this formula revised with their own figures to determine the cost to their facility.

** At an August 7,2006 public meeting, various members of the long term care industry verbally reported various estimated costs for specific requirements, but did not elaborate how they reached these conclusions.

*** Number of residents requiring one staff person.

**** Number of residents requiring one licensed nurse.

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	19 CSR 30-86.043 Administrative, Personnel and Resident Care Requirements for Facilities Licensed as a Residential Care Facility II on August 27, 2006 that will comply with Residential Care Facility II Standards
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed 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:
106	Facilities Licensed as Residential Care Facility II on August 27, 2006	Total Yearly Cost in the Aggregate $11,749,414**

III and IV. WORKSHEET AND ASSUMPTIONS

CCS HCS SCS SB 616, (93rd General Assembly, Second Regular Session (2006)) provides that long-term care facilities licensed prior to August 28, 2006 as residential care facility II may continue to meet state laws and regulations in effect on August 27, 2006 for residential care facility IIs. The proposed rule 19 CSR 30-86.043 includes standards that were applicable to residential care facility IIs on August 27, 2006 that will continue to be applicable to facilities choosing to comply with residential care facility II standards in effect on August 27, 2006.

There are currently 365 licensed residential care facility IIs. Fifteen of these residential care facility IIs are public nursing home districts. The fiscal impact to these facilities is described in the public entity fiscal note for this proposed rule. Based on comments received from the long term care industry, DHSS estimates 30% of the 365 total existing residential care facility IIs will choose to comply with this proposed rule (365 x .30 = 110). This number is reduced by 4 facilities to account for existing residential care facility IIs operated by nursing home districts (15 residential care facility IIs operated by nursing home districts x .30 percentage of residential care facility IIs operated by nursing home districts choosing to comply with this rule). All costs for this proposed rule are based on this number (104 facilities).

Administrator Costs - This proposed rule requires facility administrators to devote sufficient time and attention to the management of the facility. They are not required to be employed full time. This provision is the same as in existing rule as of August 27, 2006 (19 CSR 30-86.042). The number of hours of employment will depend on the size of the facility and the acuity level of residents. For purposes of this calculation, DHSS divided full-time employment (40 hours) by two. According to a study of administrator salaries conducted in 2000 by Keller & Company, LLC, the average salary of a full-time licensed nursing home

administrator was $48,324. To reach a current salary of $53,156, this amount has been increased by 10% to account for increases in salary the past six years ($48,324 x 1.1 = $53,156). DHSS has added an additional amount for fringe benefits which is based on current fringe benefit rates for state employees.* DHSS estimates yearly costs for facilities in the aggregate to be $3,926,974 ($53,156 x .4207 fringe rate) + ($53,156) / (2 for half-time employment) x (104 facilities). Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

Drug Regimen Review – This proposed rule requires facilities to contract with either a registered nurse or pharmacist to conduct resident drug regimen reviews. This review must be conducted every other month. Based on Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a registered nurse I is $35,076, DHSS estimates it will take one eight-hour workday to complete the reviews. DHSS estimates the total yearly cost for facilities in the aggregate to be $104,648 ($35,076 x .4207 fringe rate) + ($35,076) / (2080 hours in a work year) x (7 hours) x (6 times per year) x (104 facilities). Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

Staffing – This proposed rule requires facilities to have an adequate number an type of personnel for the proper care of residents and upkeep of the facility. The remaining requirements in this proposed rule other than training relate to tasks of staff employed by a facility. Facilities must have an employee with the qualifications to administer medications on duty at all times, therefore DHSS' estimate is based on the salary of a Level 1 Medication Aide. The proposed rule does not dictate the qualifications for the remaining staff, therefore facilities may use the following formula revised with their own figures to determine the cost to their facility. Based on staffing rations in the proposed rule, facilities will be required to employ 324 employees (day shift = 10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .30 percentage of facilities choosing to comply) / (22***) + (evening shift = 10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .30 percentage of facilities choosing to comply) / (30***) + (night shift = 10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .30 percentage of facilities choosing to comply) / (37***). DHSS estimates current yearly costs for facilities in the aggregate to be $7,235,102 ($15,718 x .4207 fringe rate) + (15,718) x (324 total employees). Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

In addition to the above requirements, this proposed rule requires facilities to employ a licensed nurse a minimum of eight hours per week for every 45 residents. Licensed nurse hours increase as the facility census increases. DHSS estimates 68 licensed nurses will be required to work eight hours per week (10,194 current census in residential care facility IIs according to DHSS monthly reports x .30 percentage of facilities choosing to comply) / (45****). Based on the Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a licenses practical nurse I is $24,984. DHSS estimates the total yearly cost for facilities in the aggregate to be $482,690 ($24,982 x .4207 fringe rate) + ($24,982) / (2080 hours in a

work year) x (8 hours) x (52 weeks per year) x (68 LPNs). Note: this requirement currently exists under 19 CSR 30-86.042 for residential care facility IIs.

*The state of Missouri fringe benefit rate for fiscal year 2007 is 42.07 percent which includes retirement contribution, medical insurance, basic life insurance, long-term disability and Missouri deferred compensation. This rate was used throughout the fiscal note. Facilities can use this formula revised with their own figures to determine the cost to their facility.

** At an August 7,2006 public meeting, various members of the long term care industry verbally reported various estimated costs for specific requirements, but did not elaborate how they reached these conclusions.

*** Number of residents requiring one staff person.

**** Number of residents requiring one licensed nurse.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities *[I and II]* ***and Assisted Living Facilities***

PROPOSED AMENDMENT

19 CSR 30-86.045 Standards and Requirements for *[Residential Care Facilities II]* ***Assisted Living Facilities*** **Which Provide Services to Residents with** *[Alzheimer's Disease or Other Dementia]* ***a Physical, Cognitive, or Other Impairment that Prevents the Individual from Safely Evacuating the Facility with Minimal Assistance***. The department is adding section (1); amending the title, sections (1), (2) and (3); deleting sections (4), (5), (6) and (7); and renumbering throughout.

PURPOSE: This amendment deletes the term residential care facility II used in this rule and replaces the term "residential care facility II" with "assisted living facility"; establishes the additional standards for assisted living facilities that admit or retain individuals having a physical, cognitive or other impairment that prevents the individual from safely evacuating the facility with minimal assistance; defines the terms "area of refuge," "evacuating the facility," "indiviualized evacuation plan," "minimal assistance," "resident" and "smoke section"; and changes the name of the agency throughout the rule due to the transfer of the Division of Aging from the Department of Social Services to the Department of Health and Senior Services effective August 28, 2001.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

EDITOR'S NOTE: All rules relating to long-term care facilities licensed by the [Division of Aging] ***department*** *are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.*

(1) This rule contains the additional standards for those assisted living facilities licensed pursuant to sections 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and complying with sections 198.073.4 and 198.073.6, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and 19 CSR 30-86.047 that choose to admit or continue to care for any individual having a physical, cognitive or other impairment that prevents the individual from safely evacuating the facility with minimal assistance.

[(1)] **(2)** Definitions. For the purposes of this rule, the following definitions shall apply:

[(A) Activities of daily living (ADLs) mean a resident's ability to eat, bathe, toilet, dress, transfer and ambulate.].

[(B) Chemical restraint means a psychopharmacologic drug that is used for discipline or convenience and is not required to treat medical symptoms.]

[(C) Convenience means any action taken by the facility to control resident behavior or maintain residents with a lesser amount of effort by the facility and not in the resident's best interests.

(D) Discipline means any action taken by the facility for the purpose of punishing or penalizing residents.

(E) Individual service plan means the planning document which outlines and describes the services to be provided and the outcomes expected in order to meet the resident's needs.

(F) Licensed professional means any of the following:

1. Physician, as defined in and licensed under the provisions of Chapter 334, RSMo;

2. Nurse, as defined in and licensed under the provisions of Chapter 335, RSMo;

3. Psychologist, as defined in and licensed under the provisions of Chapter 337, RSMo;

4. Professional counselor, as defined in and licensed under the provisions of Chapter 337, RSMo; and

5. Clinical social worker, as defined in and licensed under the provisions of Chapter 337, RSMo.

(G) Physical restraint means any physically applied method, or mechanical device which the resident cannot easily remove, that restricts the free movement or normal functioning of any portion of the resident's body, or the resident's normal access to common areas and his or her personal spaces.

(H) Resident, only for the purpose of this rule, means an individual who is mentally incapable of negotiating a pathway to safety due to Alzheimer's disease or other dementia who is admitted to or continues to be cared for in the facility under the provisions of this rule.

(I) Significant change means any change in the resident's physical, emotional or psychosocial condition or behavior that would require an adjustment or modification in the resident's treatment or services.]

(A) Area of refuge—A space located in or immediately adjacent to a path of travel leading to an exit that is protected from the effects of fire, either by means of separation from other spaces in the same building or its location, permitting a delay in evacuation. An area of refuge may be temporarily used as a staging area that provides some relative safety to its occupants while potential emergencies are assessed, decisions are made, and evacuation has begun;

(B) Evacuating the facility—The act of the resident going from one smoke section to another within the facility, going to an area of refuge within the facility, or going out of the facility;

(C) Individualized evacuation plan—A plan to remove the resident from the facility, to an area of refuge within the facility or from one smoke section to another within the facility. The plan is specific to the resident's needs and abilities based on the current community based assessment;

(D) Minimal assistance—

1. Is the criterion which determines whether or not staff must develop and include an individualized evacuation plan as part of the resident's service plan;

2. Minimal assistance may be the verbal intervention that staff must provide for a resident to initiate evacuating the facility;

3. Minimal assistance may be the physical intervention that staff must provide, such as turning a resident in the correct direction, for a resident to initiate evacuating the facility;

4. A resident needing minimal assistance is one who is able to prepare to leave and then evacuate the facility within five (5) minutes of being alerted of the need to evacuate and requires no more than one (1) physical intervention and no more than three (3) verbal interventions of staff to complete evacuation from the facility;

5. The following actions required of staff are not considered to be minimal assistance:

A. Assistance to traverse down stairways;

B. Assistance to open a door; and

C. Assistance to propel a wheelchair;

(E) Resident, only for the purpose of this rule, means any individual having a physical, cognitive or other impairment that prevents the individual from safely evacuating the facility with minimal assistance who is admitted to or continues to be cared for in the facility under the provisions of this rule; and

(F) Smoke section—A fire-rated separation of one section of the building from the rest of the building.

[(2)] **(3)** General Requirements. **I/II**

[(A) A residential care facility II which admits or continues to care for persons who have been diagnosed with Alzheimer's disease or other dementia who are physically capable but mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids when necessary, shall not care for such residents unless:

1. The resident has been diagnosed with Alzheimer's disease or other dementia by a physician licensed to practice medicine; and

2. The facility is able to provide appropriate services for and meet the needs of the resident. I/II]

(A) If the facility admits or retains any individual needing more than minimal assistance due to having a physical, cognitive or other impairment that prevents the individual from safely evacuating the facility, the facility shall:

1. Meet the fire safety requirements of 19 CSR 30-86.022 (16); I/II

2. Take necessary measures to provide residents with the opportunity to explore the facility and, if appropriate, its grounds; II

3. Use a personal electronic monitoring device for any resident whose physician recommends the use of such device; II

4. Have sufficient staff present and awake twenty-four (24) hours a day to assist in the evacuation of all residents; I/II

5. Include an individualized evacuation plan in the resident's individual service plan; II

6. At a minimum the evacuation plan shall include the following components:

A. The responsibilities of specific staff in an emergency specific to the individual; II

B. The fire protection interventions needed to ensure the safety of the resident; and II

C. The plan shall evaluate the resident for his or her location within the facility and the proximity to exits and areas of refuge. The plan shall evaluate the resident, as applicable, for his or her risk of resistance, mobility, the need for additional staff support, consciousness, response to instructions, response to alarms, and fire drills; II

7. The resident's evacuation plan shall be amended or revised based on the ongoing assessment of the needs of the resident; II

8. All employees shall be instructed and informed regarding their duties and responsibilities under the resident's evacuation plan at least every two (2) months and upon any significant change in the plan; II

9. A copy of the resident's evacuation plan shall be readily available to all staff; and II

10. Comply with all requirements of this rule. I/II

[(B) A residential care facility II may admit or continue to care for residents who have been diagnosed with Alzheimer's disease or other dementia if the residents are physically capable but mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids when necessary, providing the facility is in substantial compliance with the provisions of Chapter 198, RSMo and all regulations under which the facility is licensed by the Division of Aging. I/II

(C) A residential care facility II which admits or continues to care for persons who have been diagnosed with Alzheimer's disease or other dementia who are physically capable but mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids when necessary, shall comply with the provisions of the Alzheimer's Special Care Disclosure Act pursuant to sections 198.500 to 198.515, RSMo. The facility shall complete, and submit to the Division of Aging, an Alzheimer's Special Care Services Disclosure form (MO Form 886-3548), which is incorporated by reference in this rule. II

(D) A residential care facility II which admits or continues to care for persons who have been diagnosed with Alzheimer's disease or other dementia who are physically capable but mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids when necessary, shall not admit, retain or continue to care for any resident who is mentally incapable of negotiating a pathway to safety with the use of assistive devices or aids who:

1. Has exhibited behaviors which indicate that the resident is a danger to self or others;

2. Is at constant risk of elopement and, despite repeated interventions which have not altered the resident's behavior, continues to be a danger to self;

3. Requires physical or chemical restraint as defined in this rule;

4. Requires skilled nursing services as defined in section 198.006(17), RSMo for which the facility is not licensed or able to provide;

5. Requires more than one person to simultaneously provide physical assistance to the resident with any activity of daily living, with the exception of bathing; or

6. Is bed-bound or chair-bound and is unable to ambulate due to a debilitating or chronic condition. I/II]

[(3)] **(4)** Physical Design and Fire Safety Requirements.

[(A) The facility shall be equipped with a complete sprinkler system installed and maintained in accordance with the 1996 edition of the National Fire Protection Association (NFPA) 13, Standard for the Installation of Sprinkler Systems or the 1996 edition of NFPA 13R, Sprinkler Systems in Residential Occupancies Up To and Including Four Stories in Height, which are incorporated by reference in this rule I/II]

(A) All facilities must comply with the following requirements:

1. The facility shall be equipped with a complete electrically supervised fire alarm system in accordance with the provisions of subsection 13-3.4 of the 1997 *Life Safety Code for Existing Health Care Occupancy*, incorporated herein by reference and available from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101. This rule does not incorporate any subsequent amendments or additions to these materials. At a minimum the system shall include smoke detectors located no more than thirty feet (30') apart in corridors with no point in the corridor located more than fifteen feet (15') from a smoke detector. The fire alarm system shall be equipped to automatically transmit an alarm to the fire department; I/II

2. Each floor used for resident bedrooms shall be divided into at least two (2) smoke sections by one (1)-hour rated smoke stop partitions. No smoke section shall exceed one hundred fifty feet (150') in length. At a minimum, openings in smoke stop partitions shall be protected by one and three-fourths inches (1 3/4")-thick solid core wood doors or labeled, fire rated doors with an equivalent or greater fire rating. The doors shall be equipped with closures and if held open, shall be equipped with magnetic hold-open devices that automatically release upon activation of the fire alarm system. Any duct passing through this smoke wall shall be equipped with automatic resetting smoke dampers that are activated by the fire alarm system. Smoke dampers are not required where both smoke sections are protected throughout the entire section by quick response sprinklers on an NFPA 13 system. Smoke partitions shall extend from outside wall-to-outside wall and from floor-to floor or floor-to-roof deck; and II

3. In addition to the requirements at subsections (4)(A)1. and 2. of this rule, all facilities shall be equipped with a complete automatic sprinkler system installed and maintained in accordance with the following:

A. The 1996 edition of the National Fire Protection Association (NFPA) 13, *Standard for the Installation of Sprinkler Systems* (1996 edition of NFPA 13); or

B. The 1996 edition of NFPA 13R, *Sprinkler Systems in Residential Occupancies Up To and Including Four Stories in Height* (1996 edition of NFPA 13R), which are incorporated herein by reference and available from the National Fire Protection Agency, 1 Batterymarch Park, Quincy, MA 02269-9101. This rule does not incorporate any subsequent amendments or additions to these materials; and

C. Single story facilities must comply with either NFPA 13 or NFPA 13 R;

D. Multistory facilities must comply with NPFA 13. I/II

[(B) The facility shall be equipped with a complete electrically supervised fire alarm system in accordance with the provisions of the 1997 Life Safety Code for Existing Health Care Occupancy, incorporated by reference in this rule. The system shall include smoke detectors located no more than thirty feet (30') apart in corridors with no point in the corridor located more than fifteen feet (15') from a smoke detector. The fire alarm system shall be equipped to automatically transmit an alarm to the fire department. I/II

(C) Each floor used for resident bedrooms in shall be divided into at least two (2) smoke sections by one (1)-hour rated smoke stop partitions. No smoke section shall exceed one hundred fifty feet (150') in length. If, however, neither the length nor width of a floor exceeds seventy-five feet (75'), no smoke partitions are required. Openings in smoke stop partitions shall be protected by one and three-fourths inches (1 3/4")-thick solid core wood doors or metal doors with an equivalent fire rating. The doors shall be equipped with closers and magnetic hold-open devices. Any duct passing through this smoke wall shall be equipped with automatic resetting smoke dampers that are activated by the fire alarm system. Smoke partitions shall extend from outside wall-to-outside wall and from floor-to-floor or floor-to-roof deck. II

(D) In a multilevel facility, residents who are mentally incapable of negotiating a pathway to safety shall be housed only on a ground floor. The ground floor shall be any floor that has at least one exit at grade. All other required exits shall be at grade, or with no more than two steps to grade, or with a ramp to grade. The ramp shall have a maximum slope of one to twelve (1:12) leading to grade. II

(E) When a resident resides among the entire general population of the facility, the facility shall take necessary measures to provide such residents with the opportunity to explore the facility and, if appropriate, its grounds. When a resident resides within a designated, separated area that is secured by limited access, the facility shall take necessary measures to provide such residents with the opportunity to explore the separated area and, if appropriate, its grounds. If enclosed or fenced courtyards are provided, residents shall have reasonable access to such courtyards. Enclosed or fenced courtyards that are accessible through a required exit door shall be large enough to provide an area of refuge for fire safety at least thirty feet (30') from the building. Enclosed or fenced courtyards that are accessible through a door other than a required exit shall have no size requirements. II

(F) The facility shall provide freedom of movement for the residents to common areas and to their personal spaces. The facility shall not lock residents out of or inside their rooms. I/II

(G) The facility may allow resident room doors to be locked providing the residents request to lock their doors. Any lock on a resident room door shall not require the use of a key, tool, special knowledge or effort to lock or unlock the door from inside the resident's room. Only one (1) lock shall be permitted on each door. The facility shall ensure that facility staff have the means or mechanisms necessary to open resident room doors in case of an emergency. I/II

(H) Every facility shall use a personal electronic monitoring device for any resident whose physician recommends the use of such device. II

(I) The facility may provide a designated, separated area where residents, who are mentally incapable of negotiating a pathway to safety, reside and receive services and which is secured by limited access if the following conditions are met:

1. Dining rooms, living rooms, activity rooms, and other such common areas shall be provided within the designated, separated area. The total area for common areas within the designated, separated area shall be equal to at least forty (40) square feet per resident; II/III

2. Doors separating the designated, separated area from the remainder of the facility or building shall not be equipped with locks that require a key to open; I/II

3. If locking devices are used on exit doors egressing the facility or on doors accessing the designated, separated area, delayed egress magnetic locks shall be used. These delayed egress devices shall comply with the following:

A. The lock must unlock when the fire alarm is activated;

B. The lock must unlock when the power fails;

C. The lock must unlock within thirty (30) seconds after the release device has been pushed for at least three (3) seconds, and an alarm must sound adjacent to the door;

D. The lock must be manually reset and cannot automatically reset; and

E A sign shall be posted on the door that reads: PUSH UNTIL ALARM SOUNDS, DOOR CAN BE OPENED IN 30 SECONDS. I/II

4. The delayed egress magnetic locks may also be released by a key pad located adjacent to the door for routine use by staff. I/II

(4) Staffing Requirements.

(A) The facility shall be staffed twenty-four (24) hours a day by the adequate number and type of personnel necessary for the proper care of residents and upkeep of the facility in accordance with the staffing requirements found in 13 CSR 15-15.042. In meeting such staffing requirements, every resident who is mentally incapable of negotiating a pathway to safety shall count as a three (3) residents. I/II

(B) All on-duty staff of the facility shall, at all times, be awake, dressed in on-duty work attire, and prepared to assist residents in case of emergency. I/II

(5) Assessments and Individual Service Plans.

(A) Prior to admitting or continuing to care for a resident diagnosed with Alzheimer's disease or other dementia, a family member or legal representative of the resident, in consultation with the resident's primary physician, shall meet with a facility representative to determine if the facility can meet the needs of the resident. The facility shall document the decisions regarding admission or continued placement in the facility through written verification by the family member, physician and the facility representative. II

(B) After consultation, if the facility admits or continues to care for the resident, a Minimum Data Set (MDS) assessment shall be completed on an MDS form provided by the

Division of Aging to assess the needs of each resident who is mentally incapable of negotiating a pathway to safety. II/III

(C) Each resident shall be assessed by a licensed professional, as defined in subsection (1)(F) of this rule, by use of the MDS:

1. Within ten (10) days of admission; and

2. Every one hundred eighty (180) days thereafter; or

3. Whenever a significant change occurs in the resident's condition as defined in subsection (1)(I) of this rule. I/II

(D) Based on the MDS assessment, an interdisciplinary team shall develop an individual service plan for each resident who is mentally incapable of negotiating a pathway to safety. Whenever possible and appropriate, the resident, family members or other individuals instrumental in identifying the needs of, or providing treatment or services to, the resident shall be involved in the development or revision of the individual service plan. Every individual service plan shall be signed by each person participating in its development. II/III

(E) An individual service plan shall be completed and implemented within twenty (20) days after the completion of an MDS assessment of a resident. I/II

(F) An individual service plan shall describe the resident's needs and preferences, the specific methods and services to meet those needs, desired outcomes or interventions, and the names of the staff, service provider, and if applicable, family members who are primarily responsible for implementing the individual service plan. At a minimum, the individual service plan for each resident shall identify:

1. The resident's capabilities, strengths, potential, preferences and customary behaviors;

2. The resident's behavioral, medical and social needs based on the assessment;

3. The services provided to meet the needs of the resident;

4. The expected outcomes of the services provided; and

5. Staff or other persons responsible for providing the services to meet the needs of the resident. II/III

(G) The facility shall make each resident's individual service plan available for use to all persons providing services to that resident. II/III

(6) Staff Training and Orientation.

(A) All facility personnel who provide direct care to residents who are mentally incapable of negotiating a pathway to safety shall receive at least twenty-four (24) hours of training within the first thirty (30) days of employment.

1. At least twelve (12) hours of the twenty-four (24) hours of training shall be classroom instructions; and

2. Six (6) classroom instruction hours and two (2) on-the-job training hours shall be related to the special needs, care and safety of residents with dementia. II

(B) The in-service training requirements for personnel in a facility that provides services for residents who are mentally incapable of negotiating a pathway to safety, shall be determined as follows:

1. If the residents reside among the entire general population of the facility, all facility personnel, whether or not such personnel provide direct care to these residents, shall receive at least four (4) hours of in-service training on a quarterly basis, with at least two (2) such hours relating to the care and safety of residents who are mentally incapable of negotiating a pathway to safety; or

2. If the residents reside within a designated, separated area that is secured by limited access, those personnel who have or could have contact with these residents, shall receive at least four (4) hours of in-service training on a quarterly basis, with at least two (2) such hours relating to the care and safety of residents who are mentally incapable of negotiating a pathway to safety. II

(C) Any training related to the special needs, treatment and safety of residents with dementia shall include, but not be limited to, the following:

1. An overview of Alzheimer's disease and other dementia;

2. Communication techniques which are effective in enhancing and maintaining communication skills for residents with dementia;

3. Components of or techniques for creating a safe, secure and socially oriented environment for residents with dementia;

4. Provision of structure, stability and a sense of routine for residents based on their needs;

5. Effective management of different or difficult behaviors; and

6. Issues involving families and care givers. II/III

(D) The initial twenty-four (24) hours of training required within the first thirty (30) days of employment shall include, at a minimum, all of the components in subsection (6)(C) of this rule. II

(E) The in-service training to be provided on a quarterly basis shall include at least four (4) hours of in-service training, with at least two (2) such hours relating to the care and safety of residents who are mentally incapable of negotiating a pathway to safety. Each component listed in subsection (6)(C) of this rule must be included over the course of each twelve (12)-month period. II

(F) All in-service or orientation training relating to the special needs, care and safety of residents who are mentally incapable of negotiating a pathway to safety shall be conducted, presented or provided by a training instructor who is qualified by education, experience or knowledge in the care of individuals with Alzheimer's disease or other dementia. II/III

(7) Programs and Services for Residents Who are Mentally Incapable of Negotiating a Pathway to Safety.

(A) Each facility shall make available and implement self-care, productive and leisure activity programs for persons with dementia which maximize and encourage the resident's optimal functional ability. The facility shall provide activities that are appropriate to the resident's individual needs, preferences, background and culture. Individual or group activity programs may consist of the following:

1. Gross motor activities, such as exercise, dancing, gardening, cooking and chores;

2. Self-care activities, such as dressing, grooming and personal hygiene;

3. Social and leisure activities, such as games, music and reminiscing;

4. Sensory enhancement activities, such as auditory, olfactory, visual and tactile stimulation;

5. Outdoor activities, such as walking and field trips;

6. Creative arts; or

7. Other social, leisure or therapeutic activities that encourage mental and physical stimulation or enhance the resident's well-being. II/III

(B) The facility shall develop and implement written policies and procedures which address, at a minimum:

1. The facility's admission, transfer and discharge criteria taking into account the individual's needs and the facility's ability to meet those needs;

2. The basic services provided or offered to residents with Alzheimer's disease or other dementia;

3. The procedures and actions to be taken in the event of resident elopement;

4. The development and implementation of individual service plans;

5. The assignment of staff to residents based on the

resident's needs which minimize resident confusion and maintain familiarity with environment;

6. Staff orientation and in-service training relating to the special needs, care and safety of residents with dementia;

7. Fire drill and emergency evacuation procedures for residents who are mentally incapable of negotiating a pathway to safety; and

8. The protection of the rights, privacy and safety of residents and the prevention of financial exploitation of residents. II/III]

AUTHORITY: sections ***198.005 and*** *198.073, RSMo [2000]* ***(CCS HCS SCS SB616, 93rd General Assembly, Second Regular Session (2006)), and 198.076, RSMo 2000****. This rule originally filed as 13 CSR 15-15.045. Emergency rule filed Dec. 14, 2000, effective Jan. 2, 2001, expired June 30, 2001. Original rule filed Dec. 14, 2000, effective June 30, 2001. Moved to 19 CSR 30-86.045, effective Aug. 28, 2001. Amended: Filed Aug. 23, 2006.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director, Division of Regulation and Licensure, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities and Assisted Living Facilities

PROPOSED RULE

19 CSR 30-86.047 Administrative, Personnel and Resident Care Requirements for Assisted Living Facilities

PURPOSE: This rule establishes standards for all assisted living facilities licensed pursuant to sections 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and required to meet assisted living facility standards pursuant to section 198.073.3, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and section 198.076, RSMo 2000.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

EDITOR'S NOTE: All rules relating to long-term care facilities licensed by the department are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.

(1) Facilities licensed as assisted living facilities shall be inspected pursuant to the standards outlined herein beginning April 1, 2007. An assisted living facility may request, in writing to the department, to comply with these standards prior to April 1, 2007. Upon receipt of the request, the department shall conduct an inspection to determine compliance with the standards outlined herein prior to issuing a license indicating such compliance.

(2) Consumer Education Requirements. The facility shall disclose to a prospective resident, or legal representative of the resident information regarding the services the facility is able to provide or coordinate, the cost of such services to the resident, and the resident conditions that will require discharge or transfer including the provisions of this rule. II

(3) Nothing in this rule shall be construed to allow any facility that has not met the requirements of 198.073(4) and (6), RSMo, (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and 19 CSR 30-86.045 to care for any individual with a physical, cognitive or other impairment that prevents the individual from safely evacuating the facility with minimal assistance. I/II

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

(A) Appropriately trained and qualified individual means an individual who is licensed or registered with the state of Missouri in a health care related field or an individual with a degree in a health care related field or an individual with a degree in a health care, social services, or human services field or an individual licensed under Chapter 344, RSMo, and who has received facility orientation training under 19 CSR 30-86.042(18), and dementia training under section 660.050, RSMo, and twenty-four (24) hours of additional training, approved by the department, consisting of definition and assessment of activities of daily living, assessment of cognitive ability, service planning, and interview skills;

(B) Area of refuge—A space located in or immediately adjacent to a path of travel leading to an exit that is protected from the effects of fire, either by means of separation from other spaces in the same building or its location, permitting a delay in evacuation. An area of refuge may be temporarily used as a staging area that provides relative safety to its occupants while potential emergencies are assessed, decisions are made, and evacuation is begun;

(C) Assisted living facility (ALF)—Is as defined in 19 CSR 30-83.010;

(D) Chemical restraint—Is as defined in 19 CSR 30-83.010;

(E) Community based assessment—Documented basic information and analysis provided by appropriately trained and qualified individuals describing an individual's abilities and needs in activities of daily living, instrumental activities of daily living, vision/hearing, nutrition, social participation and support, and cognitive functioning using an assessment tool approved by the department, that is designed for community based services and that is not the nursing home minimum data set. The assessment tool may be one developed by the department or one used by a facility which has been approved by the department;

(F) Evacuating the facility—For the purpose of this rule, evacuating the facility shall mean moving to an area of refuge or from one smoke section to another or exiting the facility;

(G) Home-like—Means a self-contained long-term care setting that integrates the psychosocial, organizational and environmental qualities that are associated with being at home. Home-like may include, but is not limited to the following:

1. A living room and common use areas for social interactions and activities;
2. Kitchen and family style eating area for use by the residents;
3. Laundry area for use by residents;
4. A toilet room that contains a toilet, lavatory and bathing unit in each resident's room;

5. Resident room preferences for residents who wish to share a room, and for residents who wish to have private bedrooms;
6. Outdoor area for outdoor activities and recreation; and
7. A place where residents can give and receive affection, explore their interests, exercise control over their environment, engage in interactions with others and have privacy, security, familiarity and a sense of belonging;

(H) Individualized service plan (ISP)—Means the planning document which outlines and describes the services to be provided and the outcomes expected in order to meet the resident's needs, abilities, desires and preferences;

(I) Keeping residents in place—Means maintaining residents in place during a fire in lieu of evacuation where a building's occupants are not capable of evacuation or where evacuation has a low likelihood of success;

(J) Minimal Assistance—
1. If a resident requires more than minimal assistance to evacuate the facility as described in this subsection, he or she cannot reside in an assisted living facility unless that facility also complies with 19 CSR 30-86.045 standards;
2. Minimal assistance may be the verbal intervention that staff must provide for a resident to initiate evacuating the facility;
3. Minimal assistance may be the physical intervention that staff must provide, such as turning a resident in the correct direction, for a resident to initiate evacuating the facility;
4. A resident needing minimal assistance is one who is able to prepare to leave and then evacuate the facility within five (5) minutes of being alerted of the need to evacuate and requires no more than one (1) physical intervention and no more than three (3) verbal interventions of staff to complete evacuation from the facility;
5. The following actions required of staff are not considered to be minimal assistance:
A. Assistance to traverse down stairways;
B. Assistance to open a door; and
C. Assistance to propel a wheelchair;

(K) Physical restrain—Any manual method or physical or mechanical device, material or equipment attached to or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body. Physical restraints include, but are not limited to leg restraints, arm restraints, hand mitts, soft ties or vests, lap cushions and lap trays the resident cannot remove easily. Physical restraints also include facility practices that meet the definition of a restraint, such as the following:
1. Using side rails that keep a resident from voluntarily getting out of bed;
2. Tucking in or using Velcro to hold a sheet, fabric or clothing tightly so that a resident's movement is restricted;
3. Using devices in conjunction with a chair, such as trays, tables, bars or belts, that the resident cannot remove easily, that prevent the resident from rising;
4. Placing the resident in a chair that prevents a resident from rising; and
5. Placing a chair or bed so close to a wall that the wall prevents the resident from rising out of the chair or voluntarily getting out of bed;

(L) Significant change—Means a change in the resident's physical, emotional or psychosocial condition or behavior of such a degree that it would require an adjustment or modification in the resident's treatment or services;

(M) Skilled nursing facility—Means any premises, other than a residential care facility, assisted living facility or an intermediate care facility, which is utilized by its owner, operator or manager to provide for twenty-four hour accommodation, board and skilled nursing care and treatment services to at least three (3) residents who are not related within the fourth degree of consanguinity or affinity to the owner, operator or manager of the facility. Skilled nursing care and treatment services are those services commonly performed by or under the supervision of a registered professional nurse for individuals requiring twenty-four (24)-hours-a-day care by licensed nursing personnel including acts of observation, care and counsel of the aged, ill, injured or infirm, the administration of medications and treatments as prescribed by a licensed physician or dentist, and other nursing functions requiring substantial specialized judgment and skill;

(N) Skilled nursing placement—Means placement in a skilled nursing facility as defined in subsection (4)(M) of this rule; and

(O) Social model of care—Means long-term care services based on the abilities, desires, and functional needs of the individual delivered in a setting that is more home-like than institutional, that promote the dignity, individuality, privacy, independence and autonomy of the individual, that respects residents' differences and promotes residents' choices.

(5) The operator shall designate an individual for administrator who is currently licensed as a nursing home administrator under Chapter 344, RSMo. II

(6) The operator shall be responsible to assure compliance with all applicable laws and regulations. The administrator shall be fully authorized and empowered to make decisions regarding the operation of the facility and shall be held responsible for the actions of all employees. The administrator's responsibilities shall include oversight of residents to assure that they receive care appropriate to their needs. II/III

(7) The administrator shall devote sufficient time and attention to the management of the facility as is necessary for the health, safety and welfare of the residents. II

(8) The administrator cannot be listed or function in more than one (1) licensed facility at the same time unless he or she serves no more than five (5) facilities within a thirty (30)-mile radius and licensed to serve in total no more than one hundred (100) residents, and the administrator has an individual designated as the daily manager of each facility. However, the administrator may serve as the administrator of more than one (1) licensed facility if all facilities are on the same premises. II

(9) The administrator shall designate, in writing, a staff member in charge in the administrator's absence. If the administrator is absent for more than thirty (30) consecutive days, during which time he or she is not readily accessible for consultation by telephone with the delegated individual, the individual designated to be in charge shall be a currently licensed nursing home administrator. Such thirty (30)-consecutive-day absences may only occur once within any consecutive twelve (12)-month period. II/III

(10) The facility shall not care for more residents than the number for which the facility is licensed. However, if the facility operates a non-licensed adult day care program for four (4) or fewer participants within the licensed facility, the day care participants shall not be included in the total facility census. Adult day care participants shall be counted in staffing determination during the hours the day care participants are in the facility. II/III

(11) The facility shall not admit or continue to care for residents whose needs cannot be met. If necessary services cannot be obtained in or by the facility, the resident shall be promptly referred to appropriate outside resources or discharged from the facility. I/II

(12) All personnel responsible for resident care shall have access to the legal name of each resident, name and telephone number of resident's physician, resident's designee or legally authorized representative in the event of emergency. II/III

(13) All persons who have any contact with the residents in the facility shall not knowingly act or omit any duty in a manner that would

materially and adversely affect the health, safety, welfare or property of residents. No person who is listed on the department's Employee Disqualification List (EDL) shall work or volunteer in the facility in any capacity whether or not employed by the operator. For the purpose of this rule, a volunteer is an unpaid individual formally recognized by the facility as providing a direct care service to residents. The facility is required to check the EDL for individuals who volunteer to perform a service for which the facility might otherwise have to hire an employee. The facility is not required to check the EDL for individuals or groups such as scout groups, bingo or singalong leaders. The facility is not required to check the EDL for an individual such as a priest, minister or rabbi visiting a resident who is a member of the individual's congregation. However, if a minister, priest or rabbi serves as a volunteer facility chaplain, the facility is required to check to determine if the individual is listed on the EDL since the individual would have contact with all residents. I/II

(14) Prior to allowing any person who has been hired in a full-time, part-time or temporary employee position to have contact with any residents the facility shall, or in the case of temporary employees hired through or contracted from an employment agency, the employment agency shall prior to sending a temporary employee to a provider:

(A) Request a criminal background check for the person, as provided in section 43.540, RSMo. Each facility must maintain in its record documents verifying that the background checks were requested and the nature of the response received for each such request.

1. The facility must ensure that any applicant or person hired or retained who discloses prior to the receipt of the criminal background check that he/she has been convicted of, pled guilty or pled *nolo contendere* to in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a Class A or B felony violation of Chapter 565, 566, or 569, RSMo or any violation of subsection 198.070.3, RSMo or of section 568.020, RSMo, will not have contact with residents. II/III

2. Upon receipt of the criminal background check, the facility must ensure that if the criminal background check indicates that the person hired or retained by the facility has been convicted of, pled guilty or pled *nolo contendere* to in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a Class A or B felony violation of Chapter 565, 566, or 569, RSMo or any violation of subsection 198.070.3, RSMo or of section 568.020, RSMo, the person will not have contact with residents unless the facility obtains verification from the department that a good cause waiver has been granted and maintains a copy of the verification in the individual's personnel file. II/III

(B) Make an inquiry to the department, whether the person is listed on the employee disqualification list as provided in section 660.315, RSMo. The inquiry may be made via Internet at www.dhss.mo.gov/EDL/. II/III

(C) If the person has registered with the department's Family Care Safety Registry (FCSR), the facility may utilize the Registry in order to meet the requirements of subsections (14)(A) and (14)(B) of this rule. The FCSR is available via Internet at www.dhss.mo.gov/FCSR/BackgroundCheck.html. II/III

(D) For persons for whom the facility has contracted for professional services (i.e. plumbing or air conditioning repair) that will have contact with any resident, the facility must require a criminal background check or ensure that the individual is accompanied by a facility staff person while in the facility. II/III

(15) A facility shall not employ as an agent or employee who has access to controlled substances any person who has been found guilty or entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States for any offense related to controlled substances. II

(A) A facility may apply in writing to the department for a waiver of this section of this rule for a specific employee.

(B) The department may issue a written waiver to a facility upon determination that a waiver would be consistent with the public health and safety. In making this determination, the department shall consider the duties of the employee, the circumstances surrounding the conviction, the length of time since the conviction was entered, whether a waiver has been granted by the department's Bureau of Narcotics and Dangerous Drugs pursuant to 19 CSR 30-1.034 when the facility is registered with that agency, whether a waiver has been granted by the federal Drug Enforcement Administration (DEA) pursuant to 21 CFR 1301.76 when the facility is also registered with that agency, the security measures taken by the facility to prevent the theft and diversion of controlled substances, and any other factors consistent with public health and safety. II

(16) The facility must develop and implement written policies and procedures which require that persons hired for any position which is to have contact with any patient or resident have been informed of their responsibility to disclose their prior criminal history to the facility as required by section 660.317.5, RSMo. The facility must also develop and implement policies and procedures which ensure that the facility does not knowingly hire, after August 28, 1997, any person who has or may have contact with a patient or resident, who has been convicted of, plead guilty or *nolo contendere* to, in this state or any other state, or has been found guilty of any Class A or B felony violation of Chapter 565, 566 or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or of section 568.020, RSMo. II/III

(17) All persons who have or may have contact with residents shall at all times when on duty or delivering services wear an identification badge. The badge shall give their name, title and, if applicable, the status of their license or certification as any kind of health care professional. This rule shall apply to all personnel who provide services to any resident directly or indirectly. III

(18) Personnel who have been diagnosed with a communicable disease may begin work or return to duty only with written approval by a physician or physician's designee, which indicates any limitations. II

(19) The administrator shall be responsible to prevent an employee known to be diagnosed with communicable disease from exposing residents to such disease. The facility's policies and procedures must comply with the department's regulations pertaining to communicable diseases, specifically 19 CSR 20-20.010 through 19 CSR 20-20.100. II /III

(20) The facility shall screen residents and staff for tuberculosis as required for long-term care facilities by 19 CSR 20-20.100. II

(21) The administrator shall maintain on the premises an individual personnel record on each facility employee, which shall include the following:

(A) The employee's name and address;

(B) Social Security number;

(C) Date of birth;

(D) Date of employment;

(E) Documentation of experience and education including for positions requiring licensure or certification, documentation evidencing competency for the position held, which includes copies of current licenses, transcripts when applicable, or for those individuals requiring certification, such as certified medication technicians, level I medication aides and insulin administration aides; printing the Web Registry search results page available at www.dhss.mo.gov/cnaregistry shall meet the requirements of the employer's check regarding valid certification;

(F) References, if available;

(G) The results of background checks required by section 660.317,

RSMo; and a copy of any good cause waiver granted by the department, if applicable;

(H) Position in the facility;

(I) Written statement signed by a licensed physician or physician's designee indicating the person can work in a long-term care facility and indicating any limitations;

(J) Documentation of the employee's tuberculin screening status;

(K) Documentation of what the employee was instructed on during orientation training; and

(L) Reason for termination if the employee was terminated due to abuse or neglect of a resident, residents' rights issues or resident injury. III

(22) Personnel records shall be maintained for at least two (2) years following termination of employment. III

(23) There shall be written documentation maintained in the facility showing actual hours worked by each employee. III

(24) No one individual shall be on duty with responsibility for oversight of residents longer than eighteen (18) hours per day. I/II

(25) Employees who are counted in meeting the minimum staffing ratio and employees who provide direct care to the residents shall be at least sixteen (16) years of age. III

(26) Each facility resident shall be under the medical supervision of a physician licensed to practice in Missouri who has been informed of the facility's emergency medical procedures and is kept informed of treatments or medications prescribed by any other professional lawfully authorized to prescribe medications. III

(27) The facility shall ensure that each resident being admitted or readmitted to the facility receives an admission physical examination by a licensed physician. The facility shall request documentation of the physical examination prior to admission but must have documentation of the physical examination on file no later than ten (10) days after admission. The physical examination shall contain documentation regarding the individual's current medical status and any special orders or procedures to be followed. If the resident is admitted directly from an acute care or another long-term care facility and is accompanied on admission by a report that reflects his or her current medical status, and an admission physical shall not be required. III

(28) Residents under sixteen (16) years of age shall not be admitted. III

(29) The facility may admit or retain an individual for residency in an assisted living facility only if the individual does not require hospitalization or skilled nursing placement as defined in this rule, and only if the facility:

(A) Provides for or coordinates oversight and services to meet the needs, the social and recreational preferences in accordance with the individualized service plan of the resident as documented in a written contract signed by the resident, or legal representative of the resident; II

(B) Has twenty-four (24) hour staff appropriate in numbers and with appropriate skills to provide such services; II

(C) Has a written plan for the protection of all residents in the event of a disaster such as tornado, fire, bomb threat or severe weather, including:

1. Keeping residents in place;
2. Evacuating residents to areas of refuge;
3. Evacuating residents from the building if necessary; or
4. Other methods of protection based on the disaster and the individual building design; I/II

(D) Completes a premove-in screening conducted as required by section 198.073.4 (4), RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)). Pre-Screening Tool for Admission to Assisted Living Facilities, (8-06), incorporated by reference, provided by the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570 and which is available to long-term care facilities at www.dhss.mo.gov or by telephone at (573) 526-8548. This rule does not incorporate any subsequent amendments or additions; II

(E) The premove-in screening shall be completed prior to admission with the participation of the prospective resident and be designed to determine if the individual is eligible for admission to the assisted living facility and shall be based on the admission restrictions listed at section (30) of this rule; II

(F) Completes a community based assessment conducted by an appropriately trained and qualified individual as defined in section (4) of this rule:

1. Time frame requirements for assessment shall be:
   A. Within five (5) calendar days of admission; II
   B. At least semiannually; and II
   C. Whenever a significant change has occurred in the resident's condition, which may require a change in services. II
2. Prior to July 1, 2009, the facility shall use form (number), Resident Assessment Form for Assisted Living Facility, (8-06), incorporated by reference, provided by the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570 and which is available to long-term care facilities at www.dhss.mo.gov or by telephone at (573) 526-8548. This rule does not incorporate any subsequent amendments or additions; or II
3. The facility may use another assessment form if approved in advance by the department; and II
4. The department will designate a specific form to be used by all facilities beginning July 1, 2009; II

(G) Develops an individualized service plan (ISP), which is based on information obtained in the community based assessment and in partnership with the resident or legally authorized representative outlining the needs and preferences of the resident and includes daily routines for activities of daily living that accommodate resident preferences, lifelong habits and culture.

1. The ISP shall be reviewed by the resident or his or her legally authorized representative at least annually or when there has been a significant change in the resident's condition which may require a change in service. II
2. The resident or his or her legally authorized representative and the authorized representative of the facility shall review and sign the resident's individualized service plan documenting that the resident and his or her legally authorized representative have reviewed and understand the service plan. II
3. For residents who require licensed hospice care, the ISP shall outline the care requirements and coordination of that care; II

(H) Develops and implements a plan to protect the rights, privacy, and safety of all residents and to protect against the financial exploitation of all residents; and II

(I) Complies with the dementia specific training requirements of subsection 8 of section 660.050, RSMo. II

(30) The facility shall not admit or continue to care for a resident who:

(A) Has exhibited behaviors that present a reasonable likelihood of serious harm to himself or herself or others; I/II

(B) Requires physical restraint as defined in this rule; II

(C) Requires chemical restraint as defined in this rule; II

(D) Requires skilled nursing services as defined in section 198.006 (23), RSMo for which the facility is not licensed or able to provide; II

(E) Requires more than one (1) person to simultaneously physically assist the resident with any activity of daily living, with the exception of bathing and transferring; or II/III

(F) Is bed-bound or similarly immobilized due to a debilitating or chronic condition. II

(31) The requirements of subsections (30)(D), (E) and (F) shall not apply to a resident receiving hospice care, provided the resident, his or her legally authorized representative or designee, or both, and the facility, physician and licensed hospice provider all agree that such program of care is appropriate for the resident. II

(32) Programs and Services Requirements for Residents.

(A) The facility shall designate a staff member to be responsible for leisure activity coordination and for promoting the social model, multiple staff role directing all staff to provide routine care in a manner that emphasizes the opportunity for the resident and the staff member to enjoy a visit rather than simply perform a procedure. II/III

(B) The facility shall make available and implement self-care, productive and leisure activity programs which maximize and encourage the resident's optimal functional ability for residents. The facility shall provide person-centered activities appropriate to the resident's individual needs, preferences, background and culture. Individual or group activity programs may consist of the following:

1. Gross motor activities, such as exercise, dancing, gardening, cooking and other routine tasks;
2. Self-care activities, such as dressing, grooming and personal hygiene;
3. Social and leisure activities, such as games, music and reminiscing;
4. Sensory enhancement activities, such as auditory, olfactory, visual and tactile stimulation;
5. Outdoor activities, such as walking and field trips;
6. Creative arts; or
7. Other social, leisure or therapeutic activities that encourage mental and physical stimulation or enhance the resident's well-being. II/III

(C) Staff shall inform residents in advance of any organized group activity including the time and place of the activity. II/III

(33) Requirements for Facilities Providing Care to Residents Having Mental Illness or Mental Retardation Diagnosis.

(A) Each resident who exhibits mental and psychosocial adjustment difficulty(ies) shall receive appropriate treatment and services to address the resident's needs and behaviors. I/II

(B) If specialized rehabilitative services for mental illness or mental retardation are required to enable a resident to reach and maintain the highest practicable level of physical, mental and psychosocial functioning, the facility shall ensure the required services are provided. II

(C) The facility shall ensure that care giver staff have access to the most recent individual treatment plan or individual habilitation plan provided by the Department of Mental Health (DMH) or designated administrative agent for each resident admitted to the facility on referral by the Department of Mental Health or designated administrative agent. II/III

(34) No facility shall accept any individual with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance unless the facility meets all requirements of section 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)) and those standards set forth in 19 CSR 30-86.045. I/II

(35) The facility shall follow appropriate infection control procedures. The administrator or his or her designee shall make a report to the local health authority or the department of the presence or suspected presence of any diseases or findings listed in 19 CSR 20-20.020, sections (1)–(3) according to the specified time frames as follows:

(A) Category I diseases or findings shall be reported to the local health authority or to the department within twenty-four (24) hours of first knowledge or suspicion by telephone, facsimile, or other rapid communication;

(B) Category II diseases or findings shall be reported to the local health authority or the department within three (3) days of first knowledge or suspicion;

(C) Category III—The occurrence of an outbreak or epidemic of any illness, disease or condition which may be of public health concern, including any illness in a food handler that is potentially transmissible through food. This also includes public health threats such as clusters of unusual diseases or manifestations of illness and clusters of unexplained deaths. Such incidents shall be reported to the local authority or to the department by telephone, facsimile, or other rapid communication within twenty-four (24) hours of first knowledge or suspicion. I/II

(36) 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 inquire of the resident or resident's guardian of the resident's departure, of the resident's estimated length of absence from the facility, and of the resident's whereabouts while on voluntary leave. I/II

(37) Residents shall receive proper care to meet their needs. I/II

(38) In case of behaviors which may potentially pose a threat of harm, serious illness, significant change in condition, injury or death, staff shall take appropriate action and shall promptly attempt to contact the person listed in the resident's record as the legally authorized representative, designee or placement authority. The facility shall contact the attending physician or designee and notify the local coroner or medical examiner immediately upon the death of any resident of the facility prior to transferring the deceased resident to a funeral home. I/II

(39) The facility shall encourage and assist each resident based on his or her individual preferences and needs to be clean and free of body and mouth odor. II

(40) If the resident brings unsealed medications to the facility, the medications shall not be used unless a pharmacist, physician or nurse examines, identifies and determines the contents to be suitable for use. The person performing the identification shall document his or her review. II/III

(41) Self-control of prescription medication by a resident may be allowed only if approved in writing by the resident's physician and included in the resident's individualized service plan. A resident may be permitted to control the storage and use of nonprescription medication unless there is a physician's written order or facility policy to the contrary. Written approval for self-control of prescription medication shall be rewritten as needed but at least annually and after any period of hospitalization. II/III

(42) All medication shall be safely stored at proper temperature and shall be kept in a secured location behind at least one (1) locked door or cabinet. Medication shall be accessible only to persons authorized to administer medications. II/III

(A) If access is controlled by the resident, a secured location shall mean in a locked container, a locked drawer in a bedside table or dresser or in a resident's private room if locked in his or her absence, although this does not preclude access by a responsible employee of the facility.

(B) Schedule II controlled substances shall be stored in locked compartments separate from non-controlled medications, except that single doses of Schedule II controlled substances may be controlled by a resident in compliance with the requirements for self-control of medication of this rule.

(C) Medication that is not in current use and is not destroyed shall be stored separately from medication that is in current use. II/III

(43) All prescription medications shall be supplied as individual prescriptions except where an emergency medication supply is allowed. All medications, including over-the-counter medications, shall be packaged and labeled in accordance with applicable professional pharmacy standards, state and federal drug laws. Labeling shall include accessory and cautionary instructions as well as the expiration date, when applicable, and the name of the medication as specified in the physician's order. Medication labels shall not be altered by facility staff and medications shall not be repackaged by facility staff except as allowed by section (45) of this rule. Over-the-counter medications for individual residents shall be labeled with at least the resident's name. II/III

(44) Controlled substances and other prescription and non-prescription medications for administration when a resident temporarily leaves a facility shall be provided as follows:

(A) Separate containers of medications for the leave period may be prepared by the pharmacy. The facility shall have a policy and procedure for families to provide adequate advance notice so that medications can be obtained from the pharmacy.

(B) Prescription medication cards or other multiple-dose prescription containers currently in use in the facility may be provided by any authorized facility medication staff member if the containers are labeled by the pharmacy with complete pharmacy prescription labeling for use. Original manufacturer containers of non-prescription medications, along with instructions for administration, may be provided by any authorized facility medication staff member.

(C) When medications are supplied by the pharmacy in customized patient medication packages that allow separation of individual dose containers, the required number of containers may be provided by any authorized facility medication staff member. The individual dose containers shall be placed in an outer container that is labeled with the name and address of the facility and the date.

(D) When multiple doses of a medication are required and it is not reasonably possible to obtain prescription medication labeled by the pharmacy, and it is not appropriate to send a container of medication currently in use in the facility, up to a twenty-four (24)-hour supply of each prescription or non-prescription medication may be provided by a licensed nurse in United States Pharmacopeia (USP) approved containers labeled with the facility name and address, resident's name, medication name and strength, quantity, instructions for use, date, initials of individual providing, and other appropriate information.

(E) When no more than a single dose of a medication is required, any authorized facility medication staff member may prepare the dose as for in-facility administration in a USP approved container labeled with the facility name and address, resident's name, medication name and strength, quantity, instructions for use, date, initials of person providing, and other appropriate information.

(F) The facility may have a policy that limits the quantity of medication sent with a resident without prior approval of the prescriber.

(G) Returned containers shall be identified as having been sent with the resident, and shall not later be returned to the pharmacy for reuse.

(H) The facility shall maintain accurate records of medications provided to and returned by the resident. II/III

(45) Upon discharge or transfer of a resident, the facility shall release prescription medications, including controlled substances, held by the facility for the resident when the physician writes an order for each medication to be released. Medications shall be labeled by the pharmacy with current instructions for use. Prescription medication cards or other containers may be released if the containers are labeled by the pharmacy with complete pharmacy prescription labeling. II/III

(46) Injections shall be administered only by a physician or licensed nurse, except that insulin injections may also be administered by a certified medication technician or level I medication aide who has successfully completed the state-approved course for insulin administration, taught by a department-approved instructor. Anyone trained prior to December 31, 1990, who completed the state-approved insulin administration course taught by an approved instructor shall be considered qualified to administer insulin in an assisted living facility. A resident who requires insulin, may administer his or her own insulin if approved in writing by the resident's physician and trained to do so by a licensed nurse or physician. The facility shall monitor the resident's condition and ability to continue self-administration. I/II

(47) The administrator shall develop and implement a safe and effective system of medication control and use, which assures that all residents' medications are administered by personnel at least eighteen (18) years of age, in accordance with physicians' instructions using acceptable nursing techniques. The facility shall employ a licensed nurse eight (8) hours per week for every thirty (30) residents to monitor each resident's condition and medication. Administration of medication shall mean delivering to a resident his or her prescription medication either in the original pharmacy container, or for internal medication, removing an individual dose from the pharmacy container and placing it in a small cup container or liquid medium for the resident to remove from the container and self-administer. External prescription medication may be applied by facility personnel if the resident is unable to do so and the resident's physician so authorizes. All individuals who administer medication shall be trained in medication administration and, if not a physician or a licensed nurse, shall be a certified medication technician or level I medication aide. I/II

(48) Medication Orders.

(A) No medication, treatment or diet shall be administered without an order from an individual lawfully authorized to prescribe such and the order shall be followed. II/III

(B) Physician's written and signed orders shall include: name of medication, dosage, frequency and route of administration and the orders shall be renewed at least every three (3) months. Computer generated signatures may be used if safeguards are in place to prevent their misuse. Computer identification codes shall be accessible to and used by only the individuals whose signatures they represent. Orders that include optional doses or include *pro re nata* (PRN) administration frequencies shall specify a maximum frequency and the reason for administration. II/III

(C) Telephone and other verbal orders shall be received only by a licensed nurse, certified medication technician, level I medication aide or pharmacist, and shall be immediately reduced to writing and signed by that individual. A certified medication technician or level I medication aide may receive a telephone or other verbal order only for a medication or treatment that the technician or level I medication aide is authorized to administer. If a telephone or other verbal order is given to a medication technician, an initial dosage shall not be administered until the order has been reviewed by telephone, facsimile or in person by a licensed nurse or pharmacist. The review shall be documented by the reviewer co-signing the telephone or other verbal order. II

(D) The review shall be documented by the licensed nurse's or pharmacist's signature within seven (7) days. III

(E) The physician shall sign all telephone and other verbal orders within seven (7) days. III

(F) Influenza and pneumococcal polysaccharide immunizations may be administered per physician-approved facility policy after assessment for contraindications—

1. The facility shall develop a policy that provides recommendations and assessment parameters for the administration of such immunizations. The policy shall be approved by the facility medical director for facilities having a medical director, or by each resident's attending physician for facilities that do not have a medical director, and shall include the requirements to:

A. Provide education regarding the potential benefits and side effects of the immunization to each resident or the resident's designee or legally authorized representative; II/III

B. Offer the immunization to the resident or the resident's designee or legally authorized representative when it is medically indicated or the resident has been immunized as recommended by the policy; II/III

C. Provide the opportunity to refuse the immunization; and II/III

D. Perform an assessment for contraindications; II/III

2. The assessment for contraindications and documentation of the education and opportunity to refuse the immunization shall be dated and signed by the nurse performing the assessment and placed in the medical record; or

3. The facility shall with access screening and immunization through outside sources with the approval of each resident's physician, such as county or city health departments. II/III

(G) The administration of medication shall be recorded on a medication sheet or directly in the resident's record and, if recorded on a medication sheet, shall be made part of the resident's record. The administration shall be recorded by the same individual who prepares the medication and administers it. II/III

(49) The facility may keep an emergency medication supply if approved by a pharmacist or physician. Storage and use of medications in the emergency medication supply shall assure accountability. When the emergency medication supply contains controlled substances, the facility shall be registered with the Bureau of Narcotics and Dangerous Drugs (BNDD) and shall be in compliance with 19 CSR 30-1.052 and other applicable state and federal controlled substance laws and regulations. II/III

(50) Automated dispensing systems may be controlled by the facility or may be controlled on-site or remotely by a pharmacy.

(A) Automated dispensing systems may be used for an emergency medication supply.

(B) Automated dispensing systems that are controlled by a pharmacy may be used for continuing doses of controlled substance and non-controlled substance medications. When continuing doses are administered from an automated dispensing system that is controlled by a pharmacy, a pharmacist shall review and approve each new medication order prior to releasing the medication from the system. The pharmacy and the facility may have a policy and procedure to allow the release of initial doses of approved medications when a pharmacist is not available in lieu of a separate emergency medication supply. When initial doses are used when a pharmacist is not available, a pharmacist shall review and approve the order within twenty-four (24) hours of administration of the first dose.

(C) Automated dispensing systems shall be used in compliance with state and federal laws and regulations. When an automated dispensing system controlled by the facility contains controlled substances for an emergency medication supply, the facility shall be registered with the BNDD. When an automated dispensing system is controlled by a pharmacy, the facility shall use it in compliance with 20 CSR 2220-2.900. II/III

(51) Stock supplies of nonprescription medication may be kept when specific medications are approved in writing by a consulting physician, a registered nurse or a pharmacist. II/III

(52) Records shall be maintained upon receipt and disposition of all controlled substances and shall be maintained separately from other records, for two (2) years.

(A) Inventories of controlled substances shall be reconciled as follows:

1. Controlled Substance Schedule II medications shall be reconciled each shift; and II

2. Controlled Substance Schedule III–V medications shall be reconciled at least weekly and as needed to ensure accountability. II

(B) Inventories of controlled substances shall be reconciled by the following:

1. Two (2) medication personnel, one of whom is a licensed nurse; or

2. Two (2) medication personnel, who are certified medication technicians or level I medication aides, when a licensed nurse is not available. II

(C) Receipt records shall include the date, source of supply, resident name and prescription number when applicable, medication name and strength, quantity and signature of the supplier and receiver. Administration records shall include the date, time, resident name, medication name, dose administered and the initials of the individual administering. The signature and initials of each medication staff documenting on the medication administration record must be signed in the signature area of the medication record. II

(D) When self-control of medication is approved a record shall be made of all controlled substances transferred to and administered from the resident's room. Inventory reconciliation shall include controlled substances transferred to the resident's room. II

(53) Documentation of waste of controlled substances at the time of administration shall include the reason for the waste and the signature of another facility medication staff member who witnesses the waste. If a second medication staff member is not available at the time of administration, the controlled substance shall be properly labeled, clearly identified as unusable, stored in a locked area, and destroyed as soon as a medication staff member is available to witness the waste. When a second medication staff member is not available and the controlled substance is contaminated by patient body fluids, the controlled substance shall be destroyed immediately and the circumstances documented. II/III

(54) At least every other month, a pharmacist or registered nurse shall review the controlled substance record keeping including reconciling the inventories of controlled substances. This shall be done at the time of the drug regimen review of each resident. All discrepancies in controlled substance records shall be reported to the administrator for review and investigation. The theft or loss of controlled substances shall be reported as follows:

(A) The facility shall notify the department's Section for Long Term Care (SLTC) and other appropriate authorities of any theft or significant loss of any controlled substance medication written as an individual prescription for a specific resident upon the discovery of the theft or loss. The facility shall consider at least the following factors in determining if a loss is significant:

1. The actual quantity lost in relation to the total quantity;

2. The specific controlled substance lost;

3. Whether the loss can be associated with access by specific individuals;

4. Whether there is a pattern of losses, and if the losses appear to be random or not;

5. Whether the controlled substance is a likely candidate for diversion; and

6. Local trends and other indicators of diversion potential;

(B) If an insignificant amount of such controlled substance is lost during lawful activities, which includes but are not limited to receiving, record keeping, access auditing, administration, destruction and returning to the pharmacy, a description of the occurrence shall be documented in writing and maintained with the facility's controlled substance records. The documentation shall include the reason for determining that the loss was insignificant; and

(C) When the facility is registered with the BNDD, the facility shall report to or document for the BNDD any loss of any stock supply controlled substance in compliance with 19 CSR 30-1.034. II/III

(55) A pharmacist or registered nurse shall review the medication regimen of each resident. This shall be done at least every other month. The review shall be performed in the facility and shall

include, but shall not be limited to, indication for use, dose, possible medication interactions and medication/food interactions, contraindications, adverse reactions and a review of the medication system utilized by the facility. Irregularities and concerns shall be reported in writing to the resident's physician and to the administrator/manager. If after thirty (30) days, there is no action taken by a resident's physician and significant concerns continue regarding a resident's or residents' medication order(s), the administrator shall contact or recontact the physician to determine if he or she received the information and if there are any new instructions. II/III

(56) All medication errors and adverse reactions shall be promptly documented and reported to the administrator and the resident's physician. If the pharmacy made a dispensing error, it shall also be reported to the issuing pharmacy. II/III

(57) Medications that are not in current use shall be disposed of as follows:

(A) Single doses of contaminated, refused, or otherwise any authorized medication staff member may destroy unusable non-controlled substance medications at the time of administration. Single doses of unusable controlled substance medications may be destroyed according to section (53) of this rule;

(B) Discontinued medications may be retained up to one hundred twenty (120) days prior to other disposition if there is reason to believe, based on clinical assessment of the resident, that the medication might be reordered;

(C) Medications may be released to the resident or family upon discharge according to section (44) of this rule;

(D) After a resident has expired, medications, except for controlled substances, may be released to the resident's legal representative upon written request of the legal representative that includes the name of the medication and the reason for the request;

(E) Medications may be returned to the pharmacy that dispensed the medications pursuant to 20 CSR 2220-3.040 or returned pursuant to the Prescription Drug Repository Program, 19 CSR 20-50.020. All other medications, including all controlled substances and all expired or otherwise unusable medications, shall be destroyed within thirty (30) days as follows:

1. Medications shall be destroyed within the facility by a pharmacist and a licensed nurse or by two (2) licensed nurses or when two (2) licensed nurses are not available on staff by two (2) individuals who have authority to administer medications, one (1) of whom shall be a licensed nurse or a pharmacist; and

2. A record of medication destroyed shall be maintained and shall include the resident's name, date, medication name and strength, quantity, prescription number, and signatures of the individuals destroying the medications; and

(F) A record of medication released or returned to the pharmacy shall be maintained and shall include the resident's name, date, medication name and strength, quantity, prescription number, and signatures of the individuals releasing and receiving the medications. II/III

(58) Residents experiencing short periods of incapacity due to illness or injury or recuperation from surgery may be allowed to remain or be readmitted from a hospital if the period of incapacity does not exceed forty-five (45) days and written approval of a physician is obtained for the resident to remain in or be readmitted to the facility. I/II

(59) The facility shall maintain a record in the facility for each resident, which shall include the following:

(A) Admission information including the resident's name; admission date; confidentiality number; previous address; birth date; sex; marital status; Social Security number; Medicare and Medicaid numbers (if applicable); name, address and telephone number of the resident's physician and alternate; diagnosis, name, address and telephone number of the resident's legally authorized representative or designee to be notified in case of emergency; and preferred dentist, pharmacist and funeral director; III

(B) A review monthly or more frequently, if indicated, of the resident's general condition and needs; a monthly review of medication consumption of any resident controlling his or her own medication, noting if prescription medications are being used in appropriate quantities; a daily record of administration of medication; a logging of the medication regimen review process; a monthly weight; a record of each referral of a resident for services from an outside service; and a record of any resident incidents including behaviors that pose or have posed a threat of harm to self or others and accidents that potentially could result in injury or did result in injuries involving the resident; and

(C) Any physician's orders. All orders shall be signed and dated. III

(60) A record of the resident census shall be retained in the facility. III

(61) Resident records shall be maintained by the operator for at least five (5) years after a resident leaves the facility or after the resident reaches the age of twenty-one (21), whichever is longer and must include reason for discharge or transfer from the facility and cause of death, as applicable. III

(62) Staffing Requirements.

(A) The facility shall have an adequate number and type of personnel for the proper care of residents, the residents' social well being, protective oversight of residents and upkeep of the facility. At a minimum, the staffing pattern shall be one (1) staff person for up to fifteen (15) residents or major fraction of fifteen (15), except during the hours of 10:00 p.m. through 6:00 a.m. when the staffing pattern shall be a minimum of one (1) person for every twenty (20) residents or major fraction of twenty (20). Meeting these minimal staffing requirements may not meet the needs of residents as outlined in the residents' assessments and individualized service plans. I/II

(B) All on-duty staff of the facility shall, at all times, be awake, dressed in on-duty work attire, and prepared to assist residents to meet social, recreational and care needs in accordance with each resident's individualized service plan. I/II

(C) In a facility of more than sixty (60) residents, the administrator shall not be counted when determining the personnel required. II

(D) At a minimum there shall be a licensed nurse employed by the facility to work at least the following hours per week:

3–30 Residents—8 hours;
31–60 Residents—16 hours;
61–90 Residents—24 hours; and
91 or more residents—40 hours. II

(E) This licensed nurse shall be available to assess residents for pain and significant and acute changes in condition. The nurse's duties shall include, but shall not be limited to, review of residents' records, medications and special diets or other orders, review of each resident's adjustment to the facility and observation of each individual resident's general physical, psychosocial and mental status. The nurse shall inform the administrator of any problems noted and these shall be brought to the attention of the resident's physician and legally authorized representative or designee. II/III

(63) Prior to or on the first day that a new employee works in the facility he or she shall receive orientation of at least two (2) hours appropriate to his or her job function. This shall include at least the following:

(A) Job responsibilities;

(B) Emergency response procedures;

(C) Infection control and handwashing procedures and requirements;

(D) Confidentiality of resident information;

(E) Preservation of resident dignity;
(F) Information regarding what constitutes abuse/neglect and how to report abuse/neglect to the department (1-800-392-0210);
(G) Information regarding the Employee Disqualification List;
(H) Instruction regarding the rights of residents and protection of property;
(I) Instruction regarding working with residents with mental illness; and
(J) Instruction regarding person-centered care and the concept of a social model of care, and techniques that are effective in enhancing resident choice and control over his or her own environment. II/III

(64) In addition to the orientation training required in section (65) of this rule any facility that provides care to any resident having Alzheimer's disease or related dementia shall provide orientation training regarding mentally confused residents such as those with Alzheimer's disease and related dementias as follows:
(A) For employees providing direct care to such persons, the orientation training shall include at least three (3) hours of training including at a minimum an overview of mentally confused residents such as those having Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, techniques for creating a safe, secure and socially oriented environment, provision of structure, stability and a sense of routine for residents based on their needs, and understanding and dealing with family issues; and II/III
(B) For other employees who do not provide direct care for, but may have daily contact with, such persons, the orientation training shall include at least one (1) hour of training including at a minimum an overview of mentally confused residents such as those having dementias as well as communicating with persons with dementia. II/III

(65) All in-service or orientation training relating to the special needs, care and safety of residents with Alzheimer's disease and other dementia shall be conducted, presented or provided by an individual who is qualified by education, experience or knowledge in the care of individuals with Alzheimer's disease or other dementia. II/III

(66) Requirements for training related to safely transferring residents.
(A) The facility shall ensure that all staff responsible for transferring residents are appropriately trained to transfer residents safely. A licensed nurse who provides the transfer training shall observe the caregiver's skills when checking competency in completing safe transfers, shall document the date(s) of training and competency and shall sign and maintain training documentation. Initial training shall include a minimum of two (2) classroom instruction hours in addition to the on-the-job training related to safely transferring residents who need assistance with transfers.
(B) The facility shall ensure that a minimum of one (1) hour of transfer training is provided by a licensed nurse annually regarding safe transfer skills. II/III

AUTHORITY: sections 198.076, RSMo 2000 and 198.005, 198.006 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006)). Original rule filed Aug. 23, 2006.

PUBLIC COST: This proposed rule will cost participating nursing home district facilities formerly licensed as residential care facilities II a total annual cost in the aggregate of $1,356,475. In addition, DHSS estimates a total annual cost in the aggregate of four hundred ninety-seven thousand, seven hundred fifty dollars ($497,750) plus a total one-time cost in the aggregate of eighty thousand thirty-five dollars ($80,035).

PRIVATE COST: This proposed rule will cost facilities formerly licensed as residential care facilities II a total annual cost in the aggregate of $31,188,513. In addition, this proposed rule will cost facilities who have received residential care facilities II certificate of need approval a total annual cost in the aggregate of $1,711,537. There will be an unknown number of newly constructed assisted living facilities with an indeterminate cost.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director, Division of Regulation and Licensure, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	19 CSR 30-86.047 Administrative, Personnel and Resident Care Requirements for Assisted Living Facilities
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
11 Facilities formerly Licensed as Residential Care Facility IIs Operated by Nursing Home Districts	Total Yearly Cost in the Aggregate $1,356,475**
Missouri Department of Health and Senior Services	Total Yearly Cost in the Aggregate $497,750 Total One-Time Cost in the Aggregate $80,035

III. and IV. WORKSHEET AND ASSUMPTIONS

CCS HCS SCS SB 616, (93rd General Assembly, Second Regular Session (2006)) provides that long-term care facilities licensed prior to August 28, 2006 as residential care facility II will be licensed as assisted living facilities but have the option of continuing to meet state laws and regulations in effect on August 27, 2006 for residential care facility IIs (for a period of time) or meeting additional requirements relating to assisted living facilities. The proposed rule 19 CSR 30-86.047 provides the additional requirements that assisted living facilities may choose to meet in lieu of continuing to meet regulations for residential care facility IIs in effect on August 27, 2006. The proposed rule includes standards: (1) that were applicable to residential care facility IIs licensed prior to August 28, 2006 that will continue to be applicable to all assisted living facilities and (2) that are new requirements for assisted living facilities. Some of these new provisions are specifically required by SB 616 as described below.

According to DHSS licensure records, there are currently 15 residential care facility IIs operated by nursing home districts. Based on comments received from the long term care industry, DHSS estimates 70% of these facilities will choose to comply with assisted living facility standards (365 total facilities x .70 percentage of facilities choosing to comply with this proposed rule). All costs are based on this percentage (11 facilities). These 11 facilities represent 3% of the total number of licensed residential care facility IIs (11 facilities / 365 total facilities).

Administrator Costs – This proposed rule requires facility administrators to devote sufficient time and attention to the management of the facility. They are not required to be employed full time. This provision is the same as in existing rule as of August 27, 2006 (19 CSR 30-86.042). The number of hours of employment will depend on the size of the facility

and the acuity level of residents. For purposes of this calculation, DHSS divided full-time employment (40 hours) by two. According to a study of administrator salaries conducted in 2000 by Keller & Company, LLC, the average salary of a full-time licensed nursing home administrator was $48,324. To reach a current salary of $53,156, this amount has been increased by 10% to account for increases in salary the past six years ($48,324 x 1.1 = $53,156). DHSS has added an additional amount for fringe benefits which is based on current fringe benefit rates for state employees.* DHSS estimates yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be $415,353 ($53,156 x .4207 fringe rate) + ($53,156) / (2 for half-time employment) x (11 facilities). This amount may be reduced by an indeterminate amount in that this proposed rule allows administrators to serve as the administrator in up to five facilities within a thirty mile radius as long as the total bed capacity of those facilities is not greater than 100. Current rule under 19 CSR 30-86.042 allows administrators to serve as the administrator in up to four facilities within a thirty mile radius as long as the total bed capacity of those facilities is not greater than 100 .

Drug Regimen and Controlled Substance Review – This proposed rule requires assisted living facilities to contract with either a registered nurse or pharmacist to conduct controlled substance record reviews and resident drug regimen reviews every other month. Based on Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a registered nurse I is $35,076. DHSS estimates it will take one eight-hour workday to complete the reviews. DHSS estimates the total yearly cost for assisted living facilities in the aggregate to be $12,650 ($35,076 x .4207 fringe rate) + ($35,076) / (2080 hours in a work year) x (8 hours) x (6 times per year) x (11 facilities). Note: current regulations at 19 CSR 30-86.042 for residential care facility IIs require a registered nurse or pharmacist to conduct a drug regimen review of each resident every other month. DHSS estimates this review took one seven-hour workday to complete. DHSS estimates current yearly costs for existing residential care facility IIs to perform drug regimen reviews to be $11,069 ($35,076 x .4207 fringe rate) + ($35,076) / (2080 hours in a work year) x (7 hours) x (6 times per year) x (11 facilities). The proposed rule's addition of a requirement for controlled substance reviews adds one hour to the current estimated time for drug regimen reviews. DHSS estimates the actual new yearly costs for assisted living facilities that were licensed as residential care facility IIs to conduct controlled substance record reviews as well as resident drug regimen reviews in the aggregate to be $1,581($12,650 - $11,069).

Staffing – SB 616 (Section 198.073(4), RSMo) requires assisted living facilities to have twenty-four hour staff appropriate in numbers and with appropriate skills to provide services to residents. The proposed rule states assisted living facilities shall have an adequate number an type of personnel for the proper care of residents, the residents' social well being, protective oversight of residents and upkeep of the facility. The remaining requirements in this proposed rule other than training relate to tasks of staff employed by an assisted living facility. Assisted living facilities must have an employee with the qualifications to administer medications on duty at all times, therefore DHSS' estimate is based on the salary of a Level 1 Medication Aide. The proposed rule does not dictate the qualifications for the remaining staff, therefore assisted living facilities may use the following formula revised with their own

figures to determine the cost to their facility. Based on staffing ratios in the proposed rule, assisted living facilities will be required to employ 28 employees between the hours of 6 a.m. to 10 p.m. (2 eight-hour shifts) (10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .03 percentage of facilities choosing to comply) / (22***) x (2 shifts between hours of 6 a.m. and 10 p.m.). In addition, assisted living facilities will be required to employ 10 employees between the hours of 10:00 p.m. and 6:00 a.m. (1 eight-hour shift) (10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .03 percentage of facilities choosing to comply) / (30***) x (1 shift). According to a study of level I medication aide salaries conducted in 2000 by Keller & Company, LLC, the average salary of a level I medication aide was $14,289. To reach a current salary of $15,718, this number was increased by 10% to account for increases in salary the past six years ($14,289 x 1.1 = $15,718). DHSS estimates the total yearly cost for assisted living facilities in the aggregate to be DHSS estimates the total yearly cost for assisted living facilities in the aggregate to be $848,561 ($15,718 x .4207 fringe rate) + ($15,718) x (38 total employees). DHSS estimates that current requirements under 19 CSR 30-86.042 require residential care facility IIs to employ 32 employees (day shift = 10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .03 percentage of facilities choosing to comply) / (22***) + (evening shift = 10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .03 percentage of facilities choosing to comply) / (30***) + (night shift = 10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .03 percentage of facilities choosing to comply) / (37***). DHSS estimates current yearly costs for residential care facility IIs in the aggregate to be $714,578 ($15,718 x .4207 fringe rate) + ($15,718) x (32 total employees). DHSS estimates the actual new yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be $133,983 ($848,561 - $714578).

In addition to the above requirements, this proposed rule requires assisted living facilities to employ a licensed nurse a minimum of eight hours per week for every 30 residents. Licensed nurse hours will increase as the facility census increases. DHSS estimates 10 licensed nurses will be required to work eight hours per week (10,194 current census in residential care facility IIs according to DHSS monthly reports x .03 percentage of facilities choosing to comply) / (30****) in assisted living facilities. Based on the Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a licensed practical nurse I is $24,984. DHSS estimates the total yearly cost to assisted living facilities in the aggregate to be $70,984 ($24,982 x .4207 fringe rate) + ($24,982) / (2080 hours in a work year) x (8 hours) x (52 weeks per year) x (10 LPNs). Current requirements under 19 CSR 30-86.042 require residential care facility IIs to employ 7 licensed nurses (10,194 current census in residential care facility IIs according to DHSS monthly reports x .03 percentage of facilities choosing to comply) / (45****). DHSS estimates current yearly costs for residential care facility IIs in the aggregate to be $49,689 ($24,982 x .4207 fringe rate) + ($24,982) / (2080 hours in a work year) x (8 hours) x (52 weeks per year) x (7 LPNs). DHSS estimates the actual new yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be $21,295 ($70,984 - $49,689).

Staff Training – This proposed rule requires assisted living facilities that provide care to residents with Alzheimer's disease or related dementia to provide 3 hours of dementia specific training to staff providing the care. According to the Alzheimer's Association, the cost for such a class is approximately $225. Because of staff turnover, DHSS estimates each assisted living facility will need three training sessions per year. DHSS estimates the total yearly cost for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be $7,425 ($225 cost per training x 3 training sessions per year) x (11 facilities).

In addition to the above requirements, this proposed rule requires assisted living facilities to provide two hours of training by a licensed nurse for staff responsible for transferring residents and an additional hour of training every year after the initial training. Based on the Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a licensed practical nurse I is $24,984. Because of staff turnover, DHSS estimates each assisted living facility will need three two-hour training sessions per year and two one-hour training session per year. DHSS estimates the yearly cost for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be $1,502 ($24,982 x .4207 fringe rate) + ($24,982) / (2080 hours in a work year) x (8 hours of training) x (11 facilities).

Requirement	Total Cost in the Aggregate	Current Cost in the Aggregate	Actual True New Cost in the Aggregate
Administrator	$415,353	$415,353	$0
Drug Regimen and Controlled Substance Review	$12,650	$11,069	$1,581
Staffing	$919,545	$764,267	$155,278
Staff Training	$8,927	$	$8,927
TOTAL	$1,356,475	$1,190,689	$165,786

DHSS Costs - DHSS estimates a need of ten additional inspection staff to focus efforts on regulation of these facilities. This licensure level contains new requirements, which will require inspectors to be trained in these areas and to inspect for standards not previously imposed on facilities. DHSS estimates the total yearly cost to the Department to be $497,750 for personal service and expense and equipment purchases. In addition, DHSS estimates a one time cost of $80,035 for equipment and supplies associated with the ten new positions.

*The state of Missouri fringe benefit rate for fiscal year 2007 is 42.07 percent which includes retirement contribution, medical insurance, basic life insurance, long-term disability and Missouri deferred compensation. This rate was used throughout the fiscal note. Facilities can use this formula revised with their own figures to determine the cost to their facility.

** At an August 7,2006 public meeting, various members of the long term care industry verbally reported various estimated costs for specific requirements, but did not elaborate how they reached these conclusions.

*** Number of residents requiring one staff person.

**** Number of residents requiring one licensed nurse.

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	19 CSR 30-86.047 Administrative, Personnel and Resident Care Requirements for Assisted Living Facilities
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed 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:
244	Facilities formerly Licensed as Residential Care Facility II	Total Yearly Cost in the Aggregate $31,188,513**
13 facilities who have received Residential Care Facility II CON approval plus an unknown number of new Assisted Living Facilities that will be constructed or have major remodeling	Newly Constructed Assisted Living Facilities	Total Yearly Cost in the Aggregate $1,711,537 for the 13 known plus an indeterminate amount for the unknown

III. and IV. WORKSHEET AND ASSUMPTIONS

CCS HCS SCS SB 616, (93rd General Assembly, Second Regular Session (2006)) provides that long-term care facilities licensed prior to August 28, 2006 as residential care facility II will be licensed as assisted living facilities but have the option of continuing to meet state laws and regulations in effect on August 27, 2006 for residential care facility IIs (for a period of time) or meeting additional requirements relating to assisted living facilities. The proposed rule 19 CSR 30-86.047 provides the additional requirements that assisted living facilities may choose to meet in lieu of continuing to meet regulations for residential care facility IIs in effect on August 27, 2006. The proposed rule includes standards: (1) that were applicable to residential care facility IIs licensed prior to August 28, 2006 that will continue to be applicable to all assisted living facilities and (2) that are new requirements for assisted living facilities. Some of these new provisions are specifically required by SB 616 as described below.

A. There are currently 365 licensed residential care facility IIs. Fifteen of these residential care facility IIs are public nursing home districts. The fiscal impact to these facilities is described in the public entity fiscal note for this proposed rule. Based on comments received from the long term care industry, DHSS estimates 70% of the 365 total existing residential care facility IIs will choose to comply with assisted living facility standards (365 x .70 = 255). This number is reduced by 11 facilities to account for existing residential care facility IIs operated by nursing home districts (15 residential care facility IIs operated by nursing home districts x .70 percentage of residential care facility IIs operated by nursing home

districts choosing to comply with this rule). All costs for this proposed rule are based on this number (244 facilities).

Administrator Costs – This proposed rule requires facility administrators to devote sufficient time and attention to the management of the facility. They are not required to be employed full time. This provision is the same as in existing rule as of August 27, 2006 (19 CSR 30-86.042). The number of hours of employment will depend on the size of the facility and the acuity level of residents. For purposes of this calculation, DHSS divided full-time employment (40 hours) by two. According to a study of administrator salaries conducted in 2000 by Keller & Company, LLC, the average salary of a full-time licensed nursing home administrator was $48,324. To reach a current salary of $53,156, this amount has been increased by 10% to account for increases in salary the past six years ($48,324 x 1.1 = $53,156). DHSS has added an additional amount for fringe benefits which is based on current fringe benefit rates for state employees.* DHSS estimates yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be $9,213,285 ($53,156 x .4207 fringe rate) + ($53,156) /2 for half-time employment) x (244 facilities). This amount may be reduced by an indeterminate amount in that this proposed rule allows administrators to serve as the administrator in up to five facilities within a thirty mile radius as long as the total bed capacity of those facilities is not greater than 100. Current rule under 19 CSR 30-86.042 allows administrators to serve as the administrator in up to four facilities within a thirty mile radius as long as the total bed capacity of those facilities is not greater than 100.

Drug Regimen and Controlled Substance Reviews – This proposed rule requires assisted living facilities to contract with either a registered nurse or pharmacist to conduct controlled substance record reviews and resident drug regimen reviews every other month. Based on Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a registered nurse I is $35,076. DHSS estimates it will take one eight-hour workday to complete the reviews. DHSS estimates the total yearly cost for assisted living facilities in the aggregate to be $280,595 ($35,076 x .4207 fringe rate) + ($35,076) / (2080 hours in a work year) x (8 hours) x (6 times per year) x (244 facilities). Note: current regulations at 19 CSR 30-86.042 for residential care facility IIs require a registered nurse or pharmacist to conduct a drug regimen review of each resident every other month. DHSS estimates this review took one seven-hour workday to complete. DHSS estimates current yearly costs for existing residential care facility IIs to perform drug regimen reviews to be $245,521 ($35,076 x .4207 fringe rate) + ($35,076) / (2080 hours in a work year) x (7 hours) x (6 times per year) x (244 facilities). The proposed rule's addition of a requirement for controlled substance reviews adds one hour to the current estimated time for drug regimen reviews. DHSS estimates the actual new yearly costs for assisted living facilities that were licensed as residential care facility IIs to conduct controlled substance record reviews as well as resident drug regimen reviews in the aggregate to be $35,074 ($280,595 - $245,521).

Staffing – SB 616 (Section 198.073(4), RSMo) requires assisted living facilities to have twenty-four hour staff appropriate in numbers and with appropriate skills to provide services to residents. The proposed rule states assisted living facilities shall have an adequate number

an type of personnel for the proper care of residents, the residents' social well being, protective oversight of residents and upkeep of the facility. The remaining requirements in this proposed rule other than training relate to tasks of staff employed by an assisted living facility. Assisted living facilities must have an employee with the qualifications to administer medications on duty at all times, therefore DHSS' estimate is based on the salary of a Level 1 Medication Aide. The proposed rule does not dictate the qualifications for the remaining staff, therefore assisted living facilities may use the following formula revised with their own figures to determine the cost to their facility. Based on staffing ratios in the proposed rule, assisted living facilities will be required to employ 649 employees between the hours of 6 a.m. to 10 p.m. (2 eight-hour shifts) (10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .70 percentage of facilities choosing to comply) / (22***) x (2 shifts between hours of 6 a.m. and 10 p.m.). In addition, assisted living facilities will be required to employ 238 employees between the hours of 10:00 p.m. and 6:00 a.m. (1 eight-hour shift) (10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .70 percentage of facilities choosing to comply) / (30***) x (1 shift). According to a study of level I medication aide salaries conducted in 2000 by Keller & Company, LLC, the average salary of a level I medication aide was $14,289. To reach a current salary of $15,718, this number was increased by 10% to account for increases in salary the past six years ($14,289 x 1.1 = $15,718). DHSS estimates the total yearly cost for assisted living facilities in the aggregate to be $19,807,209 ($15,718 x .4207 fringe rate) + (15,718) x (887 total employees). DHSS estimates that current requirements under 19 CSR 30-86.042 require residential care facility IIs to employ 755 employees (day shift = 10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .70 percentage of facilities choosing to comply) / (22***) + (evening shift = 10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .70 percentage of facilities choosing to comply) / (30***) + (night shift = 10,194 current census in residential care facility IIs according to DHSS monthly reports for June, 2006 x .70 percentage of facilities choosing to comply) / (37***). DHSS estimates current yearly costs for residential care facility IIs in the aggregate to be $16,859,575 ($15,718 x .4207 fringe rate) + (15,718) x (755 total employees). DHSS estimates the actual new yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be $2,947,634 ($19,807,209 - $16,859,575).

In addition to the above requirements, this proposed rule requires assisted living facilities to employ a licensed nurse a minimum of eight hours per week for every 30 residents. Licensed nurse hours will increase as the facility census increases. DHSS estimates 238 licensed nurses will be required to work eight hours per week (10,194 current census in residential care facility IIs according to DHSS monthly reports x .70 percentage of facilities choosing to comply) / (30****) in assisted living facilities. Based on the Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a licensed practical nurse I is $24,984. DHSS estimates the total yearly cost to assisted living facilities in the aggregate to be $1,689,416 ($24,982 x .4207 fringe rate) + ($24,982) / (2080 hours in a work year) x (8 hours) x (52 weeks per year) x (238 LPNs). Current requirements under 19 CSR 30-86.042 require residential care facility IIs to employ 159 licensed nurses (10,194 current census in residential care facility IIs according to DHSS monthly reports x .70 percentage of facilities choosing to comply) /

(45****). DHSS estimates current yearly costs for residential care facility IIs in the aggregate to be $1,128,643 ($24,982 x .4207 fringe rate) + ($24,982) / (2080 hours in a work year) x (8 hours) x (52 weeks per year) x (159 LPNs). DHSS estimates the actual new yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be $560,773 ($1,689,416 - $1,128,643).

Staff Training – This proposed rule requires assisted living facilities that provide care to residents with Alzheimer's disease or related dementia to provide 3 hours of dementia specific training to staff providing the care. According to the Alzheimer's Association, the cost for such a class is approximately $225. Because of staff turnover, DHSS estimates each assisted living facility will need three training sessions per year. DHSS estimates the total yearly cost for assisted living facilities in the aggregate to be $164,700 ($225 cost per training x 3 training sessions per year) x (244 facilities). Current regulations for residential care facility IIs caring for residents with Alzheimer's disease or related dementia require six hours of classroom training. DHSS estimates current yearly costs for residential care facility IIs in the aggregate to be $20,250 ($450 cost per training x 3 training sessions per year) x (15 facilities currently providing care for residents with Alzheimer's disease or related dementia). DHSS estimates the actual new yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be $144,450 ($164,700 - $20,250).

In addition to the above requirements, this proposed rule requires assisted living facilities to provide two hours of training by a licensed nurse for staff responsible for transferring residents and an additional hour of training every year after the initial training. Based on the Office of Administration, Division of Personnel, Uniform Classification and Pay System (Revised October 1, 2005) the average annual market salary for a licensed practical nurse I is $24,984. Because of staff turnover, DHSS estimates each assisted living facility will need three two-hour training sessions per year and two one-hour training session per year. DHSS estimates the yearly costs for assisted living facilities formerly licensed as residential care facility IIs in the aggregate to be $33,308 ($24,982 x .4207 fringe rate) + ($24,982) / (2080 hours in a work year) x (8 hours of training) x (244 facilities).

The following chart shows the total cost in the aggregate for assisted living facilities and the actual new costs in the aggregate for assisted living facilities formerly licensed as residential care facility IIs.

Requirement	Total Cost in the Aggregate	Current Cost in the Aggregate	Actual True New Cost in the Aggregate
Administrator	$9,213,285	$9,213,285	$0
Drug Regimen and Controlled Substance Review	$280,595	$245,521	$35,074
Staffing	$21,496,625	$17,988,218	$3,508,407
Staff Training	$198,008	$20,250	$177,758
TOTAL	$31,188,513	$27,467,274	$3,721,239

B. In addition, information obtained from the Certificate of Need Program reveals 13 facilities who have CON approval for Residential Care Facility II. In determining the cost in the aggregate for these 13 facilities, DHSS utilized it's estimate of the yearly cost of compliance for each existing facility which is $127,822 ($31,188,513 total yearly cost in the aggregate for current facilities / 244 number of facilities choosing to comply with this proposed rule) plus three percent adjustment for inflation. DHSS estimates the actual costs for the 13 facilities with current CON approval for residential care facility II to be $1,711,537 ($127,822 cost to each facility) x (13 number of facilities with current CON approval for Residential Care Facility II) x (.03 inflation adjustment) + ($1,661,686).

*The state of Missouri fringe benefit rate for fiscal year 2007 is 42.07 percent which includes retirement contribution, medical insurance, basic life insurance, long-term disability and Missouri deferred compensation. This rate was used throughout the fiscal note. Facilities can use this formula revised with their own figures to determine the cost to their facility.

** At an August 7,2006 public meeting, various members of the long term care industry verbally reported various estimated costs for specific requirements, but did not elaborate how they reached these conclusions.

*** Number of residents requiring one staff person.

**** Number of residents requiring one licensed nurse.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 86—Residential Care Facilities *[I and II]* ***and Assisted Living Facilities***

PROPOSED AMENDMENT

19 CSR 30-86.052 Dietary Requirements for *[New and Existing]* **Residential Care Facilities** *[I]* **and** *[II]* ***Assisted Living Facilities***. The department is amending sections (1), (2) and (3), and adding a new section (9).

PURPOSE: This amendment deletes the terms residential care facility I and II used in this rule and replaces those terms with residential care facility (RCF) and assisted living facility (ALF) and clarifies standards for meeting dietary needs of residents in residential care facilities and assisted living facilities.

Editor's Note: All rules relating to long-term care facilities licensed by the [Division of Aging] ***department*** *are followed by a Roman Numeral notation which refers to the class (either class I, II or III) of standard as designated in section 198.085.1, RSMo 1986.*

(1) **Each resident shall be served food prepared and served under safe, sanitary conditions that is prepared consistent with the preferences of the resident and in accordance with attending physician's orders.** The nutritional needs of the residents shall be met. Balanced nutritious meals using a variety of foods shall be served. Consideration shall be given to the food habits, preferences, medical needs and physical abilities of the residents. II/III

(2) *[At least three (3) substantial meals per day, of which at least two (2) are hot, shall be served.]* **Each resident shall receive and the facility shall provide at least three (3) meals daily, at regular times comparable to normal mealtimes in the community. At least two (2) meals daily shall be hot.** II/III

(3) *[Meals shall be served with not more than fourteen (14) hours from evening meal to morning meal.]* **There shall be no more than fourteen (14) hours between a substantial evening meal and breakfast the following day, except when a nourishing snack is provided at bedtime. Up to sixteen (16) hours may elapse between a substantial evening meal and breakfast the following day if a resident group agrees to this meal span, and a nourishing snack is served.** *[II]***/III**

(9) Nothing in this rule shall be construed as taking precedence over the resident's right to make decisions regarding his or her eating and dining preferences.

(A) In assisted living facilities, information about the resident's eating and dining preferences shall be incorporated in his or her individualized service plan based on an assessment that includes the resident's culture, life-long routines, habits, patterns and preferences. III

(B) In assisted living facilities, if the resident's eating and dining preferences have a potential health risk, staff shall inform the resident or his or her legally authorized representative of the potential health risks and document this in his or her individualized service plan. III

AUTHORITY: sections 198.076, RSMo [1986] ***2000 and 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006))****. This rule originally filed as 13 CSR 15-15.052. 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 Aug. 1, 1988, effective Nov. 10, 1988. Moved to 19 CSR 30-86.052, effective Aug. 28, 2001. Amended: Filed Aug. 23, 2006.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director, Division of Regulation and Licensure, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of *[Health Standards]* ***Regulation*** and Licensure
Chapter 87—Sanitation Requirements for Long-Term Care Facilities

PROPOSED AMENDMENT

19 CSR 30-87.020 General Sanitation Requirements for New and Existing Long-Term Care Facilities. The department is amending sections (51) and (53).

PURPOSE: The amendment deletes the terms "residential care facility I" and "residential care facility II" and replaces those terms with "residential care facility" and "assisted living facility," clarifies that nothing in the rule shall prohibit a laundry area for use by residents and clarifies the requirements for residents transporting their personal laundry to a resident use laundry area.

EDITOR'S NOTE: All rules relating to long-term care facilities licensed by the [Division of Aging] ***department*** *are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.*

(51) For intermediate care and skilled nursing facilities, existing *[residential care facilities II]* **assisted living facilities** and new residential care facilities *[I and II]* **and assisted living facilities** licensed for more than twelve (12) residents, if laundry is done in the facility entirely or partially, the laundry room shall be in a separate room from the kitchen, the residents' room(s), the sitting or living room and the bathrooms or the nursing utility room. Adequate space shall be provided in the laundry room for storing, sorting and processing soiled linen. Table linen shall be laundered separately from bed linen, towels and clothing. Space shall be provided for storing clean linen in a separate room from the laundry. **Nothing in this rule shall prohibit a facility from providing a laundry area for use by residents.** II/III

(53) Soiled clothes and linens shall be stored in nonabsorbent containers or washable laundry bags and shall be transported for laundering in tightly enclosed bags or containers. **Nothing in this rule shall require residents to use tightly enclosed bags or containers when transporting their personal laundry items to the resident laundry area referred to in section (51).** III

AUTHORITY: section 198.009, RSMo [1986] ***2000 and 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006))****. This rule originally filed as 13 CSR 15-17.020. Original rule filed July 13, 1983, effective*

Oct. 13, 1983. Emergency rule filed Aug. 1, 1984, effective Aug. 13, 1984, expired Dec. 10, 1984. Amended: Filed Sept. 12, 1984, effective Dec. 13, 1984. Amended: Filed Aug. 1, 1988, effective Nov. 11, 1988. Moved to 19 CSR 30-87.020, effective Aug. 28, 2001. Amended: Filed Aug. 23, 2006.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register.** No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of *[Health Standards]* ***Regulation*** and Licensure
Chapter 87—Sanitation Requirements for Long-Term Care Facilities

PROPOSED AMENDMENT

19 CSR 30-87.030 Sanitation Requirements for Food Service. The department is amending sections (4), (7), (9), (10), (12), (15), (25), (39), (40), (71), (72), (73), (74) and (80), adding new sections (10) and (97) and renumbering sections (10) through (95).

PURPOSE: This amendment deletes the term "residential care facility I" and replaces that term with "residential care facility," updates provisions relating to reference materials, adds provisions for kitchen and family style eating areas in assisted living facilities, utilizing the social model during mealtimes, installing aviaries in the dining room, using fresh garden produce and food service sanitation requirements for carry-in dinners, clarifies food service sanitation requirements for animals in dining areas, and changes the name of the agency throughout the rule due to the transfer of the Division of Aging from the Department of Social Services to the Department of Health and Senior Services effective August 28, 2001.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

EDITOR'S NOTE: All rules relating to long-term care facilities licensed by the [Division of Aging] ***department*** *are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.*

(4) Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination of other food, equipment, utensils or other items needing protection. **Nothing in this section shall prohibit staff from dining with residents when the facility utilizes the social model for mealtime.** III

(7) Food preparation and storage shall not be conducted in any room used as living or sleeping quarters. In a facility licensed for more than twelve (12) residents, except in an existing residential care facility *[I]*, food service operations shall be separated from living or sleeping quarters by complete partitioning and solid, self-closing doors. **Nothing in this section shall prohibit an assisted living facility from providing kitchen and family style eating areas for use by residents.** III

(9) Live animals, including birds and turtles shall be excluded from *[within]* the food storage, service and preparation areas*[, provided that pets may be in the dining area when food is not actually being served]*. This exclusion does not apply to edible fish, crustacea, shellfish or to fish in aquariums. Patrol dogs accompanying security or police officers, **or service** or guide dogs *[accompanying blind or deaf persons]* **assisting residents or visitors** shall be permitted in dining areas. **Other dogs and cats may be permitted in the dining area if food service sanitation is not compromised and residents do not object.** III

(10) Birds within enclosed aviaries may be in the dining area with the following stipulations:

(A) The facility ensures the aviary is cleaned at least twice a week and more often as needed to maintain a clean environment; III

(B) The facility provides proper hand washing instructions to those staff having access to the birds and monitors to ensure compliance; and III

(C) The facility contacts the local or county Health Department and informs that department that an aviary has been installed. III

[(10)] **(11)** Food shall be in sound condition, free from spoilage, filth or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited. **Nothing in this section shall prohibit facilities from using fresh vegetables or fruits purchased from farmers' markets or obtained from the facility garden or residents' family gardens.** I/II

[(11)] **(12)** Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the Grade A quality standards as established by law. Dry milk and dry milk products shall be made from pasteurized milk products. I/II

[(12)] **(13)** At all times, including while being stored, prepared, displayed, served or transported to or from the facility, food shall be protected from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage and overhead leakage or overhead drippage from condensation. The temperature of potentially hazardous food shall be forty-five degrees Fahrenheit (45°F) or below or one hundred forty degrees Fahrenheit (140°F) or above at all times, except as otherwise provided in this section. In the event of a fire, flood, power outage or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the *[Division of Aging]* **Department of Health and Senior Services (the department)**. Upon receiving notice of this occurrence, the *[Division of Aging]* **department** shall take whatever action that it deems necessary to protect the residents. II/III

[(13)] **(14)** Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean covered container except during necessary periods of preparation or

service. Container covers shall be impervious and nonabsorbent except that linens or napkins may be used for lining or covering bread or roll containers. **III**

[(14)] **(15)** Containers of food shall be stored above the floor in a manner that protects the food from splash and other contamination and that permits easy cleaning of the storage area, except that metal pressurized beverage containers, and cased food packaged in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture; and containers may be stored on dollies, racks or pallets, provided the equipment is easily movable. **III**

[(15)] **(16)** Food and containers of food shall be stored in a manner which *[would]* protect**s** it from contamination. The storage of food in toilet rooms or vestibules is prohibited. II/III

[(16)] **(17)** Unless its identity is unmistakable, bulk food, such as cooking oil, syrup, salt, sugar or flour not stored in the product container or package in which it was obtained, shall be stored in a container identifying the food by common name. III

[(17)] **(18)** Enough conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of potentially hazardous food at required temperatures during storage. Each mechanically refrigerated facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit (±3°F), located to measure the air temperature in the warmest part of the refrigerated facility and located to be easily readable. Recording thermometers, accurate to plus or minus three degrees Fahrenheit (±3°F), may be used in lieu of indicating thermometers. III

[(18)] **(19)** Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of forty-five degrees Fahrenheit (45°F) or below, utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container so that the cooling period shall not exceed four (4) hours. Potentially hazardous food to be transported shall be prechilled and held at a temperature of forty-five degrees Fahrenheit (45°F) or below. I/II

[(19)] **(20)** Frozen food shall be kept frozen and should be stored at a temperature of zero degrees Fahrenheit (0°F) or below. III

[(20)] **(21)** Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers or food utensils, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption. III

[(21)] **(22)** Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice provided that, the tubing is fabricated from safe materials, is grommeted at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin. III

[(22)] **(23)** Enough conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit (±3°F), located to measure the air temperature in the coolest part of the hot food storage facility and located to be easily readable. Recording thermometers, accurate to plus or minus three degrees Fahrenheit (±3°F), may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as bains-maries, steam tables, steam kettles, heat lamps, calrod units or insulated food transport carriers, a product thermometer must be available and used to check internal food temperature. III

[(23)] **(24)** The internal temperature of potentially hazardous foods requiring hot storage shall be one hundred forty degrees Fahrenheit (140°F) or above, except during periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of one hundred forty degrees Fahrenheit (140°F) or above. I/II

[(24)] **(25)** Raw fruits and vegetables shall be thoroughly washed with potable water before being cooked or served. II/III

[(25)] **(26)** Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least one hundred forty degrees Fahrenheit (140°F), except that poultry, poultry stuffings, stuffed meats and stuffings containing meat shall be cooked to heat all parts of the food to at least one hundred sixty-five degrees Fahrenheit (165°F) with no interruption of the cooking process*[,]***.** *[p]***P**ork and food containing pork shall be cooked to heat all parts of the food to at least one hundred fifty degrees Fahrenheit (150°F); rare roast beef shall be cooked to an internal temperature of at least one hundred thirty degrees Fahrenheit (130°F); and rare beef steak shall be cooked to a temperature of one hundred thirty degrees Fahrenheit (130°F) unless otherwise ordered by the resident. II/III

[(26)] **(27)** Liquid, frozen, dry eggs and egg products shall be used only for cooking and baking purposes. II/III

[(27)] **(28)** Only clean whole eggs, with shell intact and without cracks or checks, or pasteurized liquid or frozen, or dry eggs or pasteurized dry egg products shall be used, except that hard-boiled, peeled eggs, commercially prepared and packaged, may be used. II

[(28)] **(29)** Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to one hundred sixty-five degrees Fahrenheit (165°F) or higher throughout before being served or before being placed in a hot food-storage facility. II

[(29)] **(30)** Steam tables, bains-maries, warmers and similar hot food-holding facilities are prohibited for the rapid reheating of potentially hazardous foods. II/III

[(30)] **(31)** Nondairy creaming, whitening or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one (1) gallon in capacity and cooled to forty-five degrees Fahrenheit (45°F) or below within four (4) hours after preparation. II/III

[(31)] **(32)** Metal stem-type numerically scaled indicating thermometers, accurate to plus or minus two degrees Fahrenheit (±2°F), shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding or refrigeration temperatures of all potentially hazardous foods. II/III

[(32)] **(33)** Potentially hazardous foods shall be thawed in refrigerated units at a temperature not to exceed forty-five degrees Fahrenheit (45°F); or under potable running water at a temperature of seventy degrees Fahrenheit (70°F) or below, with sufficient water velocity to agitate and float off loose food particles into the overflow; or in a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or as part of the conventional cooking process. II/III

[(33)] **(34)** At time of service to the resident, food shall be at least one hundred twenty degrees Fahrenheit (120°F) or forty-five degrees Fahrenheit (45°F) or below. II/III

[(34)] **(35)** Milk and milk products for drinking purposes shall be provided to the resident in an unopened, commercially filled package not exceeding one (1) pint in capacity, or shall be drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser, or shall be poured directly into glass(es) to be used by the resident(s) from a commercially filled gallon or half-gallon container provided the container is completely emptied in the process and then discarded, or if a portion of milk remains, that no milk may be returned to that container and is immediately refrigerated. Where a bulk dispenser for milk and milk products is not available and portions of less than one-half (1/2) pint are required for mixed drinks, cereal or dessert service, milk and milk products may be poured from a commercially filled container of not more than one (1) gallon capacity and no milk may be returned to that container. II/III

[(35)] **(36)** Reconstituted dry milk and dry milk products shall not be used for drinking purposes but may be used in instant desserts and whipped products, or for cooking and baking purposes. **III**

[(36)] **(37)** Cream or half-and-half or nondairy creaming agents or whitening agents shall be provided in an individual service container, protected pour-type pitcher or drawn from a refrigerated dispenser designed for such service. III

[(37)] **(38)** Condiments, seasoning and dressings for self-service use shall be provided in individual packages, from dispensers or from protected containers. III

[(38)] **(39)** Condiments provided for table or counter service shall be individually portioned, except that catsup and other sauces may be served in the original container or pour-type dispenser. Sugar for consumer shall be provided in individual packages or in pour-type dispensers. III

[(39)] **(40)** Ice shall be *[displayed]* **dispensed** only with scoops, tongs or other ice-dispensing utensils or through automatic self-service, ice-dispensing equipment. Ice-dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap. III

[(40)] **(41)** To avoid unnecessary manual contact with food, suitable preparation and dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses, during service, dispensing utensils shall be stored in a manner which *[would]* prevent**s** contamination. III

[(41)] **(42)** Once served to a resident, portions of leftover food shall not be served again except that packaged food, other than potentially hazardous food, that is still packaged and is still in sound condition**,** may be re-served. III

[(42)] **(43)** Food on display shall be protected from resident contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protector devices, display cases or by other effective means. Enough hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous foods on display. III

[(43)] **(44)** Equipment and utensils shall be constructed and repaired with safe materials including finishing materials; shall be corrosion-resistant and nonabsorbent; and shall be smooth, easily cleanable and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment utensils and single-service articles shall not impart odors, color or taste nor contribute to the contamination of food. III

[(44)] **(45)** Hard maple or equivalently nonabsorbent material may be used for cutting blocks, cutting boards, salad bowls and baker's tables. The use of wood as a food-contact surface under other circumstances is prohibited. III

[(45)] **(46)** Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements of this rule, are permitted for repeated use. III

[46)] **(47)** Re-use of single service articles is prohibited. III

[(47)] **(48)** Food-contact surfaces shall be easily cleanable, smooth and free of breaks, open seams, cracks, chips, pits and similar imperfections and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills, griddle tops and skillets. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers or hot oil-cooking equipment and hot oil-filtering systems, these threads shall be minimized. III

[(48)] **(49)** Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip or be forced into food or onto food-contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces. III

[(49)] **(50)** All sinks and drain boards shall be self-draining. III

[(50)] **(51)** Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection without being disassembled; or by disassembling without the use of tools; or by easy disassembling with the use of only simple tools such as a mallet, a screwdriver or an open-end wrench kept available near the equipment. III

[(51)] **(52)** Equipment intended for in-place cleaning shall be so designed and fabricated that cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; cleaning and sanitizing solutions will contact all interior food-contact surfaces; and the system is self-draining or capable of being completely evacuated. III

[(52)] **(53)** Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches and connections. III

[(53)] **(54)** Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections or crevices, and readily accessible for cleaning, and shall be of such material and in a repair as to be easily maintained in a clean and sanitary condition. III

[(54)] **(55)** Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings and from dripping into food or onto food-contact surfaces. Filters or other grease-extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place. III

[(55)] **(56)** Equipment that was installed in an existing licensed facility and that does not fully meet all of the design and fabrication requirements shall be deemed acceptable in that establishment if it is in good repair, capable of being maintained in a sanitary condition and the food-contact surfaces are nontoxic. Replacement equipment and new equipment shall meet the requirements for design and fabrication. III

[(56)] **(57)** Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment adjacent areas. Equipment is portable if it is small and light enough to be moved easily by one (1) person; and it has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning. III

[(57)] **(58)** Floor-mounted equipment, unless readily movable, shall be sealed to the floor; or installed on a raised platform of concrete or other smooth masonry in a way that meets all of the requirements for sealing or floor clearance; or elevated on legs to provide clearance between the floor and equipment, except that vertically-mounted floor mixers may be elevated to provide at least a four inch (4")-clearance between the floor and equipment if no part of the floor under the mixer is more than six inches (6") from the cleaning access. Equipment is easily movable if it is mounted on wheels or casters; and it has no utility connection or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning. III

[(58)] **(59)** Unless sufficient space is provided for easy cleaning between, behind and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall not be more than one-thirty-second inch (1/32"); or if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls or ceilings. III

[(59)] **(60)** Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks and dollies shall be positioned to provide accessibility to working areas. III

[(60)] **(61)** Tableware shall be washed, rinsed and sanitized after each use. II

[(61)] **(62)** Kitchenware and food-contact surfaces of equipment shall be washed, rinsed and sanitized after each use and following any interruption of operations during which time contamination may have occurred. Water pitchers which are for individual resident use shall be sanitized daily. II/III

[(62)] **(63)** Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces of equipment shall be washed, rinsed and sanitized at intervals throughout the day on a schedule based on food temperature, type of food and amount of food particle accumulation. III

[(63)] **(64)** The food-contact surfaces of grills, griddles and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day, except that this shall not apply to hot oil-cooking equipment and hot oil-filtering systems. The food-contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil. III

[(64)] **(65)** Nonfood-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles and other debris. III

[(65)] **(66)** Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose. III

[(66)] **(67)** Moist cloths or sponges used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in one (1) of the permitted sanitizing solutions and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses. Moist cloths or sponges used for cleaning nonfood-contact surfaces of equipment such as counters, dining table tops and shelves shall be clean and rinsed and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses. III

[(67)] **(68)** For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three (3) compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils and each compartment of the sink shall be supplied with hot and cold potable running water, except that in an existing licensed facility, the use of a two (2)-vat sink and a supplementary portable container to be used for sanitization is acceptable. Fixed equipment and utensils and equipment too large to be cleaned in sink compartment shall be washed manually or cleaned through pressure spray methods. III

[(68)] **(69)** Drain boards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities. III

[(69)] **(70)** Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil. III

[(70)] **(71)** Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence: sinks shall be cleaned prior to use; equipment and utensils shall be thoroughly washed in the first compartment with hot detergent solution that is kept clean; equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment; and equipment and utensils shall be sanitized in the third compartment. III

[(71)] **(72)** The food-contact surfaces of all equipment and utensils shall be sanitized by immersion for at least one-half (1/2) minute in clean, hot water at a temperature of at least one hundred seventy degrees Fahrenheit (170°F); or immersion for at least one (1) minute in a clean solution containing at least fifty (50) parts per million of available chlorine as a hypochlorite and at a temperature of at least seventy-five degrees Fahrenheit (75°F); or immersion for at least one (1) minute in a clean solution containing at least twelve and one-half (12.5) parts per million of available iodine and having a pH not higher than five (5.0) and at a temperature of at least seventy-five degrees Fahrenheit (75°F); or immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 CFR 178.1010 of the *[1976 edition of the]* **(Revised 2005),** ***Food and Drug Code* of the** United States Food and Drug Administration, *[Food Service Sanitation Ordinance,]* **Department of Health and Human Services, 200 Independence Avenue, S.W. Washington, D.C. 20201, Telephone: 202-619-0257, Toll Free: 1-877-696-6775,** that will provide the equivalent bactericidal effect of a solution containing at least fifty (50) parts per million of available chlorine as a

hypochlorite at a temperature of at least seventy-five degrees Fahrenheit (75°F); or treatment with steam, free from materials or additives other than those specified in 21 CFR 173.310 of the *[1976 edition of the]* (**Revised 2005), *Food and Drug Code* of the** United States Food and Drug Administration, *[Food Service Sanitation Ordinance,]* **Department of Health and Human Services,** in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or rinsing, spraying or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution in the case of equipment too large to sanitize by immersion. **(21 CFR 178.1010 (Revised 2005) and 21 CFR 173.310 (Revised 2005) are incorporated by reference in this rule and available by Internet at: www.access.gpo.gov. This rule does not incorporate any subsequent amendments or additions.)** II/III

[(72)] **(73)** When hot water is used for sanitizing, as allowed by section *[(63)]***(72)** of this rule, the following facilities shall be provided and used: an integral heating device or fixture installed in, on or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least one hundred seventy degrees Fahrenheit (170°F); and a numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit (±3°F), convenient to the sink for frequent checks of water temperature; and dish baskets of such size and design to permit complete immersion of the tableware, kitchenware and equipment in the hot water. II/III

[(73)] **(74)** When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under 21 CFR 178.1010 of the *[1976 edition of the]* (**Revised 2005), *Food and Drug Code* of the** United States Food and Drug Administration**,** *[Food Service Sanitation Ordinance]* **Department of Health and Human Services,** and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used. III

[(74)] **(75)** Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. In a facility with a licensed capacity of twelve (12) or fewer beds, a home-type dishwashing machine shall be acceptable. If a new machine is purchased, it shall be one *[(1)]* with sanitizing capabilities. In a facility licensed for a larger capacity, if a dishwasher is used, it shall meet the requirements in sections *[(63)–(69)]* **(72)–(74)** of this rule. Machines and devices shall be properly installed and maintained in good repair; shall be operated in accordance with manufacturers' instructions; and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers and liquid sanitizer injectors, if any, shall be properly installed and maintained. II/III

[(75)] **(76)** The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than fifteen (15) nor more than twenty-five (25) pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A one-fourth inch (1/4") IPS valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water. III

[(76)] **(77)** Machine- or water line-mounted numerically scaled indicating thermometers, accurate to plus or minus three degrees Fahrenheit (±3°F), shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold. III

[(77)] **(78)** Rinse water tanks shall be protected by baffles, curtains or other effective means of minimizing the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machines. III

[(78)] **(79)** Drain boards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of each movable dish table for the storage of clean utensils following sanitization. III

[(79)] **(80)** Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a prewash cycle is a part of the dishwashing machine operation. Equipment and utensils shall be placed in racks, trays or baskets, or on conveyors, in a way that food-contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining. III

[(80)] **(81)** Machines (single-tank, stationary-rack, door-type machines and spray-type glass washes) using chemicals for sanitization may be used provided that—the temperature of the wash water is not less than one hundred twenty degrees Fahrenheit (120°F), the wash water is kept clean, chemicals added for sanitization purposes are automatically dispensed; utensils and equipment are exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration, the chemical sanitizing rinse water temperature is not less than seventy-five degrees Fahrenheit (75°F) nor less than the temperature specified by the machine's manufacturer; chemical sanitizers used shall meet the requirements of 21 CFR 178.1010 *[1976 edition of the]* (**Revised 2005), *Food and Drug Code* of the** United States Food and Drug Administration, *[Food Service Sanitation Ordinance,]* **Department of Health and Human Services,** and a test kit or other device that accurately measures the parts per million concentration of the solution is available and is used. II/III

[(81)] **(82)** Machines using hot water for sanitizing may be used provided that they are operated in accordance with the manufacturer's instructions and are maintained in good repair. II/III

[(82)] **(83)** All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition. III

[(83)] **(84)** After mechanical or manual sanitization, all equipment and utensils shall be air dried. All utensils shall be stored in a self-draining position. III

[(84)] **(85)** Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contact with inside surfaces or surfaces that contact the user's mouth. III

[(85)] **(86)** Cleaned and sanitized utensils and equipment shall be stored above the floor in a clean, dry location in a way that protects them from contamination by splash, dust and other means. The food-contact surfaces of fixed equipment shall also be protected from contamination. III

[(86)] **(87)** Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, wherever practical. Facilities for the storage of knives, forks and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is prewrapped, holders for knives, forks and spoons at self-service

locations shall protect these articles from contamination and present the handle of the utensil to the consumer. III

[(87)] **(88)** Single-service articles shall be stored above the floor in closed cartons or containers which protect them from contamination. III

[(88)] **(89)** Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user. III

[(89)] **(90)** Single-service knives, forks and spoons packaged in bulk shall be inserted into holders or be wrapped by a person who has washed his/her hands immediately prior to sorting or wrapping utensils. Unless single-service knives, forks and spoons are prewrapped or prepackaged, holders shall be provided to protect these items from contamination. III

[(90)] **(91)** Prohibited Storage Area. The storage of food equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited. III

[(91)] **(92)** All storage and installation of equipment under exposed sewage or water line, except for automatic fire protection sprinkler heads, is prohibited. II

[(92)] **(93)** Permanently fixed artificial light sources shall be installed to provide at least twenty (20) footcandles of light on all food preparation surfaces and at equipment or utensil-washing work levels. III

[(93)] **(94)** Permanently fixed artificial light sources shall be installed to provide, at a distance of thirty inches (30") from the floor, at least twenty (20) footcandles of light in utensil and equipment storage areas and in lavatory and toilet areas, and at least ten (10) footcandles of light in walk-in refrigerating units, dry food-storage areas and in all other areas. This shall also include dining areas during cleaning operations. III

[(94)] **(95)** Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, by or within food storage, preparation, service and display facilities, and facilities where utensils and equipment are cleaned and stored. III

[(95)] **(96)** Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed. III

(97) Nothing in this rule shall prohibit a facility from hosting a resident/family picnic, carry-in dinner, fish fry or barbecue or allowing a local community or church group to sponsor such activities for residents. Reasonable practices shall be used for maintaining sanitation and appropriate temperatures of food brought to the facility. III

AUTHORITY: sections 198.009, 198.076 and 198.079, RSMo [1986] ***2000 and 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006))****. This rule originally filed as 13 CSR 15-17.030. 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 Aug. 1, 1988, effective Nov. 11, 1988. Moved to 19 CSR 30-87.030, effective Aug. 28, 2001. Amended: Filed Aug. 23, 2006.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director of the Division of Regulation and Licensure, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 88—Resident's Rights and Handling Resident Funds and Property in Long-Term Care Facilities

PROPOSED AMENDMENT

19 CSR 30-88.010 Resident Rights. The department is amending section (24).

PURPOSE: This amendment deletes the term "residential care facility I" and replaces that term with "residential care facility" and deletes the term "residential care facility II" and replaces that term with "assisted living facility."

Editor's Note: All rules relating to long-term care facilities licensed by the [Division of Aging] ***department*** *are followed by a Roman Numeral notation which refers to the class (either Class I, II or III) of standard as designated in section 198.085.1, RSMo.*

(24) In a residential care facility *[I or II]* **or an assisted living facility**, if it is ever necessary to use a restraint in the case of emergency, the resident shall be reevaluated immediately for appropriateness of placement and transferred if necessary. II/III

AUTHORITY: sections 198.009, 198.076, 198.079 and 198.088, RSMo 2000 and 660.050 and 660.060, RSMo Supp. 2005 ***and 198.005 and 198.073, RSMo (CCS HCS SCS SB 616, 93rd General Assembly, Second Regular Session (2006))****. This rule originally filed as 13 CSR 15-18.010. Original rule filed July 13, 1983, effective Oct. 13, 1983. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed Aug. 23, 2006.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with David S. Durbin, Director, Division of Regulation and Licensure, Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 400—Life, Annuities and Health
Chapter 2—Accident and Health Insurance in General

PROPOSED RULE

20 CSR 400-2.135 Health Benefit Plans Issued to Associations with Small and Large Employers

PURPOSE: This rule establishes the requirements for health carriers seeking an exemption under section 376.421.1(5)(e), (HB 1827, 93rd General Assembly, Second Regular Session (2006)).

(1) Definitions. When used in this regulation—

(A) "Health benefit plan" shall have the definition as found in section 376.1350, RSMo;

(B) "Health carrier" shall have the definition as found in section 376.1350, RSMo;

(C) "Producer" shall have the definition as found in section 375.012, RSMo; and

(D) "Small employer" shall have the definition as found in section 379.930.2, RSMo.

(2) Request for Suspension of Rate Restriction. A health carrier seeking an exemption under section 376.421.1(5)(e), RSMo for a policy issued to an association, a trust or to the trustees of a fund established, created and maintained for the benefit of members of one (1) or more associations which is insuring large employers and small employers shall:

(A) File with the department completed affidavit forms approved by this rule at the time of policy inception;

(B) File with the department completed affidavit forms approved by this rule within the thirty (30)-day period prior to the annual renewal for any additional year during which an exemption under section 376.421.1(5)(e), RSMo is sought;

(C) Maintain copies of current affidavits required by this rule with the insurer's master policy for the length of time required by section 374.205, RSMo and 20 CSR 300-2.200;

(D) Submit data to the department to track the market impact of this type of association health benefit plan. The data elements will be identified and submitted on the Missouri A&H Supplement form;

(E) Comply with 20 CSR 400-2.130 except that completion of the forms required in subsection (2)(A) of this rule shall constitute compliance with 20 CSR 400-2.130(2)(C) for issuance of policies to an association, a trust or to the trustees of a fund established, created and maintained for the benefit of members of one (1) or more associations; and

(F) Comply with all provisions of the Small Employer Health Insurance Availability Act found in sections 379.930-952, RSMo except for the exempted provision of section 379.936.1(1), RSMo.

(3) Producer Disclosure. Producers shall disclose the exemption to the association or trust and to the small employers insured under the association health benefit plan.

(4) Application Forms. The following forms have been adopted and approved for filing with the department:

(A) Association's Request for Suspension of Index Rate Restriction Affidavit ("Form AHP1"), revised September 2006, or any form which substantially comports with the specified form; and

(B) Producer's Request for Suspension of Index Rate Restriction Affidavit ("Form AHP2"), revised September 2006, or any form which substantially comports with the specified form; and

(C) Insurer's Request for Suspension of Index Rate Restriction Affidavit ("Form AHP3"), revised September 2006, or any form which substantially comports with the specified form.

(5) Availability of Forms. The department on request will supply in printed format the forms listed in this rule. Accurate reproduction of the forms may be utilized for filing in lieu of the printed forms. All application forms referenced herein are available at http://www.insurance.mo.gov.

AUTHORITY: sections 374.045 and 374.205, RSMo 2000, and 376.421, RSMo (HB 1827, 93rd General Assembly, Second Regular Session (2006)). Original rule filed Sept. 1, 2006.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 10:00 a.m. on November 7, 2006. The public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on November 7, 2006. Written statements shall be sent to Stephen Gleason, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.