Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—*[Division of Medical Services]* *MO HealthNet Division*
Chapter 98—Psychiatric/Psychology/ Counseling/Clinical Social Work Program

PROPOSED AMENDMENT

13 CSR 70-98.015 Psychiatric/Psychology/Counseling/Clinical Social Work Program Documentation. The division is amending the purpose and sections (1)–(5), (7) and (8).

PURPOSE: This amendment changes the name of the state's medical assistance program to MO HealthNet and revises the name of the program's administering agency to MO HealthNet Division to comply with state law. The amendment also changes reference to program recipients to participants and updates the agency's website address. It also updates reference to the Children's Division.

*PURPOSE: This rule establishes the regulatory basis for the documentation requirements of services provided through the [Medicaid] **MO HealthNet** psychiatric/psychology/counseling/clinical social work program. The Health Insurance Portability and Accountability Act (HIPAA) mandates that states allow providers to bill for services using the standard current procedural terminology (CPT) code sets, however, it does not require states to add coverage for services that it does not currently cover. The [Division of Medical Services (DMS)] **MO HealthNet Division (MHD)** has not added coverage of services previously not covered, however, it is redefining limitations based on standard code definitions, and clarification to [Medicaid] **MO HealthNet** policy.*

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.

(1) Administration. The *[Missouri Medicaid]* **MO HealthNet** psychiatric/psychology/counseling/clinical social work program shall be administered by the Department of Social Services, *[Division of Medical Services (DMS)]* **MO HealthNet Division (MHD)**. The services covered and not covered, the limitations under which services are covered, and the maximum allowable fees for all covered services shall be determined by *[DMS]* **MHD** and shall be included in the *[Medicaid] **MO HealthNet** Psychology/Counseling Provider Manual* and Section 13.57 of the *Physician's Provider Manual*, which are incorporated by reference in this rule and available through the Department of Social Services, *[Division of Medical Services]* **MO HealthNet Division** website at *[www.dss.mo.gov/dms]* **www.dss.mo.gov/mhd, December 3, 2007**. **This rule does not incorporate any subsequent amendments or additions.** Psychiatric/psychology/counseling/clinical social work services shall include only those which are clearly shown to be medically necessary. *[The division reserves the right to affect changes in services, limitations, and fees with notification to providers.]*

(2) Persons Eligible. The *[Missouri Medicaid]* **MO HealthNet** Program pays for approved *[Medicaid]* **MO HealthNet** services for psychiatric/psychology/counseling/clinical social work services when furnished within the provider's scope of practice. The *[recipient]* **participant** must be eligible on the date the service is furnished. *[Recipients]* **Participants** may have specific limitations for psychiatric/psychology/counseling/clinical social work services according to the type of assistance for which they have been determined eligible. It is the provider's responsibility to determine the coverage benefits for a *[recipient]* **participant** based on their type of assistance as outlined in the provider program manual. The provider shall ascertain the patient's *[Medicaid]* **MO HealthNet**/MC+ and managed care or other lock-in status before any service is performed. The *[recipient's]* **participant's** eligibility shall be verified in accordance with methodology outlined in the provider program manual.

(3) Provider Participation. To be eligible for participation in the *[Missouri Medicaid]* **MO HealthNet** psychiatric/psychology/counseling/clinical social work program, a provider must meet the licensing criteria specified for his or her profession and be an enrolled *[Medicaid]* **MO HealthNet** provider.

(A) The enrolled *[Medicaid]* **MO HealthNet** provider shall agree to:

1. Keep any records necessary to disclose the extent of services the provider furnishes to *[recipients]* **participants**; and

2. On request furnish to the *[Medicaid]* **MO HealthNet** agency or State Medicaid Fraud Control Unit any information regarding payments claimed by the provider for furnishing services under the plan.

(4) Documentation Requirements for Psychiatric/Psychology/Counseling/Clinical Social Work Services. Documentation must be in narrative form, fully describing each session billed. A check-off list or pre-established form will not be accepted as sole documentation. Progress notes shall be written and maintained in the patient's medical record for each date of service for which a claim is filed. Progress notes for psychiatric/psychology/counseling/clinical social work services shall specify:

(A) First and last name of *[recipient]* **participant**:

1. When family therapy is furnished, each member of the family included in the session must be identified. Description of immediate issue addressed in therapy, identification of underlying roles, conflicts or patterns, and description of therapist intervention;

2. When group therapy is furnished each service shall include the number of group members present, description of immediate issue addressed in therapy, identification of underlying roles, conflicts or patterns, and description of therapist intervention and progress towards goals;

(5) A plan of treatment is a required document in the overall record of the patient.

(A) A treatment plan must be developed by the provider based on a diagnostic evaluation that includes examination of the medical, psychological, social, behavioral, and developmental aspects of the *[recipient's]* **participant's** situation and reflects the need for psychiatric/psychological/counseling/clinical social work services. If the service is for a child who is in the legal custody of the Children's Division *[(formerly known as Division of Family Services, Children's Services section)]*, a copy of the treatment plan shall be provided to the Children's Division in order for the provider to retain reimbursement for the covered service(s).

(D) The treatment plan shall be reviewed on a periodic basis to evaluate progress toward treatment goals and outcomes and to update the plan.

1. Each person shall directly participate in the review of his or her individualized treatment plan.

2. The frequency of treatment plan reviews shall be based on the individual's level of care or other applicable program rules. The occurrence of a crisis or significant clinical event may require a further review and modification of the treatment plan.

3. The individualized treatment plan shall be updated and changed as indicated.

4. Each treatment plan update shall include the therapist assessment of current symptoms and behaviors related to diagnosis, progress to treatment goals, justification of changed or new diagnosis, response to other concurrent treatments such as family or group therapy and medications.

5. The therapist's plan for continuing treatment and/or termination from therapy and aftercare shall be considerations expressed in each treatment plan update.

6. A diagnostic assessment from a *[Medicaid]* **MO HealthNet** enrolled provider shall be documented in the patient's case record, which shall assist in ensuring an appropriate level of care, identifying necessary services, developing an individualized treatment plan, and documenting the following:

A. Statement of needs, goals, and treatment expectations from the individual requesting services. The family's perceptions are also obtained, when appropriate and available;

B. Presenting situations/problem and referral source;

C. History of previous psychiatric and/or substance abuse treatment including number and type of admissions;

D. Current medications and identifications of any medications allergies and adverse reactions;

E. Recent alcohol and drug use for at least the past thirty (30) days and, when indicated, a substance use history that includes duration, patterns, and consequences of use;

F. Current psychiatric symptoms;

G. Family, social, legal, and vocational/educational status and functioning. The collection and assessment of historical data is also required unless short-term crisis intervention or detoxification are the only services being provided;

H. Current use of resources and services from other community agencies;

I. Personal and social resources and strengths, including the availability and use of family, social, peer, and other natural supports; and

J. Multi-axis diagnosis or diagnostic impression in accordance with the current edition of the *Diagnostic and Statistical Manual* of the American Psychiatric Association or the *International Classification of Diseases*, Ninth Revision, Clinical Modification (ICD9-CM). The ICD9-CM is required for billing purposes.

7. When interactive therapy is billed, the provider must document the need for this service and the equipment, devices, or other mechanism of equipment used.

8. When care is completed, the aftercare plan shall include, but is not limited to, the following:

A. Dates began and ended;

B. Frequency and duration of visits;

C. Target symptoms/behaviors addressed;

D. Interventions;

E. Progress to goals achieved;

F. Final diagnosis; and

G. Final recommendations including further services and providers, if needed, and activities recommended to promote further recovery.

(7) Documentation required by *[DMS]* **MHD** does not replace or negate documentation/reports required by the Children's Division for individuals in their care or custody. Providers are expected to comply with policies and procedures established by the Children's Division *[(formerly known as Division of Family Services, Children's Services section)]* and *[DMS]* **MHD**.

(8) Records Retention. *[Medicaid]* **MO HealthNet** providers must retain for six (6) years from the date of service fiscal and medical records that coincide with and fully document services billed to the *[Medicaid]* **MO HealthNet** Program, and must furnish or make the records available for inspection or audit by the Department of Social Services or its representative upon request. Failure to furnish, reveal, and retain adequate documentation for services billed to the *[Medicaid]* **MO HealthNet** Program may result in recovery of the payments for those services not adequately documented and may result in sanctions to the provider's participation in the *[Medicaid]* **MO HealthNet** Program. This policy continues to apply in the event of the provider's discontinuance as an actively participating *[Medicaid]* **MO HealthNet** provider through change of ownership or any other circumstance.

*AUTHORITY: sections 208.152, 208.153, and 208.201, RSMo [2000] **(SB 577, 94th General Assembly, First Regular Session (2007))**. Original rule filed Nov. 14, 2003, effective June 30, 2004. Amended: Filed Oct. 30, 2007.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—*[Division of Medical Services]* *MO HealthNet Division*
Chapter 98—Psychiatric/Psychology/ Counseling/Clinical Social Work Program

PROPOSED AMENDMENT

13 CSR 70-98.020 Prior Authorization Process for Non-Pharmaceutical Mental Health Services. The division is amending the purpose and sections (1) and (2).

PURPOSE: This amendment changes the name of the state's medical assistance program to MO HealthNet and revises the name of the program's administering agency to MO HealthNet Division to comply with state law. The amendment also changes reference to program recipients to participants and updates the agency's website address and incorporated material.

*PURPOSE: This rule establishes the process by which non-pharmaceutical mental health services will be prior authorized in order to be reimbursable by the [Missouri Medicaid] **MO HealthNet** Program. The prior authorization process will serve as a utilization management measure allowing payment only for this treatment and services (interventions) that are medically necessary, appropriate and cost-effective, and to reduce over-utilization or abuse of services without compromising the quality of care to [Missouri Medicaid recipients] **MO HealthNet participants.***

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.

(1) This rule establishes a *[Medicaid]* **MO HealthNet** non-pharmaceutical mental health services prior authorization advisory committee in the Department of Social Services, *[Division of Medical Services]* **MO HealthNet Division**. The advisory committee shall be composed of practicing clinicians who are also licensed in their

respective fields. The advisory committee shall be composed of three (3) practicing psychiatrists, three (3) practicing psychologists, three (3) practicing licensed clinical social workers (LCSW), and three (3) practicing licensed professional counselors (LPC). All members shall be appointed by the director of the Department of Social Services. The members of the committee shall represent a broad spectrum of practice including, but not limited to, those providing services to adults, children, children in custody, the geriatric population, and Department of Mental Health clients. The members shall serve for a term of four (4) years, except that of the members first appointed, three (3) shall be appointed for one (1) year, three (3) shall be appointed for two (2) years, three (3) shall be appointed for three (3) years, and three (3) shall be appointed for four (4) years. Members of the committee shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses incurred related to participation on the committee, as approved by the *[Division of Medical Services]* **MO HealthNet Division** out of appropriations made for that purpose.

(2) All persons eligible for *[medical assistance]* **MO HealthNet** benefits shall have access to non-pharmaceutical mental health services when they are determined medically necessary when using diagnostic criteria from the Diagnostic and Statistical Manual of Mental Disorders—Fourth Edition (DSM-IV), published by the American Psychiatric Association, or the most currently published version of the DSM manual. The services covered and not covered, the limitations under which services are covered, and the maximum allowable fees for all covered services shall be determined by the *[Division of Medical Services]* **MO HealthNet Division** and shall be included in the *[Medicaid]* **MO HealthNet** Psychology/Counseling Provider Manual and Section 13 of the Physician Provider Manual, which are incorporated by reference *[in this rule and available through]* **and made a part of this rule as published by** the Department of Social Services, *[Division of Medical Services]* **MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, on its** website *[at www.dss.mo.gov/dms]* **www.dss.mo.gov/mhd, December 3, 2007**. **This rule does not incorporate any subsequent amendments or additions.** The *[Medicaid]* **MO HealthNet** non-pharmaceutical mental health services prior authorization advisory committee shall review and make recommendations regarding the prior authorization process to the *[Division of Medical Services]* **MO HealthNet Division**. The *[Medicaid]* **MO HealthNet** non-pharmaceutical mental health services prior authorization advisory committee shall hold a public hearing in order to make recommendations to the department prior to any final decisions by the division on the prior authorization process. The recommendations of the non-pharmaceutical mental health services prior authorization advisory committee shall be provided to the *[Division of Medical Services]* **MO HealthNet Division**, in writing, prior to the division making a final determination. The policy requirements regarding the prior authorization process for non-pharmaceutical mental health services shall be available through the Department of Social Services, *[Division of Medical Services]* **MO HealthNet Division** website at *[www.dss.mo.gov/dms]* **www.dss.mo.gov/mhd**.

AUTHORITY: section 208.201, RSMo [2000] ***(SB 577, 94th General Assembly, First Regular Session (2007))****. Original rule filed Jan. 15, 2004, effective Aug. 30, 2004. Amended: Filed Oct. 30, 2007.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—*[Division of Medical Services]* *MO HealthNet Division*
Chapter 99—Comprehensive Day Rehabilitation

PROPOSED AMENDMENT

13 CSR 70-99.010 Comprehensive Day Rehabilitation Program. The division is amending the purpose and sections (1)–(8).

PURPOSE: This amendment changes the name of the state's medical assistance program to MO HealthNet and revises the name of the program's administering agency to MO HealthNet Division to comply with state law. The amendment also changes reference to program recipients to participants and updates the agency's zip code, website address, and incorporated material. It also clarifies that prior authorization of Comprehensive Day Rehabilitation Program services can be accomplished by the division or its designee.

PURPOSE: This rule establishes the regulatory basis for the administration of the Comprehensive Day Rehabilitation Program. This rule provides for such methods and procedures relating to the utilization of, and the payment for, care and services available under the [Medicaid] ***MO HealthNet*** *program as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. Specific details of provider participation, criteria and methodology for provider reimbursement, [recipient]* ***participant*** *eligibility, and amount, duration, and scope of services covered are included in the Comprehensive Day Rehabilitation Program manual, which is incorporated by reference in this rule and available at the website [www.dss.mo.gov/dms]* ***www.dss.mo.gov/mhd****.*

(1) Administration. The *[Missouri Medicaid]* **MO HealthNet** Comprehensive Day Rehabilitation Program shall be administered by the Department of Social Services, *[Division of Medical Services]* **MO HealthNet Division**. The Comprehensive Day Rehabilitation services covered and not covered, the limitations under which services are covered, and the maximum allowable fees for all covered services shall be determined by the *[Division of Medical Services]* **MO HealthNet Division** and shall be included in the *[Medicaid]* **MO HealthNet** provider manuals, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, *[Division of Medical Services]* **MO HealthNet Division**, 615 Howerton Court, Jefferson City, MO *[65102]* **65109**, at its website *[www.dss.mo.gov/dms, July 1, 2006]* **www.dss.mo.gov/mhd, December 3, 2007**. This rule does not incorporate any subsequent amendments or additions. Comprehensive Day Rehabilitation Program **services** shall include only those **services** that are prior authorized by the *[Division of Medical Services]* **MO HealthNet Division or its designee**.

(2) Persons Eligible. Prior authorized Comprehensive Day Rehabilitation services are covered for individuals with disabling impairments as the result of a traumatic head injury that are under the age of twenty-one (21), blind, or pregnant. The program provides intensive, comprehensive services designed to prevent or minimize chronic disabilities while restoring the individual to an optimal level of physical, cognitive, and behavioral function. Emphasis in the program is on functional living skills, adaptive strategies for cognition, memory or perceptual deficits, and appropriate interpersonal skills. The *[recipient]* **participant** must be eligible on the date the service is furnished. It is the provider's responsibility to determine the coverage benefits for a *[recipient]* **participant** based on their type of assistance as outlined in the Comprehensive Day Rehabilitation Program manual. The provider shall ascertain the patient's *[Medicaid]* **MO HealthNet**/managed care status before any service is performed. The *[recipient's]* **participant's** eligibility shall be verified in accordance with methodology outlined in the Comprehensive Day Rehabilitation Program manual.

(3) Provider Participation. To be eligible for participation in the *[Missouri Medicaid]* **MO HealthNet** Comprehensive Day Rehabilitation Program, a provider must have the certificate of accreditation (CARF) from the Rehabilitation Accreditation Commission, employ and retain qualified/licensed head injury professionals qualified to render the services covered through the Comprehensive Day Rehabilitation Program, be a free standing rehabilitation center or in an acute hospital setting with space dedicated to head injury rehabilitation, and be an enrolled *[Medicaid]* **MO HealthNet** provider.

(4) Prior Authorization. Comprehensive Day Rehabilitation services must be prior authorized by the *[Division of Medical Services]* **MO HealthNet Division or its designee** in order for the provider to receive reimbursement. The request is reviewed by a medical consultant, and the provider is notified if the request is approved or, if not approved, the reason for denial. No more than six (6) months of services will be approved. It is possible to receive an additional six (6)-month authorization if the patient is showing progress toward treatment goals. The maximum period of Comprehensive Day Rehabilitation services covered is one (1) year.

(5) Covered Services. Comprehensive Day Rehabilitation Program services are covered for half-day (three (3) to four (4) hours) and full day (five (5) or more hours) units when the *[recipient]* **participant** meets the admission criteria and is prior authorized by the *[Division of Medical Services]* **MO HealthNet Division or its designee**.

(6) Reimbursement. Payment will be made in accordance with the fee per unit of service as defined and determined by the *[Division of Medical Services]* **MO HealthNet Division**. Providers must bill their usual and customary charge for Comprehensive Day Rehabilitation services. Reimbursement will not exceed the lesser of the maximum allowed amount determined by the *[Division of Medical Services]* **MO HealthNet Division** or the provider's billed charges. Comprehensive Day Rehabilitation Program services are only payable to the enrolled, eligible, participating provider. The *[Medicaid]* **MO HealthNet** program cannot reimburse for services performed by non-enrolled providers.

(7) Documentation Requirements for Comprehensive Day Rehabilitation Program.

(A) The following must be maintained in the *[recipient's]* **participant's** clinical record:

1. Presenting complaint/request for assistance;
2. Relevant treatment history and background information;
3. Reported physical/medical/cognitive/psychological complaints;
4. Pertinent functional weaknesses and strengths;
5. Findings from formal assessments;
6. Plan of care;
7. Interview and behavioral observations;
8. Diagnostic formulation;
9. Recommendations for further evaluation and/or treatment needs; and
10. Dates of periodic review of the plan of care.

(8) Records Retention. These records must be retained for five (5) years from the date of service. Fiscal and medical records coincide with and fully document services billed to the *[Medicaid]* **MO HealthNet** agency. Providers must furnish or make the records available for inspection or audit by the Department of Social Services or its representative upon request. Failure to furnish, reveal, or retain adequate documentation for services billed to the *[Medicaid]* **MO HealthNet** program, as specified above, is a violation of this regulation.

*AUTHORITY: sections 208.152, 208.153, 208.201 and 208.631, RSMo [Supp. 2005] **(SB 577, 94th General Assembly, First Regular Session (2007))** and 208.164 and 208.633, RSMo 2000. Emergency rule filed Aug. 11, 2005, effective Sept. 1, 2005, expired Feb. 27, 2006. Original rule filed June 1, 2005, effective Nov. 30, 2005. Amended: Filed June 1, 2006, effective Dec. 30, 2006. Amended: Filed Oct. 30, 2007.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 40—Division of Maternal, Child and Family Health
Chapter 7—*Metabolic* Formula *[Distribution] Program*

PROPOSED RULE

19 CSR 40-7.040 Definitions

PURPOSE: This rule defines the terms used in this chapter.

(1) Client is a person who meets eligibility requirements as defined by 19 CSR 40-7.050 Program Eligibility, and is approved for participation in the Metabolic Formula Program (MFP).

(2) Department is the Missouri Department of Health and Senior Services.

(3) The Metabolic Formula Program is a program of the department through which low-protein formula, a special dietary product, is provided to individuals diagnosed as having phenylketonuria (PKU), maple syrup urine disease (MSUD) and other metabolic conditions as approved by the Newborn Screening Standing Committee. The Newborn Screening Standing Committee, a subcommittee of the

Missouri Genetic Advisory Committee, makes recommendations on newborn screening issues.

(4) Maple syrup urine disease (MSUD) is a metabolic disorder due to a defect in the enzyme that is responsible for the metabolism of the essential branched-chain amino acids isoleucine, leucine and valine.

(5) Metabolic treatment center is a medical facility with the capacity to diagnose metabolic conditions and to provide comprehensive medical management.

(6) Phenylketonuria (PKU) is a hereditary disorder of phenylalanine metabolism characterized by brain damage and mental retardation due to accumulation of toxic metabolic products.

(7) Resident is an individual having a domicile in Missouri with the intention to live in Missouri on a permanent basis.

(8) Sliding fee scale is the tool utilized to determine the monthly premium to be paid for the MFP program services.

AUTHORITY: sections 191.315, RSMo 2000, 191.331, RSMo (HCS for HB 948, 94th General Assembly, First Regular Session (2007)), and 191.332, RSMo Supp. 2006. Emergency rule filed Sept. 7, 2007, effective Sept. 17, 2007, expires March 14, 2008. Original rule filed Nov. 1, 2007.

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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Health and Senior Services, Division of Maternal, Child and Family Health, Bureau of Genetics and Healthy Childhood, Sharmini V. Rogers, MBBS, MPH, Chief, 930 Wildwood Drive, 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 40—Division of Maternal, Child and Family Health
Chapter 7—*Metabolic* Formula *[Distribution]* *Program*

PROPOSED RULE

19 CSR 40-7.050 Program Eligibility

PURPOSE: The Department of Health and Senior Services (DHSS) provides low-protein formula, a special dietary product, to individuals diagnosed as having phenylketonuria (PKU), maple syrup urine disease (MSUD) and other metabolic conditions as approved by the Newborn Screening Standing Committee, a subcommittee of the Missouri Genetic Advisory Committee which makes recommendations to the department on newborn screening issues. This rule establishes the criteria by which the Metabolic Formula Program accepts clients for service.

(1) Conditions of eligibility for the Metabolic Formula Program (MFP) include:

(A) An applicant must be diagnosed as having phenylketonuria (PKU), maple syrup urine disease (MSUD) or other metabolic conditions as approved by the Newborn Screening Standing Committee and recommended to the department. The diagnosis must be made by a physician who practices at a metabolic treatment center;

(B) An applicant must be a resident of Missouri and cannot reside in a state facility. Proof of residency will consist of submitting a copy of the previous month's utility bill with the applicant's home address clearly printed;

(C) The physician treating the applicant must submit the following information to the department:

1. A letter requesting the applicant be placed on the MFP;
2. The name and address of the applicant; and
3. A prescription, signed by the treating physician, stating the name of the low-protein formula, a special dietary product the individual will be using; and

(D) Financial eligibility guidelines for enrollment in the MFP shall be based upon the Poverty Income Guidelines as established by the United States Department of Health and Human Services. Determination of individual applicant eligibility shall be based upon the following:

1. Applicants five (5) years or under shall have no income qualification requirements;
2. Applicants six (6) through eighteen (18) years whose family income is below three hundred percent (300%) of the federal poverty level shall be eligible for enrollment in the MFP;
3. Applicants six (6) through eighteen (18) years whose family income is at three hundred percent (300%) of the federal poverty level or above shall be eligible based on a sliding fee scale for enrollment in the MFP;
4. Applicants nineteen (19) years and above whose income does not exceed one hundred eighty-five percent (185%) of the federal poverty level shall be eligible for enrollment in the MFP;
5. Size of family unit shall be the number of persons in the household, including the responsible party(ies) and dependents allowable by the Internal Revenue Service as federal income tax exemptions. The family size may be increased by two (2) additional family members per affected individual nineteen (19) years and above for the cost of low-protein formula; and
6. Funding to eligible applicants may be adjusted by the department based on available funding.

(2) A sliding fee scale shall be used to determine the amount of monthly premium and assistance to be provided by the department for those individuals six (6) through eighteen (18) years having no insurance, Medicaid or Medicare and whose adjusted gross income places the family at three hundred percent (300%) of the federal poverty level or above. The sliding fee scale shall be updated based on changes in the federal poverty guidelines. The adjusted gross income line from Internal Revenue Service recognized tax forms shall be the income used to determine financial eligibility with adjustments for child support received or paid. The table for establishing a sliding scale fee of premiums is provided below.

Table: Sliding Fee Scale for those Applicants Age 6 through 18 Years Based on Family Adjusted Gross Income

Adjusted Gross Income is:	Approximate Family Monthly Premium for Formula*
299% of poverty or below	0
300% - 399% of poverty	25%
400 – 499% of poverty	40%
500% of poverty and above	50%

*Based upon DHSS cost of formula and subject to available funding for the program.

(3) Approved applicants having no insurance coverage for metabolic formula, Medicaid benefits or other third party payor will have formula provided as prescribed by the person's genetic disease physician or a general physician in consultation with the genetic disease physician at the metabolic treatment center.

AUTHORITY: sections 191.315, RSMo 2000, 191.331, RSMo (HCS for HB 948, 94th General Assembly, First Regular Session (2007)), 191.332, RSMo Supp. 2006. Emergency rule filed Sept. 7, 2007, effective Sept. 17, 2007, expires March 14, 2008. Original rule filed Nov. 1, 2007.

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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Health and Senior Services, Division of Maternal, Child and Family Health, Bureau of Genetics and Healthy Childhood, Sharmini V. Rogers, MBBS, MPH, Chief, 930 Wildwood Drive, 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 40—Division of Maternal, Child and Family Health
Chapter 7—*Metabolic* Formula *[Distribution] Program*

PROPOSED RULE

19 CSR 40-7.060 Application Process

PURPOSE: This rule establishes how individuals apply for participation in the Metabolic Formula Program.

(1) Application for participation in the Metabolic Formula Program (MFP) shall be made on forms designated by the Department of Health and Senior Services. Application forms may be requested from the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102-0570.

(2) The applicant, or if the applicant is a minor or incapacitated, the applicant's parent(s) or legal guardian, shall:

(A) Submit a copy of their most current federal 1040 tax form and complete a Metabolic Formula Program application that includes: the applicant's last name, first, middle initial; date of birth; gender; race; marital status; Social Security number; address (street, city, state, zip); county of residence; home telephone number; cell telephone number; work telephone number; responsible party (last, first, middle initial), relationship and phone number; a copy of any applicable court appointed guardian/custodian document; dependents claimed on federal income tax filing (last, first, middle initial), relationship to the applicant and Social Security number of the dependents; alternate contact (last, first, middle initial), relationship to the applicant and phone number; MO HealthNet number (if applicable); amount of MO HealthNet spend down per month (if applicable); copy of the front and back on any third party payors (if applicable); other proof of income if the most recent federal income tax filing is not reflective of the current financial status; yearly amount of child support received; and yearly amount of child support paid.

(B) Submit a copy of the previous month's utility bill with the applicant's home address clearly printed as proof of residency.

(C) Report any major changes in income, household composition, insurance, MO HealthNet coverage or address within ten (10) working days after the date the applicant or the applicant's parent(s) or legal guardian becomes aware of the change.

(3) When the applicant is eligible, payments shall be made for such services through MO HealthNet or other insurance benefits available to the applicant to the fullest possible extent. The benefits available under the provisions of section 191.331, RSMo 2000 shall not replace those provided under other federal or state law or under other contractual or legal entitlements of the persons receiving them.

(4) The applicant is responsible for paying for any amount of debt incurred above the program amount paid by the department based on the established sliding fee scale in 19 CSR 40-7.050.

(5) The applicant or the applicant's parent(s) or legal guardian shall provide the department with complete and accurate information concerning their financial status.

(6) To maintain eligibility, an applicant shall submit a new application prior to the end of the eligibility period. The eligibility period shall be the state fiscal year, July 1 through June 30. Each new application submitted must meet the eligibility requirements and the most recent federal 1040 tax form must be submitted with the application. Applications may be accepted any time during the fiscal year.

(7) If the applicant or the applicant's parent(s) or legal guardian does not meet the requirements of sections (1)–(3) of this rule, the MFP shall discontinue services. The applicant may retain eligibility for service coordination services if the applicant's income exceeds income eligibility guidelines.

(8) Any applicant determined ineligible for the MFP may reapply based on changes, which may make them eligible.

AUTHORITY: sections 191.315, RSMo 2000, 191.331, RSMo (HCS for HB 948, 94th General Assembly, First Regular Session (2007)); and 191.332, RSMo Supp. 2006. Emergency rule filed Sept. 7, 2007, effective Sept. 17, 2007, expires March 14, 2008. Original rule filed Nov. 1, 2007.

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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Sharmini V. Rogers, MBBS, MPH, Chief, Missouri Department of Health and Senior Services, Division of Maternal, Child and Family Health, Bureau of Genetics and Healthy Childhood, 930 Wildwood Drive, 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 40—Division of Maternal, Child and Family Health
Chapter 10—Forensic Examinations for Sexual Assault

PROPOSED RULE

19 CSR 40-10.010 Payments for Sexual Assault Forensic Examinations

PURPOSE: The Department of Health and Senior Services makes payments to appropriate medical providers to cover the charges of the forensic examination of a person who may be a victim of a sexual offense. This rule establishes the criteria by which forensic examination charges are paid.

(1) The victim or the victim's guardian shall consent in writing to the examination.

(2) The medical provider shall not charge the victim for the forensic examination.

(3) All appropriate medical provider charges for the sexual assault forensic examinations shall be submitted to the Missouri Department of Health and Senior Services, Bureau of Genetics and Healthy Childhood, Sexual Assault Forensic Examination Program, 930 Wildwood Drive, PO Box 570, Jefferson City, MO 65102 for payment.

(4) Claims for sexual assault forensic examination charges shall be made on forms provided by the Department of Health and Senior Services. The Sexual Assault Forensic Examination Program Report form is included herein and is also available on the department's web site at: http://www.dhss.mo.gov/ApplicationsAndForms/index.html.

(5) For the purposes of billing the Missouri Department of Health and Senior Services under section 191.225, RSMo (SS for SCS for HCS for HB 583, 94th General Assembly, First Regular Session, (2007)), claims shall not include the medical treatment. Medical treatment means the treatment of all injuries and health concerns relating directly from a patient's sexual assault or victimization including, but not limited to the following:

(A) Testing for sexually transmitted diseases (STD) or human immunodeficiency virus (HIV) unless victim is under fourteen (14) years of age;
(B) Treatment/prophylaxis of STD or HIV;
(C) Any antibiotic prophylaxis;
(D) Pregnancy testing;
(E) Emergency contraception;
(F) Tetanus immunization;
(G) Wound care, laceration repair;
(H) Fractures/sprain treatment;
(I) Surgical procedures;
(J) Discharge instruction counseling; and
(K) Outpatient follow-up.

(6) Effective January 1, 2008 all claims for sexual assault forensic examination charges must be submitted to the department within one hundred twenty (120) days from the date of the forensic examination.

(7) The department, at its discretion, may require proof of completion of forensic examinations for auditing purposes.

Missouri Department of Health and Senior Services
Sexual Assault Medical Treatment Checklist

In response to HB 583 passed in the 94th General Assembly, First Regular Session (2007) and signed into law, the Missouri Department of Health and Senior Services was required to develop a medical treatment checklist for medical providers to refer to when caring for a victim of a sexual offense. This checklist is created with the assumption that a comprehensive examination was conducted and thus is not addressed in this checklist. This checklist is only a guide for treatment purposes and it includes, but is not limited to the following:

- ☐ Priority care and private room for patient
- ☐ Respond to patient safety concerns
- ☐ Transfer protocol (MOU/MOA) if needed
- ☐ HIV counseling
- ☐ STD counseling
- ☐ STD testing (microbiologic and serologic)
- ☐ STD treatment/prophylaxis
- ☐ HIV testing (if indicated by CDC)
- ☐ HIV treatment/prophylaxis (if indicated)
- ☐ Other antibiotic prophylaxis (if indicated)
- ☐ Pregnancy testing
- ☐ Emergency contraceptive treatment
- ☐ Tetanus immunization (if indicated)
- ☐ Laceration repair (if indicated)
- ☐ Wound care
- ☐ Fracture/sprain treatment (if necessary)
- ☐ Shower for hygiene after exam complete
- ☐ Clothing for discharge and other comfort supplies as needed
- ☐ Release of information to appropriate agencies (Crime Victims' Compensation, law enforcement, etc.)
- ☐ Discharge instructions and counseling
- ☐ Discharge safety plan as needed
- ☐ Out-patient follow up

Items on this checklist have no bearing on billing, as the Missouri Department of Health and Senior Services will not reimburse claims for medical treatment of a victim of a sexual offense.

Resources:

A National Protocol for Sexual Assault Medical Forensic Examinations (Adults/Adolescents), US Department of Justice, Office of Violence Against Women, September 2004.
http://www.ncjrs.gov/pdffiles1/ovw/206554.pdf

Evaluation and Management of the Sexually Abused Patient,
American College of Emergency Physicians, 1999.
http://www.acep.org/NR/rdonlyres/11E6C08D-6EE7-4EE2-8E59-5E8E6E684E43/0/sxa_handbook.pdf

Joint Council on Accreditation of Healthcare Organizations (JCAHO)
Joint Commission Standards PC.3.10
http://www.endabuse.org/programs/display.php3?DocID=266

MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
SEXUAL ASSAULT FORENSIC EXAMINATION (SAFE) PROGRAM

- Missouri State Statute 191.225 RSMo requires appropriate medical providers to bill the Department of Health and Senior Services (DHSS) for the forensic examination of sexual assault victims to collect evidence.

- Sexual Assault Forensic Examination Forms for Adult Male, Adult Female and Children will be posted by October 1 to the DHSS website at http://www.dhss.mo.gov/ApplicationsAndForms/index.html. These forms were designed by forensic exam experts to provide guidance for a standardized, quality forensic exam. Use of these exam forms is not mandatory and completed forms should **not** be submitted to DHSS for billing purposes. These forms were approved by the Attorney General's office.

- The Sexual Assault Forensic Examination Program Report is a one-page document that has been created to combine the consent for the exam, the release of information and the notification to the prosecuting attorney as well as the billing for a forensic exam. The medical provider shall send the Sexual Assault Forensic Examination Program Report within three business days of the completion of the forensic examination to the County Prosecuting Attorney's Office in the county where the alleged incident occurred. The form will be available October 1 on the DHSS website at http://www.dhss.mo.gov/ApplicationsAndForms/index.html. The Missouri Prosecuting Attorney's website www.ago.mo.gov/countyprosecutors.htm lists prosecutors' contact information by county.

- The Sexual Assault Forensic Exam Checklist was developed by forensic examination experts to provide guidelines for a standardized, quality forensic exam. The checklist is also a guide to determine the level of care provided to sexual assault victims. Check all items as they apply to the level of care provided during the sexual assault forensic examination.

- The Sexual Assault Forensic Examination Program Report as well as the Sexual Assault Forensic Exam Checklist (check all of the appropriate boxes for services provided) should be completed and mailed with an itemized bill to:
  Missouri Department of Health and Senior Services
  Bureau of Genetics and Healthy Childhood
  Sexual Assault Forensic Examination Program
  930 Wildwood Drive
  P.O. Box 570
  Jefferson City, MO 65102-0570
  Note: please include the provider's remit to address on the form.
  Effective January 1, 2008, all claims must be submitted for payment within 120 days of the date of the exam.

- The DHSS shall make payments to appropriate medical providers to cover the charges of the forensic examination of persons who may be victims of a sexual offense.
  The victim is not to be billed for any sexual assault forensic examination charges.
  All other medical charges should be billed to the appropriate billing agency.

- There are two other victim assistance organizations that may be useful to your patient/client:

  Missouri Coalition Against Domestic and Sexual Violence (MCADSV) can refer clients to the nearest sexual assault service provider for additional support.
  Phone: (573) 634-4161
  Website: www.mocadsv.org

  Missouri Crime Victims' Compensation may reimburse persons who have suffered injuries and financial loss due to certain crimes of violence.
  Phone: (573) 526-6006
  Website: http://www.dps.mo.gov/CVC

- If you need additional information about the Sexual Assault Forensic Examination (SAFE) Program, please contact the Department of Health and Senior Services at (573) 751-6210.

Rev. 8/07
MO-580-1895 (8-07) IVP-1

MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
SEXUAL ASSAULT FORENSIC EXAMINATION PROGRAM REPORT

EXAMINATION AND INCIDENT INFORMATION

DATE OF EXAMINATION	TIME ☐ a.m. ☐ p.m.	COUNTY WHERE INCIDENT OCCURRED	DATE OF INCIDENT
EVALUATION FOR SUSPECTED ABUSE ☐ Sexual ☐ Physical ☐ Emotional ☐ Neglect ☐ Other:			ALLEGED ABUSER

AGENCY PERSON REFERRING VICTIM FOR EXAM (CHECK ALL THAT APPLY)

☐ Victim ☐ Parent or Guardian ☐ Children's Division ☐ Law Enforcement ☐ Health Care ☐ Other _____	REFERRING AGENCY OR PERSON NAME	PHONE NUMBER
	ADDRESS	

VICTIM INFORMATION

VICTIM NAME	DATE OF BIRTH	SEX ☐ Female ☐ Male
RACE ☐ American Indian/Alaska Native ☐ Asian ☐ Black/African American ☐ Native Hawaiian or Pacific Islander ☐ White		HISPANIC ETHNICITY ☐ Yes ☐ No

AUTHORIZATION FOR EXAMINATION REQUESTED BY VICTIM/PARENT/GUARDIAN

Parental consent for a sexual assault forensic exam is not required in cases of known or suspected child abuse. I hereby request a forensic examination for evaluation of sexual assault. I understand the collection of evidence may include photographing injuries and that photographs may include the genital area. I understand that a copy of this form will be sent to the Prosecuting Attorney in the county where the alleged sexual assault occurred. I further understand that hospitals and physicians are required by law to notify the Children's Division of known or suspected child abuse. If child abuse is found or suspected, this form and any evidence will be released to the Children's Division, the Juvenile Justice Office, Law Enforcement and/or the Prosecuting Attorney. This form will be submitted to the Department of Health and Senior Services for billing purposes.

SIGNATURE OF (CHECK ONE) ☐ Victim ☐ Parent ☐ Guardian	SIGNATURE

AUTHORIZATION FOR FORENSIC EXAMINATION – REQUESTING AGENCY

I request a forensic examination and collection of evidence for suspected sexual abuse.

AGENCY	SIGNATURE	DATE

EXAMINING PROVIDER: I verify that a sexual assault forensic examination has been completed for this victim and a copy of this form has been submitted within three business days to the prosecuting attorney in the county where the alleged offense occurred.

FACILITY NAME	FACILITY ADDRESS	
MEDICAL PROVIDER NAME AND TITLE	COUNTY OF FACILITY	PHONE NUMBER
STATE MEDICAL/NURSING LICENSE NUMBER		
SIGNATURE OF MEDICAL PROVIDER	SIGNATURE OF CO-EXAMINER (IF APPLICABLE)	

FOR CHILDREN'S DIVISION USE ONLY

Incident Number:	Report Date:	Conclusion:

BILLING INSTRUCTIONS

Effective August 28, 2007, the Department of Health and Senior Services (DHSS) is the first payer for all sexual assault forensic examination charges (RSMo 191.225). **Medical providers shall not bill victims for the sexual assault forensic examination.** The DHSS will only pay for the forensic exam, not the medical treatment, for sexual assault victims. All other medical charges should be billed to the appropriate billing agency. Effective January 1, 2008, all claims must be submitted for payment within 120 days of the date of the exam.
For payments, submit an itemized invoice (including CPT codes if available), the completed checklist and this form to:

Missouri Department of Health and Senior Services
Bureau of Genetics and Healthy Childhood
Sexual Assault Forensic Examination Program
PO Box 570
Jefferson City, MO 65102-0570

NAME AND TITLE OF PERSON COMPLETING THE BILLING INFORMATION	PHONE
REMIT TO ADDRESS:	

MO-580-1895 (8-07)

IVP-1

Missouri Department of Health and Senior Services (DHSS) Sexual Assault Forensic Exam Checklist

Check all items as provided during the sexual assault forensic exam.

- ☐ Utilized appropriate evidence collection kit (Kansas City, St. Louis or Highway Patrol Lab)
- ☐ Completed screening exam for Emergency Medical Condition
- ☐ Activated bedside advocacy
- ☐ Activated interpreter
- ☐ Interventions for disabilities
- ☐ Obtained history of assault (including narrative)
- ☐ Obtained history of drug facilitated sexual assault (if indicated)
- ☐ Obtained consent for evaluation and treatment
- ☐ Obtained consent for evidentiary SAFE exam
- ☐ Obtained consent for photography
- ☐ Obtained consent for drug screening (if drug facilitated assault indicated)
- ☐ Obtained consent for release of information to all appropriate agencies
- ☐ Obtained consent for law enforcement activation (per patient request)
- ☐ Collected urine for drug facilitated sexual assault
- ☐ Collected underwear worn during or immediately after the assault
- ☐ Collected clothing, as forensically indicated, in brown paper bags, sealed and labeled
- ☐ Obtained swabs & smears from all areas that victim states were bitten or licked
- ☐ Obtained swabs & smears from appropriate areas as identified using an alternative light source
- ☐ Collected blood standard (if forensically indicated)
- ☐ Utilized crime scene investigators for bite mark impressions (if forensically indicated)
- ☐ Collected oral swab for DNA Standard. (if forensically indicated)
- ☐ Collected oral swabs & smear (if orally assaulted)
- ☐ Collected anal swabs & smear (if forensically indicated)
- ☐ Collected vaginal swabs & smear (if forensically indicated)
- ☐ Collected cervical swabs & smear (if forensically indicated)
- ☐ Collected penile swabs & smear (if forensically indicated)
- ☐ Collected head hair standard (if forensically indicated)
- ☐ Collected pubic hair standard (if forensically indicated)
- ☐ Completed toluidine dye exam (if forensically indicated)
- ☐ Completed X-rays (if indicated)
- ☐ Completed CTs (if indicated)
- ☐ Collected unknown sample(s) (if forensically indicated)
  Describe:
  _____
- ☐ Collected fingernail scrapings (if forensically indicated)
- ☐ Photography: (with colposcope or digital)
  - ☐ Genital photography by forensic examiner
  - ☐ Non-genital photography by forensic examiner
    - ☐ Less than 10 photos
    - ☐ More than 10 photos
- ☐ Forensic evidence storage/log (as indicated)
- ☐ Completion of DHSS Adult Female Sexual Assault Exam Form, Adult Male Sexual Assault Exam Form, or Child Sexual Assault Exam Form
- ☐ Confidential forensic patient file separate from general hospital medical records
- ☐ Forensic exam conducted by forensically trained physician or healthcare provider such as a Sexual Assault Nurse Examiner (SANE)

- Federal Violence Against Women Act prohibits mandatory reporting to law enforcement to obtain services.

Resources:
U.S. Department of Justice, National Protocol for Sexual Assault Medical Forensic Examinations (9/04)

Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient, American College of Emergency Physicians (6/99)

MO-580-1895 (8-07) IVP-1

AUTHORITY: section 191.225, RSMo (SS for SCS for HCS for HB 583, 94th General Assembly, First Regular Session (2007)). Emergency rule filed Sept. 6, 2007, effective Sept. 16, 2007, terminated Nov. 3, 2007. Emergency rule filed Oct. 24, 2007, effective Nov. 3, 2007, expires March 13, 2008. Original rule filed Nov. 1, 2007.

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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Health and Senior Services, Division of Maternal, Child and Family Health, Bureau of Genetics and Healthy Childhood, Sharmini Rogers, MBBS, MPH, Chief, 930 Wildwood Drive, 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 100—*[Division of Consumer Affairs]* *Insurer Conduct*
Chapter 1—Improper or Unfair Claims Settlement Practices

PROPOSED AMENDMENT

20 CSR 100-1.010 Definitions. The director is amending the division name, "Purpose" clause and section (1) of this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule. Furthermore, this amendment may correct any minor grammatical or spelling errors.

PURPOSE: This rule sets forth definitions used in [20 CSR 100-1 of the Code of State Regulations] ***the rules in this division to aid in the interpretation of various terms and phrases.***

(1) *[Definitions.]* As used in the Unfair Claims Settlement Practices Act at sections 375.1000 to 375.1018, RSMo and in the regulations promulgated pursuant thereto—

(A) **"**Insurance producer**"** or **"**producer**,"** *[means]* any individual, corporation, association, partnership or other legal entity authorized to represent an insurer with respect to a claim;

(B) **"**Claim**,"** *[means]*—

1. A request or demand for payment of a loss which may be included within the terms of coverage of an insurance policy; or

2. A request or demand for any other payment under the policy, such as for the return of unearned premium or nonforfeiture benefits;

(C) **"**Claimant**,"** *[means]* any—

1. First-party claimant, including a subscriber under any plan providing health services;

2. Third-party claimant; or

3. Person or entity submitting a claim on behalf of any insured and includes the claimant's designated legal representative and a member of the claimant's immediate family designated by the claimant;

(D) **"**First-party claimant**,"** *[means]* any individual, corporation, association, partnership or other legal entity asserting a right to payment arising out of the occurrence of a contingency or loss covered by an insurance policy;

(E) **"**Insurer**,"** *[means]* any legal entity organized, incorporated or doing business under the provisions of Chapter(s) 354, 375–379, 381 or 383, RSMo or otherwise engaged in the business of insurance in this state;

(F) **"**Investigation**,"** *[means]* all activities of an insurer directly or indirectly related to the determination of liabilities under coverages afforded by an insurance policy;

(G) **"**Notification of claim**,"** *[means]* any notification, whether in writing or by other means acceptable under the terms of an insurance policy to an insurer or its insurance producer, by a claimant, which reasonably apprises the insurer of the facts pertinent to a claim;

(H) **"**Third-party claimant**,"** *[means]* any individual, corporation, association, partnership or other legal entity asserting a claim against any individual, corporation, association, partnership or other legal entity insured under an insurance policy;

(I) **"**Insurance policy**,"** *[means]* any insurance contract, certificate of insurance or contract under which health services are to be provided; and

(J) **"**Time error rate**,"** refers to any one (1) of the following:

1. Acknowledgment time error rate, the percentage of claims in which the insurer has performed an act described in section 375.1007(2), RSMo, or violated 20 CSR 100-1.030;

2. Investigation time error rate, the percentage of claims in which the insurer has performed an act described in section 375.1007(3), RSMo, or violated 20 CSR 100-1.030; or

3. Determination time error rate, the percentage of claims in which the insurer has performed an act described in section 375.1007(7), RSMo, or violated 20 CSR 100-1.050.

AUTHORITY: sections 374.045, RSMo 2000 and 375.1000–375.1018, ***SB 66, Ninety-fourth General Assembly, First Regular Session (2007)****. This rule was previously filed as 4 CSR 190-10.060(1). Original rule filed Aug. 5, 1974, effective Aug. 15, 1974. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed Nov. 1, 2007.*

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on January 24, 2008 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 amendment until 5:00 p.m. on January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 100—*[Division of Consumer Affairs]*
Insurer Conduct
Chapter 1—Improper or Unfair Claims Settlement Practices

PROPOSED AMENDMENT

20 CSR 100-1.020 Misrepresentation of Policy Provisions *in Claims Settlement*. The director is amending the title, section (1) and renumbering the other sections as subsections to this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule. Furthermore, this amendment may correct any minor grammatical or spelling errors.

(1) An insurer who engaged in one or more of the following acts or practices shall be deemed to be engaged in "misrepresenting policy provisions" as used in section 375.1007(1), RSMo. This rule is not intended to be all inclusive and acts or practices not enumerated in this rule may also be deemed misrepresentation.

*[(1)]***(A)** No insurer shall fail to fully disclose to first-party claimants all pertinent benefits, coverages or other provisions of an insurance policy under which a claim is presented.

[(2)] **(B)** No insurance producer shall conceal from any first-party claimant the benefits, coverages or other provisions of any insurance policy when these benefits, coverages or other provisions are pertinent to a claim.

[(3)] **(C)** No insurer shall deny any claim for failure to exhibit the property without proof of demand and unfounded refusal by a claimant to do so.

[(4)] **(D)** No insurer shall deny any claim based upon the insured's failure to submit a written notice of loss within a specified time following any loss, unless this failure operates to prejudice the rights of the insurer.

[(5)] **(E)** No insurer shall request a first-party claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment.

[(6)] **(F)** No insurer shall issue any draft in partial settlement of a claim under a specific coverage, when endorsement of the draft would totally release the insurer or its insured from liability.

*AUTHORITY: sections 374.045, RSMo 2000 and 375.1000–375.1018, [RSMo 2000] **SB 66, Ninety-fourth General Assembly, First Regular Session, (2007)**. This rule was previously filed as 4 CSR 190-10.060(3). Original rule filed Aug. 5, 1974, effective Aug. 15, 1974. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Nov. 1, 2007.*

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on January 24, 2008 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 amendment until 5:00 p.m. on January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE
Division 100—Division of Consumer Affairs
Chapter 1—Improper or Unfair Claims Settlement Practices

PROPOSED RESCISSION

20 CSR 100-1.040, Standards for Prompt Investigation of Claims. This rule aided in the interpretation of section 375.1007(3), RSMo.

PURPOSE: This rule is being rescinded and moved to 20 CSR 100-1.050.

*AUTHORITY: sections 374.045, RSMo Supp. 1996 and 375.1000–375.1018, RSMo 1994. This rule was previously filed as 4 CSR 190-10.060(5). Original rule filed Aug. 5, 1974, effective Aug. 15, 1974. For intervening history, please consult the **Code of State Regulations**. Rescinded: Filed Nov. 1, 2007.*

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

PRIVATE COST: This proposed rescission 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 rescission at 10:00 a.m. on January 24, 2008 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 rescission until 5:00 p.m. on January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 100—*[Division of Consumer Affairs]*
Insurer Conduct
Chapter 1—Improper or Unfair Claims Settlement Practices

PROPOSED AMENDMENT

20 CSR 100-1.050 Standards for Prompt, Fair and Equitable Settlement of Claims. The director is amending section (3) of this

rule, renumbering the subsequent section and adding a new section (5).

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule. Furthermore, this amendment may correct any minor grammatical or spelling errors.

(3) Standards for Prompt, Fair and Equitable Settlements Applicable to Property Insurance.

(A) Insurers shall be responsible to repair or replace damaged siding or roofing material with like kind and quality products.

1. Where replacement shall be necessary and the original siding/roofing material is no longer available, the insurer shall be required to use like kind and quality products. Like kind and quality means siding/roofing material with similar lifetime warranties, color, quality, composition and same or similar size of the original product that does not result in diminished value to the property. Diminished value means to make less or cause to appear less in value as determined by a reasonable person, excluding normal deterioration and fading.

2. Where repairs are justified in accordance with industry standards in lieu of replacement, the insurer shall use products and techniques that do not result in diminished value to the property. Diminished value means to make less or cause to appear less in value as determined by a reasonable person, excluding normal deterioration and fading.

*[(3)]***(4)** Standards for Prompt, Fair and Equitable Settlements Applicable to Health Insurance.

(A) Precertification. An insurer may require that claimants for health insurance benefits have their course of treatment certified in advance of incurring the claim based upon the course of treatment, so long as the following requirements are met:

1. The rules of the insurer for precertification must be fully disclosed to the covered person in advance of any incurred claim or course of treatment; and

2. Precertification determinations must be made in a prompt, fair and equitable manner.

(B) Denial of Precertified Claims.

1. No insurer may deny, in whole or in part, any claim for health insurance benefits if—

A. The claim is based upon a course of treatment which has been precertified; and

B. The claim denial is based upon one (1) or more of the following reasons:

(I) The claim or course of treatment was not medically necessary; or

(II) The claim or course of treatment was experimental.

2. The provisions of paragraph (3)(B)1. of this rule do not apply to any claim against an insurer which has a contract—

A. With the health care provider who provided the treatment upon which the claim is based; and

B. Which requires the health care provider to hold the insured harmless from the denial of the claim.

(5) Standards for Prompt Investigations of Claims. Every insurer shall complete an investigation of a claim within thirty (30) days after notification of the claim, unless the investigation cannot reasonably be completed within this time.

*AUTHORITY: sections 374.045, RSMo [Supp. 1996] **2000** and 375.1000–375.1018, [and 408.020.2, RSMo 1994,] **SB 66, Ninety-fourth General Assembly, First Regular Session (2007)**. This rule previously filed as 4 CSR 190-10.060(6), (7) and (11). Original rule filed Aug. 5, 1974, effective Aug. 15, 1974. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Nov. 1, 2007.*

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on January 24, 2008 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 amendment until 5:00 p.m. on January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE, *FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION*

Division 100—*[Division of Consumer Affairs]* *Insurer Conduct*

Chapter 1—Improper or Unfair Claims Settlement Practices

PROPOSED AMENDMENT

20 CSR 100-1.100 Claims Involving Public Adjusters or Solicitors. The director is numbering the first paragraph as section (1) of this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule. Furthermore, this amendment may correct any minor grammatical or spelling errors.

(1) No insurance company authorized to do the business of insurance in Missouri shall make payment of any insurance claim, or any portion of a claim, to a public adjuster or solicitor on account of services rendered by a public adjuster or solicitor to an insured unless the name of the insured is added as a joint payee on any claim check or draft. The payment, whether by check, draft or otherwise, should be sent to the address designated by the insured.

*AUTHORITY: sections 374.045, RSMo [Supp. 1996] **2000** and 375.1000–375.1018, [RSMo 1994,] **SB 66, Ninety-fourth General Assembly, First Regular Session (2007)**. This rule previously filed as 4 CSR 190-10.060(10). Original rule filed Aug. 5, 1974, effective Aug. 15, 1974. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Nov. 1, 2007.*

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on January 24, 2008 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 amendment until 5:00 p.m. on January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE, *FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION*
Division 100—*[Division of Consumer Affairs]* *Insurer Conduct*
Chapter 1—Improper or Unfair Claims Settlement Practices

PROPOSED AMENDMENT

20 CSR 100-1.200 Claims Practices When Retrospective Premiums Paid. The director is amending the "Purpose" clause and numbering the first paragraph as section (1) to this rule.

*PURPOSE: This amendment reflects the proper citation for the **Missouri Revised Statutes** and may correct any minor errors.*

PURPOSE: This regulation prohibits policyholders from settling their own losses, pursuant to the provisions of section 374.045, RSMo [1986] and implements section 375.445, RSMo [1986].

(1) No insurer, insurance producer or representative shall permit or allow a policyholder, whether corporate or individual, to engage in the settlement of third-party liability claims against that policyholder's liability coverage on behalf of the insurer when premiums payable for third-party liability coverage are calculated or are to be modified on the basis of third-party liability losses, loss payments or settlement expenses.

AUTHORITY: sections 374.045 and 375.445, RSMo 2000. This rule previously filed as 4 CSR 190-10.055. Original rule filed Aug. 5, 1974, effective Aug. 15, 1974. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Amended: Filed Nov. 1, 2007.

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on January 24, 2008 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 amendment until 5:00 p.m. on January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE, *FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION*
Division 100—*[Division of Consumer Affairs]* *Insurer Conduct*
Chapter 2—Unfair Trade Practices

PROPOSED AMENDMENT

20 CSR 100-2.100 Unfair Financial Planning Practices. The director is amending the division name, "Purpose" clause and section (1) of this rule.

*PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule. Furthermore, this amendment reflects the proper citation for the **Missouri Revised Statutes**.*

PURPOSE: This rule defines in part false information and advertising under section 375.936(4), RSMo [(1986)].

(1) No insurance *[agent or insurance broker]* **producer** licensed by the *[Missouri Department of Insurance]* **department** shall—

(B) Represent him/herself as being in the business of financial planning without disclosing to the client that s/he is licensed as an insurance *[agent or an insurance broker]* **producer** in Missouri; and

(C) Charge a fee or other form of compensation for financial planning when that person is selling insurance unless that person is licensed as an insurance *[broker]* **producer** and complies with the requirements of section 375.116, RSMo.

*AUTHORITY: section 374.045, RSMo [1986] **2000**. This rule previously filed as 4 CSR 190-10.120. Original rule filed Oct. 16, 1989, effective April 15, 1990. Amended: Filed Nov. 1, 2007.*

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on January 24, 2008 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 amendment until 5:00 p.m. on January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 100—*[Division of Consumer Affairs]*
Insurer Conduct
Chapter 2—Unfair Trade Practices

PROPOSED AMENDMENT

20 CSR 100-2.200 Unfair Discrimination on the Basis of Blindness, Partial Blindness or Physical or Mental Impairment. The director is amending the division name and "Purpose" clause to this rule.

*PURPOSE: This amendment reflects the proper citation for the **Missouri Revised Statutes** and may correct any minor errors.*

PURPOSE: This regulation identifies specific acts or practices which are prohibited by section 375.936, RSMo [1986]. It follows the National Association of Insurance Commissioners model regulation dealing with discrimination based on blindness or partial blindness and its model regulation dealing with discrimination based on physical or mental impairment.

*AUTHORITY: sections 374.045 and 375.936, RSMo [1986] **2000**. This rule was previously filed as 4 CSR 190-13.170. Original rule filed Feb. 10, 1978, effective Aug. 11, 1978. Rescinded and readopted: Filed March 7, 1985, effective Aug. 11, 1985. Amended: Filed Nov. 1, 2007.*

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on January 24, 2008 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 amendment until 5:00 p.m. on January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE
Division 100—Division of Consumer Affairs
Chapter 2—Unfair Trade Practices

PROPOSED RESCISSION

20 CSR 100-2.300 The Actual Payment Must Be Basis for Policy or Plan Calculations. The director is rescinding this rule.

PURPOSE: This rule is being rescinded because similar text is being adopted as rule 20 CSR 400-2.065.

AUTHORITY: sections 354.085, 354.120, 354.485, 374.045 and 376.405, RSMo 1994. Original rule filed May 1, 1995, effective Dec. 30, 1995. Rescinded: Filed Nov. 1, 2007.

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

PRIVATE COST: This proposed rescission 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 rescission at 10:00 a.m. on January 24, 2008 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 rescission until 5:00 p.m. on January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 100—*[Division of Consumer Affairs]*
Insurer Conduct
Chapter 3—Fraudulent *[Practices]* *Insurance Claims and Acts*

PROPOSED AMENDMENT

20 CSR 100-3.100 Fraud Investigation Reports. The director is amending the division name, chapter title "Purpose" clause and sections (1) and (2) of this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule.

*PURPOSE: This rule sets forth the forms to be used in reporting fraudulent insurance acts to the [Missouri Department of Insurance] **department** under sections 375.991–375.994, RSMo.*

(1) **Insurers must report any allegation of a fraudulent insurance claim to the Consumer Affairs Division using a** *[The]* Fraud Investigation Report **by** *[(]*Insurer*[)]*form *[set forth as Exhibit 1 of this rule shall be used by any insurer reporting an allegation of a fraudulent insurance claim to the department.]* **(Form F-I) adopted and approved by the director in 20 CSR 100-4.030.** This form also may be used by an insurer seeking the department's assistance in the investigation and prosecution alleged fraudulent insurance claims and other types of fraudulent insurance acts.

(2) **Any person other than an insurer reporting a fraudulent insurance act to the Consumer Affairs Division must use a** *[The]*

Fraud Investigation Report **by** *[(]*Consumer*[)]*form *[set forth as Exhibit 2 of this rule shall be used by any noninsurer for reporting a fraudulent insurance act to the department.]* **(Form F-C) adopted and approved by the director in 20 CSR 100-4.030.**

AUTHORITY: sections 374.045, [RSMo 1986 and] 375.992 ***and*** *375.993, RSMo [Supp. 1990]* ***2000****, 375.991,* ***RSMo Supp. 2006*** *and 375.994,* ***SB 66, Ninety-fourth General Assembly, First Regular Session, (2007)****. Original rule filed Sept. 15, 1992, effective June 7, 1993. Amended: Filed Nov. 1, 2007.*

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on January 24, 2008 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 amendment until 5:00 p.m. on January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 100—*[Division of Consumer Affairs]* *Insurer Conduct*
Chapter 4—*[Divisional Inquiry Response Requirements]* *General*

PROPOSED RULE

20 CSR 100-4.010 Definitions

PURPOSE: This rule sets forth definitions used in this division to aid insurers, producers, the Consumer Affairs Division and the Insurance Market Regulation Division in the interpretation of various terms and phrases.

(1) As used in this division, the following terms and phrases shall be interpreted as follows:

(A) "Adequate response," a written response answering each inquiry with reasonable specificity. A person's acknowledgment of the division's inquiry is not an adequate response.

(B) "Department," the Department of Insurance, Financial Institutions and Professional Registration.

(C) "Director," the director of the Department of Insurance, Financial Institutions and Professional Registration.

(D) "Inquiry," each and every question or request for information submitted in writing to a person by the Consumer Affairs Division concerning subjects which are within the division's authority to regulate or investigate.

(E) "NAIC," the National Association of Insurance Commissioners.

(F) "Person," any person as that term is defined in sections 374.046(17), 375.932(4) and 375.1002(3), RSMo, including "insurers" as that term is defined in sections 375.932(3) and 375.1002(2), RSMo, and any other entity, association or individual, whether or not the director has granted a license or certificate of authority to the entity, association or individual.

AUTHORITY: section 374.045, RSMo 2000. Original rule filed Nov. 1, 2007.

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 January 24, 2008 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 January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 100—*[Division of Consumer Affairs]* *Insurer Conduct*
Chapter 4—*[Divisional Inquiry Response Requirements]* *General*

PROPOSED RULE

20 CSR 100-4.020 Adopting NAIC Handbooks and Standards

PURPOSE: This rule effectuates and aids in the interpretation of the laws of this state pertaining to the business of insurance, and the rules, regulations, standards and guidelines of the National Association of Insurance Commissioners.

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.

(1) The director adopts and incorporates by reference in this division the following rules, regulations, standards, and guidelines of the National Association of Insurance Commissioners (NAIC) without publishing the materials in full:

(A) *Market Regulation Handbook* (2007);

(B) *Statistical Compilation of Annual Statement Information* (2007); and

(C) *Statistical Handbook of Data Available to Insurance Regulators* (2004).

(2) The above referenced rules, regulations, standards, or guidelines do not include any later amendments or additions.

(3) The publisher's name and address is the National Association of Insurance Commissioners, Executive Headquarters, 2301 McGee Street Suite 800, Kansas City, MO 64108-2662.

AUTHORITY: section 374.045, RSMo 2000. Original rule filed Nov. 1, 2007.

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 January 24, 2008 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 January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 100—*[Division of Consumer Affairs]* *Insurer Conduct*
Chapter 4—*[Divisional Inquiry Response Requirements]* *General*

PROPOSED RULE

20 CSR 100-4.030 Forms

PURPOSE: This rule prescribes the forms adopted and approved for filing with the department under this title.

(1) The following forms have been adopted and approved for filing with the department:

(A) Fraud Investigation Report.

1. Insurers. Form F-I—Fraud Investigation Report by Insurers, revised in February 1990, or any form which substantially comports with the specified form.

2. Other Persons. Form F-C—Fraud Investigation Report by Consumers, revised in February 1990, or any form which substantially comports with the specified form.

(2) Forms adopted and approved by this rule may be obtained via the website at www.difp.mo.gov or may be requested by mailing a request to Consumer Affairs Division, PO Box 690, 301 West High Street, Jefferson City, MO 65102.

AUTHORITY: section 374.045, RSMo 2000. Original rule filed Nov. 1, 2007.

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 January 24, 2008 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 January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE, *FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION*
Division 100—*[Division of Consumer Affairs]* *Insurer Conduct*
Chapter 4—*[Divisional Inquiry Response Requirements]* *General*

PROPOSED AMENDMENT

20 CSR 100-4.100 Required Response to *[Divisional]* Inquiries *by the Consumer Affairs Division*. The director is amending the division name, chapter title and sections (1) and (2) of this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule.

(1) *[Definitions.*

(A) Person means any person or insurer as those terms are defined in sections 374.085, 375.932(3) and (4) and 375.1002(2) and (3), RSMo, and shall also include any other entity or person over which the division has jurisdiction.

(B) Inquiry means each and every question or request for information submitted in writing to a person by the division concerning subjects which are within the division's authority to regulate or investigate.

(C) Adequate response means a written response answering each inquiry with reasonable specificity. A person's acknowledgment of the division's inquiry is not an adequate response.

(D) Division means the Department of Insurance, Division of Consumer Affairs.] **As used in this rule, "division" means the Consumer Affairs Division.**

(2) Except as required under subsection (2)(B)—

(A) Upon receipt of any inquiry from the division, every person shall mail to the *[department]* **division** an adequate response to the

inquiry within twenty (20) days from the date the *[department]* **division** mails the inquiry. An envelope's postmark shall determine the date of mailing. When the requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

*AUTHORITY: section[s 354.190, 354.465, 354.485, 354.717, 354.723, 374.040, 374.110, 374.190, 375.938, 375.948, 375.1009 and 375.1018, RSMo 1994, 375.045 and 376.1375, Supp. 1997] **374.045, RSMo 2000**. Original rule filed Oct. 1, 1996, effective June 30, 1997. Amended: Filed Nov. 3, 1997, effective June 30, 1998. Amended: Filed Nov. 1, 2007.*

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on January 24, 2008 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 amendment until 5:00 p.m. on January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE, *FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION*
Division 100—*[Division of Consumer Affairs]* *Insurer Conduct*
Chapter 5—Health Care Consumer Procedures

PROPOSED AMENDMENT

20 CSR 100-5.010 Notice Requirements of an Adverse Determination. The director is amending section (3) and section (4) of this rule.

*PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule. This amendment also reflects the proper citation for the **Missouri Revised Statutes** and may correct any minor errors.*

(3) The notice shall explain how an enrollee initiates a grievance review. If an enrollee is eligible for an expedited review pursuant to section 376.1389, RSMo *[Supp. 1997]*, then the notice shall explain how an enrollee initiates an expedited review.

(4) The notice shall explain how an enrollee as defined in section 376.1350(14), RSMo initiates a grievance review of the adverse determination with the *[Department of Insurance (DOI)]* **director**. The notice shall explain that an enrollee may file a grievance with *[DOI]* **the director** at any time. The notice shall also list the *[DOI's]* **Consumer Affairs Division's** toll-free telephone number.

*AUTHORITY: sections **374.045,** 376.1363.5 and 376.1399, [RSMo Supp. 1997] **RSMo 2000**. Original rule filed Nov. 3, 1997, effective June 30, 1998. Amended: Filed Nov. 1, 2007.*

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on January 24, 2008 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 amendment until 5:00 p.m. on January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE, *FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION*
Division 100—*[Division of Consumer Affairs]* *Insurer Conduct*
Chapter 5—Health Care Consumer Procedures

PROPOSED AMENDMENT

20 CSR 100-5.020 Grievance Review Procedures. The director is amending sections (1)–(9) of this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule.

(1) As used in this rule, "division" means the Consumer Affairs Division.

*[(1)]***(2)** When a health carrier, as defined by section 376.1350(22), RSMo, or their designee utilization review organization issues an adverse determination, as defined by section 376.1350(1), RSMo, to an enrollee in a health plan that has a managed care component, the enrollee or his/her representative may file a grievance with the *[Missouri Department of Insurance (DOI)]* **director** without exhausting all remedies available under the carrier's grievance process. Medicaid *[recipients]* **participants** also may use *[DOI's]* **the division's** grievance process in an effort to resolve an adverse determination; however, the director may not have the authority to issue an order in such cases.

*[(2)]***(3)** A health carrier or plan sponsor also may file a grievance with *[DOI]* **the director** concerning an adverse determination.

*[(3)]***(4)** A grievance will be processed by *[DOI]* **the division** as any other consumer complaint. *[DOI]* **The division** will assign the grievance a file number. *[DOI]* **The division** will send an inquiry to the health carrier (or party) which is complained against requesting the health carrier (or party) to respond in writing with their position and all supporting documentation concerning the matter grieved. *[DOI]* **The division** will attempt to resolve the issue with the health carrier (or party).

*[(4)]***(5)** If the director determines a grievance is unresolved after completion of *[DOI's]* **the division's** consumer complaint process, *[DOI]* **the director** shall refer the unresolved grievance to an independent review organization (IRO). An unresolved grievance shall include a difference of opinion between a treating health care professional and the health carrier concerning the medical necessity, appropriateness, health care setting, level of care or effectiveness of a health care service.

*[(5)]***(6)** *[DOI]* **The director** will provide the IRO and upon request the enrollee, enrollee's representative or health carrier copies of all medical records and any other relevant documents which *[DOI]* **the division** has received from any party. The enrollee, enrollee's representative and health carrier may review all the information submitted to the IRO for consideration.

*[(6)]***(7)** The enrollee, enrollee's representative or health carrier may also submit additional information to *[DOI]* **the division** which *[DOI]* **the division** shall forward to the IRO. All additional information must be received by *[DOI]* **the division**. If an enrollee, enrollee's representative or health carrier has information which contradicts information already provided the IRO, they should provide it as additional information. All additional information should be received by *[DOI]* **the division** within fifteen (15) working days from the date *[DOI]* **the division** mailed that party copies of the information provided the IRO. An envelope's postmark shall determine the date of mailing. Information may be submitted to *[DOI]* **the division** by means other than mail if it is in writing, typeset or easily transferred into typeset by *[DOI's]* **the division's** technology and a date of transmission is easily determined by *[DOI]* **the division**. At *[DOI's]* **the director's** discretion, additional information which is received past the fifteen (15) working-day deadline may be submitted to the IRO.

*[(7)]***(8)** The IRO shall request from *[DOI]* **the division** any additional information it wants. *[DOI]* **The division** shall gather the requested information from an enrollee, enrollee's representative or health carrier or other appropriate entity and provide it to the IRO. If *[DOI]* **the division** is unable to obtain the requested information, the IRO shall base its opinion on the information already provided.

*[(8)]***(9)** Within twenty (20) calendar days of receiving all material, the IRO shall submit to *[DOI]* **the director** its opinion of the issues reviewed. If the IRO requires additional time to complete its review, it should request in writing from *[DOI]* **the director** an extension in the time to process the review. Such a request should include the reasons for the request and a specific time at which the review is expected to be complete.

[(9)] **(10)** After *[DOI]* **the director** receives the IRO's opinion, the director shall issue a decision which shall be binding upon the enrollee and the health carrier.

AUTHORITY: sections 374.045, 376.1387 and 376.1399, [RSMo Supp. 1997.] RSMo 2000. Original rule filed Nov. 3, 1997, effective June 30, 1998. Amended: Filed Nov. 1, 2007.

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on January 24, 2008 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 amendment until 5:00 p.m. on January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE, *FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION*
Division 100—*[Division of Consumer Affairs]* *Insurer Conduct*
Chapter 6—Privacy of Consumer Information

PROPOSED AMENDMENT

20 CSR 100-6.100 Privacy of Financial Information. The director is amending the division title and subsection (1)(D) of this rule.

PURPOSE: This amendment reflects the reorganization of the Department of Insurance into the Department of Insurance, Financial Institutions and Professional Registration. For purpose of brevity and uniformity, the name "Department of Insurance, Financial Institutions and Professional Registration" will be abridged to "the department" for use in this rule.

(1) Definitions. As used in this rule, unless the context requires otherwise:

(D) "Director" means the director of the *[Missouri]* Department of Insurance**, Financial Institutions and Professional Registration**.

*AUTHORITY: sections 362.422, RSMo Supp. [2001] **2006** and 374.045, RSMo 2000. Emergency rule filed June 21, 2001, effective July 1, 2001, expired Dec. 28, 2001. Original rule filed Aug. 31, 2001, effective March 30, 2002. Amended: Filed Nov. 1, 2007.*

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed amendment at 10:00 a.m. on January 24, 2008 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 amendment until 5:00 p.m. on January 24, 2008.

Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 100—Insurer Conduct
Chapter 7—Market Conduct Analysis

PROPOSED RULE

20 CSR 100-7.010 Standards of Analysis

PURPOSE: This rule sets out the scope of the rules in this chapter and provides definitions to aid in the interpretation of the rules in this chapter.

(1) Factors Considered. The director shall monitor the market conduct of insurers and producers transacting business in Missouri by using uniform standards of analysis developed in consultation with members of the National Association of Insurance Commissioners (NAIC). Uniform state standards may be adopted by review and adoption of the *Market Analysis Handbook,* the *Market Regulation Handbook,* or other guides adopted by the director.

AUTHORITY: section 374.045, RSMo 2000. Original rule filed Nov. 1, 2007.

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 January 24, 2008 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 January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 100—Insurer Conduct
Chapter 8—Market Conduct Examination

PROPOSED RULE

20 CSR 100-8.010 Standards of Examination

PURPOSE: This rule sets out the scope of the rules in this chapter and provides definitions to aid in the interpretation of the rules in this chapter.

(1) Examination Protocol. The director shall monitor the market conduct of insurers and producers transacting business in Missouri by using uniform standards of examination developed in consultation with members of the National Association of Insurance Commissioners (NAIC). Uniform state standards may be adopted by review and adoption of the *Market Conduct Examiners Handbook,* the *Market Regulation Handbook,* or other guides adopted by the director.

AUTHORITY: section 374.045, RSMo 2000. Original rule filed Nov. 1, 2007.

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 January 24, 2007 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 January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 100—Insurer Conduct
Chapter 8—Market Conduct Examination

PROPOSED RULE

20 CSR 100-8.020 Sampling and Error Rates

PURPOSE: This rule effectuates and aids in the interpretation of sections 375.1007, 375.445 and 375.936(6), RSMo regarding detection of frequency to indicate a business practice under the Unfair Claims Settlement Practices Act or conducting business fraudulently, not in good faith or in a manner constituting misrepresentations or false advertising.

(1) Unfair Claims Settlement Rates.

(A) As used in section (1), the terms and phrases mean as follows:

1. "Time error rate," any one (1) of the following:

A. Acknowledgment time error rate, the percentage of claims in which the insurer has performed an act described in section 375.1007(2), RSMo or violated 20 CSR 100-1.030;

B. Investigation time error rate, the percentage of claims in which the insurer has performed an act described in section 375.1007(3), RSMo or violated 20 CSR 200-1.040; and

C. Determination time error rate, the percentage of claims in which the insurer has performed an act described in section 375.1007(7), RSMo or violated 20 CSR 200-1.050(1)(A).

2. "Unfair settlement rate," the percentage of claims in which the insurer has performed an act described in section 375.1007(1), (5), (6), (8), (15), RSMo or violated 20 CSR 200-1.020 and 20 CSR 200-1.050(1)(B) or 20 CSR 200-1.050(2).

(B) The time error rates and unfair settlement rate will be important in determining whether the insurer has engaged in an unfair settlement practice as that phrase is used in section 375.1007, RSMo; however, other relevant factors will be considered in making the determinations. No attempt is made in this regulation to list other relevant factors because these factors depend on the facts of each case and no exhaustive or comprehensive list of other factors can be made.

(C) The time error rates and unfair settlement rate may be established by census or by an appropriate random sample. Whether a random sample was appropriate will be determined on a case-by-case basis.

(2) Unfair, Fraudulent or Bad Faith Conduct in Claims Settlement.

(A) As used in section (2), the terms and phrases mean as follows:

1. "Insurance law," any statutory provision in Chapters 354 or 374 through 385, RSMo or any regulation promulgated thereunder;

2. "Claims error rate," the percentage of claims in which the insurer violated any insurance law, except section 375.1007, RSMo or 20 CSR 100-1.010, 20 CSR 100-1.020, 20 CSR 100-1.030, 20 CSR 100-1.040, 20 CSR 100-1.050, 20 CSR 100-1.100, section (1) of this rule and 20 CSR 300-2.100 or accepted or denied claims other than in accordance with the terms of an applicable policy, contract, certificate, endorsement or rider except where that acceptance or denial has already been included in the claims error rate as a violation of an insurance law;

3. "Cancelled, Non-Renewed, Declined (CND) error rate," the percentage of cancelled and non-renewed policies and declined policy applications in which the insurer cancelled, non-renewed or declined in violation of any insurance law or the terms of the insurer's policy, contract, certificate, endorsement or rider, or underwriting manuals or guidelines on file with the director;

4. "Post-claims underwriting index," in life or accident or health insurance, means the ratio which the contestable policies or certificates which are rescinded by an insurer after a claim has been made or in which a claim has been resisted on the grounds of misrepresentation as divided by the total contestable policies or certificates on which claims have been made bears to the applications for insurance declined or rejected by the insurer as divided by the total applications for insurance;

5. "Quotation error rate," the percentage of personal lines property and casualty policies, contracts, certificates, endorsements or riders in which the premium quoted by the agent of the insurer is more than five dollars ($5) different than the premium actually charged by the insurer, excluding policies, contracts, certificates, endorsements or riders in which the information relied on by the agent is substantially different than the information relied on by the insurer; and

6. "Rating error rate," the percentage of policies, contracts, certificates, endorsements or riders in which the premium actually charged the insured is more than five dollars ($5) different than the premium which should have been charged had the insurer calculated the premium in accordance with its policies, contracts, certificates, endorsements, riders and rating manuals or schedules on file with the director.

(B) The rates and index set forth in this regulation will be important in determining whether a violation of section 375.445, RSMo has occurred and the quotation error rate may also be considered in determining whether misrepresentations and false advertising of insurance policies within the meaning of section 375.936(6), RSMo has occurred. However, other relevant factors will be considered in making these determinations. No attempt is made in this regulation to list other relevant factors because other factors depend on the facts of each case and no exhaustive or comprehensive list of other relevant factors can be made.

(C) The rates or index may be established by census or by an appropriate random sample. Whether a random sample was appropriate will be determined on a case-by-case basis.

AUTHORITY: sections 374.045, 375.948 and 375.1018, RSMo 2000. Original rule filed Nov. 1, 2007.

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 January 24, 2008 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 January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 100—Insurer Conduct
Chapter 8—Market Conduct Examination

PROPOSED RULE

20 CSR 100-8.040 Insurer Record Retention

PURPOSE: This rule describes the requirements for record keeping for insurers and related entities doing business in this state. This regulation was adopted pursuant to the provisions of section 374.045, RSMo and to implement sections 287.350, 354.190, 354.465, 374.190, 374.210, 375.158, 379.343 and 379.475, RSMo and 144.027, 354.149, 354.717, 375.022, 375.150, 375.151, 375.926, 375.932, 375.938, 375.1002 and 375.1009, RSMo.

(1) As used in this rule, the terms and phrases mean as follows:

(A) "Application," any written or electronic application form, any enrollment form, any document used to add coverage under any existing policy, any questionnaire, telephone interview form, paramedical interview form, or any other document used to question or underwrite an applicant for any policy issued by an insurer or for any declination of coverage by an insurer. "Application" does not include documents, questionnaires or notes generated in response to a request for a premium quote which did not result in an application for coverage;

(B) "Business entity," as that term is defined in section 375.012.1(1), RSMo;

(C) "Claim," as that term is defined in section 20 CSR 100-1.010(1)(B);

(D) "Examiner," a market conduct examiner authorized by the director to conduct an examination pursuant to section 374.202.2(4), RSMo;

(E) "Inquiry," a specific question, criticism or request made in writing to an insurer by a market conduct examiner duly appointed by the director;

(F) "Insurer," as that term is defined in section 375.932 or 375.1002, RSMo; and

(G) "Policy," as that term is defined in section 375.932(5), RSMo. The term "policy" shall also include any evidence of coverage issued by a health maintenance organization to an enrollee.

(2) Records Required. Every insurer transacting business in this state shall maintain its books, records, documents and other business records in a manner so that the following practices of the insurer may be readily ascertained during market conduct examinations: claims handling and payment, complaint handling, termination, rating, underwriting and marketing.

(3) Records to be Maintained. The following records shall be maintained:

(A) A Missouri policy record file shall be maintained for each Missouri policy issued, and shall be maintained for the duration of the current policy term plus two (2) calendar years. Missouri policy records shall be maintained so as to show clearly the policy period, basis for rating and any imposition of additional exclusions from or exceptions to coverage. Missouri policy records need not be segregated from the policy records of other states so long as they are readily available to Missouri market conduct examiners as required under this rule. Missouri policy records shall include the following:

1. The actual, completed application for each contract.

A. The application shall bear the signature of the applicant whenever the insurer intends to retain any right to contest any warranty, representation or condition contained in the application.

B. The application shall bear a clearly legible means by which an examiner can identify any insurance producer involved in the transaction. The examiners shall be provided with any information needed to determine the identity of said insurance producer;

2. Any declaration pages (the initial page and any subsequent pages), the insurance contract, any certificates evidencing coverage under a group contract, any endorsements or riders associated with a policy, and any written or electronic correspondence to or from the insured pertaining to the coverage. If any of these records has already been filed with the department, a separate copy of the record need not be maintained in the individual policy files to which the record pertains, provided it is clear from the insurer's other records or systems that the record applies to a particular policy and that any data contained in the record relating to that policy can be retrieved or recreated;

3. Any binder with terms and conditions that differ from the terms and conditions of the policy subsequently issued; and

4. Any guidelines, manuals or other information necessary for the reconstruction of the rating and underwriting of the policy. The maintenance at the site of a market conduct examination of a single copy of each of the above shall satisfy this requirement. If any such rating or underwriting record is computer based, the records used to input the information into the computer system shall also be available to the examiners;

(B) A Missouri claim file shall be maintained for the calendar year in which the claim is closed plus three (3) years. The claim file shall be maintained so as to show clearly the inception, handling, and disposition of each claim. The claim file(s) shall be sufficiently clear and specific so that pertinent events and dates of these events can be reconstructed. A Missouri claim file(s) shall include the following:

1. Any notification of claim, proof of loss, claim form(s), proof of claim payment check/draft, notes, contract, declaration pages, certificates evidencing coverage under a group contract, endorsements or riders, work papers, any written communication, and any documented or recorded telephone communication related to the handling of a claim, including the investigation, payment and/or denial of the claim, and any claim manual(s) or other information necessary for reviewing the claim. Where a particular document pertains to more than one (1) file, insurers may satisfy the requirements of this paragraph by making available, at the site of a market conduct examination, a single copy of each document;

2. Documents in a claim file received from an insured, the insured's insurance producer, a claimant, the department or any other insurer shall bear the initial date of receipt date-stamped by the insurer in a legible form in ink or some other permanent manner. Unless the company provides the examiners with written procedures to the contrary, the earliest date stamped on a document will be considered the initial date of receipt;

3. In cases of a total loss on property claims for a motor vehicle, trailer, boat or outboard motor, the claim file shall contain a copy of the certification described in section 144.027, RSMo attesting to the amount of the insurance proceeds and any deductible obligation paid by the claimant regarding the loss. The certification shall contain a statement informing the claimant that the sales tax credit is valid for only one hundred eighty (180) days; and

4. If an insurer, as its regular business practice, places the responsibility for handling certain types of claims upon company personnel other than its claims personnel, the insurer need not duplicate its files for maintenance by claims personnel. These claims records must be maintained as part of the records of the insurer's operations and must be readily available to examiners. Notwithstanding the definition of "claim" at subsection 20 CSR 100-1.010(1)(B), the time requirements for the retention of records for policy files stated at section 374.205.2(2), RSMo, apply to claims handled by the company's personnel who typically handle policy files;

(C) Records to be maintained relating to the insurer's compliance with Missouri's licensing requirements shall include the Missouri licensing records of each insurance producer associated with the insurer. Licensing records shall be maintained so as to show clearly the dates of the appointment and terminations of each insurance producer. In accordance with the provisions of section 375.158, RSMo, copies of the current licenses of each insurance producer to whom a commission will be paid shall be on file with the insurer prior to the payment of this commission. The date of the receipt by the insurer of the copy of the license shall be indicated by a date-stamp placed on the license. Unless the company provides the examiners with written procedures to the contrary, the earliest date stamped on a document will be considered the initial date of receipt;

(D) The Missouri complaint records required to be maintained under section 375.936(3), RSMo shall include a complaint log or register in addition to the actual written complaints. The complaint log or register shall show clearly the total number of complaints for a period of not less than the immediately preceding three (3) years, the classification of each complaint by line of insurance, the nature of each complaint, and the disposition of each complaint. The complaint log or register shall also contain a reference to the location of the file to which each complaint corresponds. If the insurer maintains the file in a computer format, the reference in the complaint log or register for locating such documentation shall be an identifier such as the policy number or other code. Such codes shall be provided to the examiners at the time of an examination;

(E) The insurer shall retain declined underwriting files for a period of three (3) years from the date of declination. The term "declined underwriting file" shall mean all written or electronic records concerning a policy for which an application for insurance coverage has been completed and submitted to the insurer or its insurance producer but the insurer has made a determination not to issue a policy or not to add additional coverage when requested. A declined underwriting file shall include an application, any documentation substantiating the decision to decline an issuance of a policy, any

binder issued without the insurer issuing a policy, any documentation substantiating the decision not to add additional coverage when requested and, if required by law, any declination notification. Notes regarding requests for quotations which do not result in a completed application for coverage need not be maintained for purposes of this regulation; and

(F) The insurer shall retain claim files for a period of three (3) years from the date of the claim determination. These files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of these events can be reconstructed. Documentary material which is pertinent to the investigation and/or denial of a claim shall be legibly date stamped with the date of receipt whether it is from an insured, his/her agent, a claimant, the department or any other insurer.

(4) Form of Record.

(A) Any record required to be maintained by an insurer, may be in the form of paper; photograph; computer; magnetic, mechanical or electronic medium; or any process which accurately forms a durable reproduction of the record, so long as the record is capable of duplication to a hard copy that is as legible as the original document. Documents that require the signature(s) of the insured and/or insurer's insurance producer, shall be maintained in any format as listed above provided evidence of the signature(s) is preserved in that format.

(B) The maintenance of records in a computer-based format shall be archival in nature only, so as to preclude, to the extent reasonable, the alteration of the record after the initial transfer to a computer format. Upon request of an examiner all records shall be capable of duplication to a hard copy that is as legible as the original document. Such records shall be maintained according to written procedures developed and adhered to by the insurer. Said written procedures shall be made available to the department's market conduct examiners in accordance with section (6) below.

(C) Photographs, microfilms or other image-processing reproductions of records shall be equivalent to the originals and may be certified as the same in actions or proceedings before the department unless inconsistent with 20 CSR 800-1.100.

(5) Location of Files. All records required to be maintained under this rule shall be kept in a location which will allow the records to be produced for examination within the time period required under section (6) of this rule. When, under normal circumstances, someone other than the insurer maintains a required record or type of record, the other person's or entity's responsibility to maintain the records shall be set forth in a written agreement, a copy of which shall be maintained by the insurer and shall be available to the examiners for purposes of examination.

(6) Time Limits to Provide Records and to Respond to Examiners.

(A) An insurer shall provide any record requested by any examiner within ten (10) calendar days. When the requested record is not or cannot be produced by the insurer within ten (10) calendar days, this nonproduction shall be deemed a violation of this rule, unless the insurer can demonstrate to the satisfaction of the director that the requested record cannot reasonably be provided within ten (10) calendar days of the request.

(B) As a means to facilitate the examination and to aid in the examination in accordance with section 374.205.2(2), RSMo, an insurer shall provide a written response to any inquiry submitted by any examiner within ten (10) calendar days. When the requested information is not provided by the insurer within ten (10) calendar days, a violation shall be deemed to have occurred, unless the insurer can demonstrate to the satisfaction of the director that the requested response cannot reasonably be provided within ten (10) calendar days of the inquiry.

(7) Examination Work Papers. Records required to be provided during a market conduct examination shall be returned to the insurer following the examination, unless such records relate to an inquiry made by a department examiner. Records related to an inquiry shall become a part of the work papers of the examination. Regulation 20 CSR 10-2.400 shall govern the public access to the work papers of the examination.

AUTHORITY: sections 374.045 and 375.948, RSMo 2000. Original rule filed Nov. 1, 2007.

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 January 24, 2008 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 January 24, 2008. Written statements shall be sent to Tamara Wallace, 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.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 200—Insurance Solvency and Company Regulation
Chapter 19—Discount Medical Plans

PROPOSED RULE

20 CSR 200-19.020 Scope and Definitions

PURPOSE: This rule sets out the scope of the rules in this chapter and provides definitions to aid in the interpretation of the rules in this chapter.

(1) Applicability of Rules. The rules in this chapter apply to discount medical plan organizations transacting business under sections 376.1500 to 376.1532, RSMo. The rules shall be read together with Chapter 536, RSMo.

(2) Definitions.

(A) "Director," the director of the department;

(B) "Department," the Department of Insurance, Financial Institutions and Professional Registration.

AUTHORITY: sections 374.045, RSMo 2000 and 376.1528, SB 66, Ninety-fourth General Assembly, First Regular Session, (2007). Original rule filed Nov. 1, 2007.

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 January 15, 2008 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 January 15, 2008. Written statements shall be sent to Mary Erickson, 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.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 200—Insurance Solvency and Company Regulation
Chapter 19—Discount Medical Plans

PROPOSED RULE

20 CSR 200-19.050 Registration

PURPOSE: This rule implements the registration of all discount medical plan organizations doing business in this state.

(1) Registration Forms. The following form has been adopted and approved for filing with the department:

(A) The Discount Medical Plan Organization Registration form (Form DM-1), or any form which substantially comports with the specified form.

(2) Application and Fees.

(A) Initial Registration. Each "discount medical plan organization," as that term is used in sections 376.1500 to 376.1532, RSMo, shall register with the director by:

1. Completing and filing a Form DM-1 in accordance with the instructions contained therein;

2. Payment of two hundred fifty dollar ($250) registration fee; and

3. Demonstration of compliance with net worth requirement under rule 20 CSR 200-19.060.

(B) Renewal Registration. Each discount medical plan organization shall renew its registration between thirty (30) days prior to and the anniversary date of its initial registration by:

1. Submitting any amendments to the Form DM-1;

2. Payment of two hundred fifty dollar ($250) annual registration fee; and

3. Demonstration of compliance with net worth requirement under rule 20 CSR 200-19.060.

(4) Copies of the Form DM-1 may be obtained from the director at the department's office in Jefferson City, Missouri, on the department's web site, www.insurance.mo.gov or by mailing a written request to the department at Attention: Admissions Specialist, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

AUTHORITY: sections 374.045, RSMo 2000 and 376.1504 and 376.1528, SB 66, Ninety-fourth General Assembly, First Regular Session, (2007). Original rule filed Nov. 1, 2007.

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 cost private entities six thousand two hundred fifty dollars ($6,250) annually.

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 January 15, 2008 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 January 15, 2008. Written statements shall be sent to Mary Erickson, 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.

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	20 CSR 200-19.050 Registration of Discount Medical Plan Organizations
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:
25	Estimated number of discount medical plan organizations that will register	$6,250 annually

III. WORKSHEET

Estimated number of organizations issuing discount medical plans is 25. The annual registration fee for each administrator is $250 times the number of organizations registering. $250 times 25 equals $6,250.

IV. ASSUMPTIONS

The proposed rule does not have a sunset clause. Accordingly, the fiscal impact of the proposed rule cannot be estimated on an aggregate basis. An estimate of the annual fiscal impact is provided instead.

The proposed rule will directly affect only persons or entities seeking to register as a discount medical plan organization.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 200—Insurance Solvency and Company Regulation
Chapter 19—Discount Medical Plans

PROPOSED RULE

20 CSR 200-19.060 Net Worth Requirements

PURPOSE: This rule implements the requirement that discount medical plan organizations maintain a certain net worth.

(1) Requirement. Each discount medical plan organization shall maintain a net worth of no less than one hundred fifty thousand dollars ($150,000), as required by section 376.1518, RSMo. Net worth shall be determined according to generally accepted accounting principles (GAAP).

(2) Review. The net worth requirement is ongoing and subject to review by the director through examination. Each discount medical plan organization is required to demonstrate it meets the requirement at registration and at annual renewal.

(A) Registration. Each discount medical plan organization is required at the time of registration to demonstrate that it meets the net worth requirement according to GAAP by one (1) of the following means:

1. A report of an audit by an independent certified public accountant (CPA). Such report must include:

A. Either:

(I) The statement of profit or loss, balance sheet, and statement of cash flows of the discount medical plan organization as of a date not more than twelve (12) months prior to the date of such organization's registration; or

(II) The consolidated statement of profit or loss, balance sheet, and statement of cash flows of the discount medical plan organization and entities affiliated with the discount medical plan as of a date not more than twelve (12) months prior to the date of such organization's registration, as well as the consolidating worksheets that specifically show the account entries of the discount medical plan itself and which reconcile to such consolidated statement of profit or loss, balance sheet, and statement of cash flows; and

B. A statement by the independent CPA that recognizes without qualification the right of the director to rely on such report; or

2. A report of examination conducted by the director pursuant to sections 374.202 to 374.207 and 376.1506, RSMo, except that such examination will be conducted on the basis of GAAP, will review and opine on the discount medical organization's statement of profit or loss, balance sheet, and statement of cash flows as of a date not more than twelve (12) months prior to the date of such organization's registration.

(B) Renewal of Registration. Each discount medical plan organization is required at the time of renewal to demonstrate that it meets the net worth requirement according to GAAP by filing a statement sworn to or affirmed by two (2) or more officers of such organization, which statement consists of the statement of profit or loss, balance sheet, and statement of cash flows of the discount medical organization as of a date not more than twelve (12) months prior to the date of such organization's renewal of registration.

(C) Five (5)-Year Report. At least once every five (5) years, each discount medical plan organization shall file with the director at the time of renewal, a report of an audit by an independent CPA or a director's examination as provided in subsection (2)(A).

AUTHORITY: sections 374.045 and 374.202 to 374.207, RSMo 2000 and 376.1506 and 376.1528, SB 66, Ninety-fourth General Assembly, First Regular Session, (2007). Original rule filed Nov. 1, 2007.

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 cost private entities an estimated five thousand dollars ($5,000) annually.

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 January 15, 2008 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 January 15, 2008. Written statements shall be sent to Mary Erickson, 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.

FISCAL NOTE
PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	20 CSR 200-19.060 Net Worth of a Discount Medical Plan Organization
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:
25	Estimated number of discount medical plan organizations that will register	$5,000 annually

III. WORKSHEET

Estimated number of organizations issuing discount medical plans is twenty-five (25). The rule in practical application will require each such organization to have an audit once every five years. The cost of such an audit has been estimated at $1,000. Dividing the estimated number of discount medical plans by the number of years between audits yields five organizations having an audit each year. Five organizations each bearing an audit cost of $1,000 produces an annual aggregate cost on private entities of $5,000. If the discount medical plan organization is a subsidiary, the consolidated audit and the consolidating worksheets may be submitted. Such may reduce the direct cost to the discount medical plan organization for a separate audit.

IV. ASSUMPTIONS

The proposed rule does not have a sunset clause. Accordingly, the fiscal impact of the proposed rule cannot be estimated on an aggregate basis. An estimate of the annual fiscal impact is provided instead.

The proposed rule will directly affect only persons or entities registering as a discount medical plan organization.

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 400-2.065 Actual Payment as Basis for Policy or Plan Calculations

PURPOSE: This rule effectuates or aids in the interpretation of the following sections: 354.085 and 354.430(1), RSMo relating to certain policy forms that contain provisions which are deceptive, ambiguous, misleading, unfair, unjust, or inequitable; 354.350 and 375.445, RSMo regarding the carrying out of contracts in good faith; 354.410.1(2) and 354.430.3(2), RSMo pertaining to reasonable requirements for copayments; 354.085, 376.405 and 376.777, RSMo regarding whether policy forms contain such words, phraseology, conditions and provisions which are specific, certain and reasonably adequate to meet the needed requirements for the protection of those insured; and 354.410.1(9), RSMo relating to operating contrary to the public interest.

(1) Definitions. As used in this rule—

(A) "Actual payment," the real total dollar amount actually paid or to be paid in fact, by a health insurer, or by the health insurer and the insured when the insured is responsible for some part of the cost, to a health services provider for a health service(s) pursuant to a health plan. Annual adjustments in amounts paid to providers which are based on referral rates, quality or cost effectiveness measurements, or other similar contractual provisions may be excluded from the calculation of actual payments, at the option of the health insurer.

(B) "Expense participation," a financial contribution that the insured is required by the health plan to pay for a health service(s). "Expense participation" includes, but is not limited to, these forms of expense participation: deductibles, copayments, coinsurance, and additional charges by the health insurer that are caused by a failure to follow the utilization management or other requirements of the health plan;

(C) "Health insurer," any person, fraternal benefit society, and any other legal entity engaged in the business of insurance, including producers, adjusters, public adjusters and third-party administrators. "Health insurer" shall also mean health services corporations, health maintenance corporations, prepaid limited health care service plans, optometric and other similar health service plans, preferred provider plans, managed care plans, point-of-service plans, and multiple employer self-insured health plans. For the purpose of this rule, these foregoing entities are deemed to be engaged in the business of insurance. "Health insurer" shall also include all companies organized, incorporated or doing business under the provisions of Chapters 374, 375, 376, 378, 379, RSMo; provided that only persons or entities which offer, issue, manage or administer a health plan shall be deemed to be a "health insurer;"

(D) "Health plan," any insurance contract, policy or certificate, or any contract, plan or arrangement, which provides for the payment of a health service provider's charges for health services provided to insured. "Health plan" does not include any policy of workers compensation insurance or the medical payments portion of any automobile, homeowners or other property and casualty insurance policy;

(E) "Health services," any service or product for which provision for benefits has been made under a health plan, including but not limited to, the health care and services provided by hospitals, or other health care institutions, organizations, associations or groups, and by doctors of medicine, osteopathy, chiropractic, psychiatry, optometry, and podiatry, and shall also include nursing services, preventative health care services, health screening, prenatal care, medical appliances, equipment and supplies, drugs, medicines, ambulance services, mental health services, supplemental services, and other therapeutic services and supplies, and laboratory analysis, physical examinations, the rendering of assistance to physicians, and services for drugs and alcohol abuse, physiotherapy, anesthesiology, and anesthesia;

(F) "Health services provider," any person or entity providing health services;

(G) "Insured," any individual covered by a health plan; and

(H) "Person," any natural or artificial entity, or aggregate of such entitles, including, but not limited to, individuals, partnerships, associations, trusts or corporations.

(2) Expense Participation. Under any health plan which provides for expense participation, whether in the form of coinsurance, copayments, a deductible or otherwise, such that the expense participation is to be computed as a percentage of, or as a function of the health service provider's charge(s) for a health service(s), the charge used in such computation shall always and solely be no greater than the actual payment(s) made to the health service provider.

(3) Benefit Caps. Under any health plan which establishes benefit maximums or caps, such benefit maximums or caps shall always and solely be determined using a basis that is no greater than the actual payment(s) made to the health service provider.

(4) No Limitation. Nothing in this rule limits a health insurer's right to pay some or all of an insured's expense participation share of any charge for health services, or to exceed an insured's benefit maximum or cap.

(5) Insurer-Provider Contract. This rule addresses the basis for calculating expense participation and benefit maximums or caps, and in no way affects the relationship or negotiations between health insurers and health services providers.

AUTHORITY: sections 354.120, 374.045 and 376.405, RSMo 2000, 354.085, RSMo Supp. 2006 and 354.485, RSMo (SB 66, 94th General Assembly, First Regular Session (2007)). Original rule filed Nov. 1, 2007.

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 January 24, 2008 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 January 24, 2008. Written statements shall be sent to Tamara Kopp, 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.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 5—General Rules

PROPOSED RULE

20 CSR 2150-5.025 Administration of Influenza Vaccines Per Protocol

PURPOSE: This rule establishes the procedures for pharmacists to administer viral influenza vaccinations per written protocol with a physician.

(1) A pharmacist may administer viral influenza vaccinations:

(A) To persons twelve (12) years of age or older; and

(B) Pursuant to a written protocol authorized by a physician licensed pursuant to Chapter 334, RSMo, who is actively engaged in the practice of medicine in the state of Missouri.

(2) A pharmacist may not delegate the administration of viral influenza vaccinations to another person.

(3) The authorizing physician is responsible for the oversight of, and accepts responsibility for, the viral influenza vaccinations administered by the pharmacist.

(4) Pharmacist Qualifications—A pharmacist who is administering viral influenza vaccinations must:

(A) Hold a current, unrestricted license to practice pharmacy in this state;

(B) Hold a current provider level cardiopulmonary resuscitation (CPR) certification issued by the American Heart Association or the American Red Cross or equivalent;

(C) Successfully complete a certificate program in the administration of viral influenza vaccinations accredited by the Centers for Disease Control, the Accreditation Council for Pharmacy Education (ACPE) or a similar health authority or professional body approved by the board;

(D) Maintain documentation of the above certifications;

(E) Complete a minimum of two (2) hours (0.2 CEU) of continuing education per year related to administration of viral influenza vaccinations. A pharmacist may use the continuing education hours required in this subsection as part of the total continuing education hours required for pharmacist license renewal;

(F) Provide documentation of (A), (B), (C), and (E) of this section to the authorizing physician(s) prior to entering into a protocol or administering viral influenza vaccinations; and

(G) On a yearly basis prior to administering viral influenza vaccinations, establish a new protocol with the authorizing physician and notify the State Board of Pharmacy of their qualifications to do so. This notification shall include the types of drugs being administered and a statement that the pharmacist meets the requirements of (A), (B), (C), (E), and (F) of this section.

(5) General Requirements.

(A) A pharmacist shall administer viral influenza vaccinations in accordance with treatment guidelines established by the Centers for Disease Control and Prevention (CDC) and in accordance with manufacturer's guidelines.

(B) A pharmacist shall comply with all state and federal laws and regulations pertaining to Vaccine Information Statements and informed consent requirements.

(6) Administration by Written Protocol with a Missouri Licensed Physician.

(A) A pharmacist may enter into a written protocol with a physician practicing no further than fifty (50) miles by road for the administration of viral influenza vaccinations to patients twelve (12) years of age or older. The written protocol may be valid for a time period not to exceed one (1) year. The protocol must include the following:

1. The identity of the participating pharmacist and physician, including signatures;
2. Time period of the protocol;
3. The identification of the viral influenza vaccination which may be administered;
4. The identity of the patient or groups of patients to receive the authorized viral influenza vaccination;
5. The identity of the authorized routes and sites of administration allowed;
6. A provision to create a prescription for each administration under the authorizing physician's name;
7. A provision establishing a course of action the pharmacist shall follow to address emergency situations including, but not limited to, adverse reactions, anaphylactic reactions, and accidental needle sticks;
8. A provision establishing a length of time the pharmacist shall observe an individual for adverse events following an injection;
9. A provision establishing the disposal of used and contaminated supplies;
10. The identity of the location at which the pharmacist may administer the authorized viral influenza vaccination;
11. Record keeping requirements and procedures for notification of administration; and
12. A provision that allows for termination of the protocol at the request of any party to it at any time.

(B) The protocol shall be signed and dated by the pharmacist and authorizing physician prior to its implementation, signifying that both are aware of its content and agree to follow the terms of the protocol. The authorizing physician and pharmacist shall each maintain a copy of the protocol from the beginning of implementation to a minimum of eight (8) years after termination of the protocol.

(7) Record Keeping.

(A) A pharmacist who administers a viral influenza vaccination shall maintain the following records regarding each administration. These records must be separate from the prescription files of a pharmacy and include:

1. The name, address, and date of birth of the patient;
2. The date, route, and site of the administration;
3. The name, dose, manufacturer, lot number, and expiration date of the vaccination;
4. The name and address of the patient's primary health care provider, as identified by the patient;
5. The name or identifiable initials of the administering pharmacist; and
6. The nature of an adverse reaction and who was notified, if applicable.

(B) All administrations of viral influenza vaccinations must have a prescription as authorized by protocol on file within seventy-two (72) hours after administration at a pharmacy documenting the dispensing of the drug.

(C) All records required by this regulation shall be kept by the pharmacist and be available for two (2) years from the date of such record, for inspecting and copying by the authorizing physician, the State Board of Pharmacy or the State Board of Registration for the Healing Arts and/or their authorized representatives.

(8) Notification Requirement.

(A) A pharmacist administering viral influenza vaccinations shall notify the authorizing physician within seventy-two (72) hours after administration of the following:

1. The identity of the patient;
2. The identity of the viral influenza vaccination administered;
3. The route of administration;

4. The site of the administration;
5. The dose administered; and
6. The date of administration.

(B) The pharmacist shall provide a written report to the patient's primary health care provider, if different than the authorizing physician, containing the documentation required in subsection (A) of this section within fourteen (14) days of the administration.

(C) In the event of any adverse event or reaction experienced by the patient pursuant to a written protocol, the pharmacist shall notify the patient's primary health care provider and authorizing physician, if different, within twenty-four (24) hours after learning of the adverse event or reaction.

(D) A pharmacist administering viral influenza vaccinations shall report the administration to all entities as required by state or federal law.

AUTHORITY: sections 334.125 and 338.010, RSMo as amended by SB 109 2007. Emergency rule filed Oct. 24, 2007, effective Nov. 3, 2007, expires April 30, 2008. Original rule filed Oct. 24, 2007.

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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 7—Licensing of Physician Assistants

PROPOSED AMENDMENT

20 CSR 2150-7.135 Physician Assistant Supervision Agreements. The board is proposing to amend subsection (1)(A), delete section (3), add new sections (3), (4) and (5), delete section (7), renumber the remaining sections accordingly and amend the new sections (6), (10), (11), and (12).

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 2250 are being amended throughout the rule. This amendment also defines a Health Professional Shortage Area and clarifies some parts of the rule.

(1) As used in this rule, unless specifically provided otherwise, the term—

(A) Supervising physician—shall mean a physician so designated pursuant to *[4 CSR 150-7.100(4)]* **20 CSR 2150-7.100(4)** who holds a permanent license to practice medicine in the state of Missouri and who is actively engaged in the practice of medicine, except that this shall not include physicians who hold a limited license pursuant to section 334.112, RSMo, or a temporary license pursuant to section 334.045 or 334.046, RSMo, or physicians who have retired from the practice of medicine. A physician meeting these requirements but not so designated may serve as a supervising physician, upon signing a physician assistant supervision agreement for times not to exceed fifteen (15) days, when the supervising physician is unavailable if so specified in the physician assistant supervision agreement;

[(3) A supervising physician as designated pursuant to 4 CSR 150-7.100(4) or otherwise in the physician assistant supervision agreement shall at all times be immediately available to the licensed physician assistant for consultation, assistance, and intervention within the same office facility unless making follow-up patient examinations in hospitals, nursing homes and correctional facilities pursuant to section 334.735.1(8), RSMo or unless practicing under federal law. No physician assistant shall practice without physician supervision or in any location where a supervising physician is not immediately available for consultation, assistance and intervention, except in an emergency situation, pursuant to federal law, or as provided in section 334.735.9, RSMo.]

(3) Except in an emergency situation a supervising physician as designated pursuant to 20 CSR 2150-7.100(4) or otherwise in the physician assistant supervision agreement shall at all times during patient care be readily available to the licensed physician assistant in person or via telecommunication.

(4) Unless the physician-physician assistant team has received a waiver pursuant to 20 CSR 2150-7.136, the supervising physician as designated pursuant to 20 CSR 2150-7.100(4) must be on-site sixty-six percent (66%) of the time that the physician assistant is practicing. This sixty-six percent (66%) on-site supervision must be provided each calendar month.

(5) The on-site supervision required in 20 CSR 2150-7.135(4) shall not apply when a physician assistant is making follow-up patient examinations in hospitals, patient homes, nursing homes and correctional facilities without a supervising physician's presence.

*[(4)]***(6)** A physician assistant shall be limited to *[making follow-up patient examinations in hospitals, nursing homes and correctional facilities]* **practicing at locations** where the supervising physician as designated pursuant to *[4 CSR 150-7.100(4)]* **20 CSR 2150-7.100(4)** or otherwise in the physician assistant supervision agreement, is no further than thirty (30) miles by road, using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention, supervision of patient care or adequate review of services**, unless the supervising physician-physician assistant team receives a waiver pursuant to 20 CSR 2150-7.136**. Physician assistants *[practicing in federally designated health professional shortage areas (HPSAs), shall be limited to practice locations where the supervising physician as designated pursuant to 4 CSR 150-7.100(4) or otherwise in the physician assistant supervision agreement, is no further]* **whose teams receive such waivers must practice no farther** than fifty (50) miles by road, using the most direct route available **from the supervising physician**.

*[(5)]***(7)** No physician may be designated to serve as supervising physician for more than three (3) full-time equivalent licensed physician assistants. This limitation shall not apply to physician assistant supervision agreements of hospital employees providing in-patient care services in hospitals as defined in Chapter 197, RSMo.

*[(6)]***(8)** Upon entering into a physician assistant supervision agreement, the supervising physician shall be familiar with the level of

skill, training and the competence of the licensed physician assistant whom the physician will be supervising. The provisions contained in the physician assistant supervision agreement between the licensed physician assistant and the supervising physician shall be within the scope of practice of the licensed physician assistant and consistent with the licensed physician assistant's skill, training and competence.

[(7) A licensed physician assistant practicing pursuant to a physician assistant supervision agreement shall work in the same office facility as the supervising physician except as provided in section 334.735.1(8), RSMo and 4 CSR 150-7.135(3) and (4).]

*[(8)]***(9)** The delegated health care services provided for in the physician assistant supervision agreement shall be consistent with the scopes of practice of both the supervising physician and licensed physician assistant including, but not limited to, any restrictions placed upon the supervising physician's practice or license.

*[(9)]***(10)** The physician assistant supervision agreement between a supervising physician and a licensed physician assistant shall—

(A) Include consultation, transportation and referral procedures for patients needing emergency care or care beyond the scope of practice of the licensed physician assistant if the licensed physician assistant practices in a setting where a supervising physician is not continuously present;

(B) Include the method and frequency of review of the licensed physician assistant's practice activities;

(C) Be reviewed at least annually and revised as the supervising physician and licensed physician assistant deem necessary;

(D) Be maintained by the supervising physician and licensed physician assistant for a minimum of eight (8) years after the termination of the agreement;

(E) Be signed and dated by the supervising physician**, alternate supervising physician(s)** and licensed physician assistant prior to its implementation; and

(F) Contain the mechanisms for input for serious or significant changes to a patient.

*[(10)]***(11)** It is the responsibility of the supervising physician to determine and document the completion of *[at least]* a one (1)-month period of time during which the licensed physician assistant shall practice with a supervising physician continuously present before *[making follow-up visits in hospitals, nursing homes and correctional facilities.]* **practicing in a setting where a supervising physician is not continuously present. A one (1)-month period shall consist of a minimum of one hundred twenty (120) hours in a consecutive thirty (30)-day period.**

*[(11)]***(12)** It is the responsibility of the supervising physician and licensed physician assistant to jointly review and document the work, records, and practice activities of the licensed physician assistant at least once every two (2) weeks. For nursing home practice, such review shall occur at least once a month. *[The supervising physician and the licensed physician assistant shall conduct this review at the site of service except in extraordinary circumstances which shall be documented.]* The documentation of this review shall be available to the Board of Registration for the Healing Arts for review upon request.

*[(12)]***(13)** If any provisions of these rules are deemed by the appropriate federal or state authority to be inconsistent with guidelines for federally funded clinics, individual provisions of these rules shall be considered severable and supervising physicians and licensed physician assistants practicing in such clinics shall follow the provisions of such federal guidelines in these instances. However, the remainder of the provisions of these rules not so affected shall remain in full force and effect for such practitioners.

*AUTHORITY: section 334.735, RSMo [2000] **as amended by House Bill 497 (2007)**. This rule originally filed as 4 CSR 150-7.135. Original rule filed Jan. 3, 1997, effective July 30, 1997. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Oct. 19, 2007, effective Oct. 29, 2007, expires April 25, 2008. Amended: Filed Oct. 19, 2007.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 7—Licensing of Physician Assistants

PROPOSED RULE

20 CSR 2150-7.136 Request for Waiver

PURPOSE: This rule establishes procedures for individual physician-physician assistant teams to apply for alternate minimum amounts of on-site supervision and maximum distance between the supervising physician and physician assistant.

(1) A physician-physician assistant team may make application upon forms obtained from the board for a waiver from the minimum on-site supervision and maximum distance requirements specified in section 334.735.1(8), RSMo. No application will be considered unless fully and completely made out on the specified form and properly attested to by both members of the physician-physician assistant team.

(2) Applications must state:

(A) The names, license numbers and telephone numbers of the physician assistant and the supervising physician(s) who make up the physician-physician assistant team;

(B) The specialty of physician assistant and supervising physician(s) who make up the physician-physician assistant team;

(C) The location(s) where the physician assistants will practice and the location(s) of the supervising physician when the physician assistants will be practicing;

(D) How the community or communities served by the supervising physician-physician assistant team would experience reduced access to health care services in the absence of a waiver;

(E) If the practice location is a health professional shortage area;

(F) Whether the clinic is designated as a Federally Qualified Health Center or Rural Health Clinic; and

(G) The amount and type of supervision that will be provided to the physician assistant.

(3) Applications for a waiver will be first considered by the advisory commission for physician assistants. The advisory commission

will make a recommendation to the board and will receive the board's advice and consent before approval or denial of an application.

(4) When the advisory commission receives a waiver application, it will publish notice of the application on the board's website and invite public comments. The advisory commission will consider any comments received from members of the public up to fifteen (15) days from the notice in determining whether to recommend approval or denial of the application.

(5) The advisory commission and the board will determine whether an individual physician-physician assistant team meets the criteria for a waiver outlined in section 334.735.2, RSMo using the information provided in the waiver application and the best information available to the board on the availability of health care services in the community or communities served by the physician-physician assistant team. The advisory commission and the board will utilize the most recently available information from the United States Department of Health and Human Services, Health Resources and Services Administration on the extent of health professional shortage areas.

(6) If the advisory commission and the board approve a waiver, the advisory commission and board may establish an alternate minimum amount of time the supervising physician must be on-site while the physician assistant practices. The physician must be on-site a minimum of once every two (2) weeks. The advisory commission and board may also establish an alternate maximum distance between the supervising physician and physician assistant. The alternate maximum distance may not exceed fifty (50) miles.

(7) Once the advisory commission and the board approve a waiver for a physician-physician assistant team, the waiver will remain in effect for one (1) year from the date of issuance.

(8) The physician-physician assistant team will notify the advisory commission and board of any changes to the waiver application data within fifteen (15) days of the change.

(9) If a member of the physician-physician assistant team changes or if any of the eligibility requirements as stated in section 334.735.2, RSMo change, then the physician-physician assistant team must request a new waiver.

(10) The board may refuse to issue a waiver to a physician-physician assistant team if either applicant has previously violated the terms of a prior waiver granted pursuant to section 334.735.2, RSMo.

(11) The Board of Healing Arts may void a current waiver after conducting a hearing and upon a finding of fact that the physician-physician assistant team has failed to comply with the requirements of the waiver.

AUTHORITY: sections 334.125, RSMo 2000 and 334.735, RSMo as amended by House Bill 497 (2007). Emergency rule filed Oct. 19, 2007, effective Oct. 29, 2007, expires April 25, 2008. Original rule filed Oct. 19, 2007.

PUBLIC COST: This proposed rule will cost state agencies sixty-nine dollars and eighty-one cents ($69.81) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately ten dollars and twenty-five cents ($10.25) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PUBLIC ENTITY FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2150 - State Board of Registration for the Healing Arts
Chapter 7 - Licensing of Physician Assistants
Proposed Rule - 20 CSR 2150-7.136 - Request for Waiver
Prepared October 1, 2007 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
State Board of Registration for the Healing Arts	**$69.81**
Total Annual Personal Service Costs for Issuance of Waiver During 1st Year of Implementation	**$69.81**

III. WORKSHEET

The Administrative Coordinator for the office will be responsible for drafting the application and placing it on the website. The Executive Director will review the application prior to use by the public. The Senior Office Support Assistant will make copies of the submitted applications for each of the commission members.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Executive Director	$74,061	$110,269.42	$53.01	$0.88	5 minutes	$4.42	$4.42
Administrative Coordinator	$36,864	$54,886.81	$26.39	$0.44	61 minutes	$26.83	$26.83
Senior Office Support Assistant	$25,860	$38,502.95	$18.51	$0.31	5 minutes	$1.54	$38.56
						Total Annual Personal Service Costs for Issuance of Waiver During 1st Year of Implementation	**$69.81**

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.89% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications or renewals.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the office, which includes personal service, expense and equipment and transfers.

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2150 - State Board of Registration for the Healing Arts
Chapter 7 - Licensing of Physician Assistants
Proposed Rule - 20 CSR 2150-7.136 - Request for Waiver
Prepared October 1, 2007 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
25	Application Postage (Postage @ $0.41)	$10.25
	Estimated Annual Cost of Compliance for the Life of the Rule	**$10.25**

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 7—Licensing of Physician Assistants

PROPOSED RULE

20 CSR 2150-7.137 Waiver Renewal

PURPOSE: This rule establishes procedures for individual physician-physician assistant teams to renew waiver for alternate minimum amounts of on-site supervision and maximum distance between the supervising physician and physician assistant.

(1) A physician-physician assistant team may make application for renewal of a waiver upon forms obtained from the board for a waiver from the minimum on-site supervision and maximum distance requirements specified in section 334.735.1(8), RSMo. No application will be considered unless fully and completely made out on the specified form and properly attested to by both members of the physician-physician assistant team.

(2) A request for renewal of waiver must be submitted to the board office at least sixty (60) days prior to its expiration.

(3) Renewal applications must state if any of the following has changed since the initial application for waiver:

(A) The names, license numbers and telephone numbers of the physician assistant and the supervising physician(s) who make up the physician-physician assistant team;

(B) The specialty of the physician assistant and supervising physician(s) who make up the physician-physician assistant team;

(C) The location(s) where the physician assistants will practice and the location(s) of the supervising physician when the physician assistants will be practicing;

(D) How the community or communities served by the supervising physician-physician assistant team would experience reduced access to health care services in the absence of a waiver;

(E) If the practice location is a health professional shortage area;

(F) Whether the clinic is designated as a Federally Qualified Health Center or Rural Health Clinic; and

(G) The amount and type of supervision that will be provided to the physician assistant.

(4) Applications for renewal will be first considered by the advisory commission for physician assistants. The advisory commission will make a recommendation to the board and will receive the board's advice and consent before approval or denial of a renewal application.

(5) When the advisory commission receives a renewal application, it will publish notice of the application on the board's web site and invite public comments. The advisory commission will consider any comments received from members of the public up to fifteen (15) days from the notice in determining whether to recommend approval or denial of the application.

(6) The advisory commission and the board will determine whether an individual physician-physician assistant team meets the criteria for a waiver outlined in section 334.735.1(2), RSMo using the information provided in the renewal waiver application and the best information available to the board on the availability of health care services in the community or communities served by the physician-physician assistant team. The advisory commission and the board will utilize the most recently available information from the United States Department of Health and Human Services, Health Resources and Services Administration on the extent of health professional shortage areas.

(7) If the advisory commission and the board approve a request for renewal, the advisory commission and board may establish an alternate minimum amount of time the supervising physician must be on-site while the physician assistant practices. The physician must be on-site a minimum of once every two (2) weeks. The advisory commission and board may also establish an alternate maximum distance between the supervising physician and physician assistant. The alternate maximum distance may not exceed fifty (50) miles.

(8) Once the advisory commission and the board approve a request for renewal for a physician-physician assistant team, the waiver will remain in effect for three (3) years from the date of renewal.

(9) The physician-physician assistant team will notify the advisory commission and board of any changes to the waiver application data within fifteen (15) days of the change.

(10) The Board of Healing Arts may refuse to renew a waiver for the following reasons:

(A) The applicants fail to continue to meet the eligibility requirements pursuant to section 334.735.2, RSMo.

(B) The applicants have previously failed to comply with the requirements of the prior waiver.

(11) Within thirty (30) days of the board's refusal to renew a waiver, the physician-physician assistant team may request a hearing before the board to contest the refusal to renew. After conducting this hearing, the board shall make a finding of fact to either uphold its prior refusal or to issue the waiver.

AUTHORITY: sections 334.125, RSMo 2000 and 334.735, as amended by HB 497 (2007). Original rule filed Oct. 19, 2007.

PUBLIC COST: This proposed rule will cost state agencies thirty-eight dollars and fifty-six cents ($38.56) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed rule will cost private entities approximately ten dollars and twenty-five cents ($10.25) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

PUBLIC ENTITY FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2150 - State Board of Registration for the Healing Arts
Chapter 7 - Licensing of Physician Assistants
Proposed Rule - 20 CSR 2150-7.137 - Waiver Renewal
Prepared October 1, 2007 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
State Board of Registration for the Healing Arts	$38.56
Total Annual Cost of Compliance for the Life of the Rule	$38.56

III. WORKSHEET

The Senior Office Support Assistant will make copies of the submitted applications for each of the commission members. Review of the applications by members of the board is not anticipated to increase the amount of per diem

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Senior Office Support Assistant	$25,860	$38,502.95	$18.51	$0.31	5 minutes	$1.54	$38.56

$38.56

Total Annual Personal Service Costs for Issuance of Waiver After the First Year of Implementation

IV. ASSUMPTION

1. Employee's salaries were calculated using the annual salary multiplied by 48.89% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications or renewals.

2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the office, which includes personal service, expense and equipment and transfers.

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2150 - State Board of Registration for the Healing Arts
Chapter 7 - Licensing of Physician Assistants
Proposed Rule - 20 CSR 2150-7.137 - Waiver Renewal
Prepared October 1, 2007 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
25	Application Postage (Postage @ $0.41)	$10.25
	Estimated Annual Cost of Compliance for the Life of the Rule After the 1st Year of Implementation	**$10.25**

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 7—Licensing of Physician Assistants

PROPOSED AMENDMENT

20 CSR 2150-7.140 Grounds for Discipline, Procedures. The board is proposing to amend paragraph (2)(D)17., delete paragraph (2)(D)18., and renumber the remaining paragraph accordingly. The board is also proposing to delete the publisher's note and Appendix A from the rule.

PURPOSE: This amendment deletes the section pertaining to the American Academy of Physician Assistants' Code of Ethics.

(2) The board may cause a complaint to be filed with the Administrative Hearing Commission as provided by Chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered a certificate of registration or authority, permit or license for any one (1) or any combination of the following causes:

(D) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by this chapter, including, but not limited to the following:

1. Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; willfully and continually overcharging or over-treating patients; or charging for services which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

2. Attempting, directly or indirectly, by way of intimidation, coercion or deception, to obtain or retain a patient or discourage the use of a second opinion or consultation;

3. Willfully and continually performing inappropriate or unnecessary treatment, diagnostic tests or medical or surgical services;

4. Delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience, licensure, registration or certification to perform them;

5. Misrepresenting that any disease, ailment or infirmity can be cured by a method, procedure, treatment, medicine or device;

6. Performing or prescribing medical services which have been declared by board rule to be of no medical or osteopathic value;

7. Final disciplinary action by any professional physician assistant association or society or licensed hospital or medical staff of such hospital in this or any other state or territory, whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension, limitation, or restriction of his/her registration, license or staff or hospital privileges, failure to renew such privileges of registration or license for cause, or other final disciplinary action, if the action was in any way related to unprofessional conduct, professional incompetence, malpractice or any other violation of any provision of this chapter;

8. Signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, except as authorized in section 334.104, RSMo;

9. Exercising influence within a physician assistant-patient relationship for purposes of engaging a patient in sexual activity;

10. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient;

11. Failing to furnish details of a patient's medical records to other treating physician assistants, physicians or hospitals upon proper request; or failing to comply with any other law relating to medical records;

12. Failure of any physician assistant or applicant, other than the physician assistant subject of the investigation, to cooperate with the board during any investigation;

13. Failure to comply with any subpoena or subpoena *duces tecum* from the board or an order of the board;

14. Failure to timely pay license renewal fees specified in this chapter;

15. Violating a probation agreement with this board or any other licensing or regulatory agency;

16. Failing to inform the board of the physician assistant's current residence and business address;

17. Advertising by an applicant or licensed physician assistant which is false or misleading, or which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by any other physician assistant. An applicant or licensed physician assistant shall also be in violation of this provision if s/he has a financial interest in any organization, corporation or association which issues or conducts such advertising; **and**

[18. Violation of one (1) or any combination of the standards listed in the American Academy of Physician Assistants' Code of Ethics. The board adopts and incorporates by reference the American Academy of Physician Assistants' Code of Ethics. A copy of the American Academy of Physician Assistants' Code of Ethics is retained at the office of the board and is available to any interested person, upon written request, at a cost not to exceed the actual cost of reproduction; and]

*[19.]***18.** Loss of national certification, for any reason, shall result in the termination of licensure;

AUTHORITY: sections 334.100, ***RSMo Supp. 2006, and*** *334.735,* ***RSMo as amended by House Bill 497 (2007), and*** *334.125, 334.736, 334.741 and 334.743, RSMo [Supp. 1999]* ***2000****. This rule originally filed as 4 CSR 150-7.140. Original rule filed April 2, 1992, effective Dec. 3, 1992. For intervening history, please consult the* ***Code of State Regulations****. Amended: Filed Oct. 19, 2007.*

[Appendix A

Code of Ethics of The Physician Assistant Profession

The American Academy of Physician Assistants recognizes its responsibility to aid the profession in maintaining high standards in the provision of quality and accessible health care services. The following principles delineate the standards governing the conduct of physician assistants in their professional interactions with patients, colleagues, other health professionals and the general public. Realizing that no code can encompass all ethical responsibilities of the physician assistant, this enumeration of obligations in the Code of Ethics is not comprehensive and does not constitute a denial of the existence of other obligations, equally imperative, though not specifically mentioned.

Physician Assistants shall be committed to providing competent medical care, assuming as their primary responsibility the health, safety, welfare and dignity of all humans.

Physician Assistants shall extend to each patient the full measure of their ability as dedicated, empathetic health care providers and shall assume responsibility for the skillful and proficient transactions of their professional duties.

Physician Assistants shall deliver health care services to health consumers without regard to sex, age, race, creed, socio-economic and political status.

Physician Assistants shall adhere to all state and federal laws governing informed consent concerning the patient's health care.

Physician Assistants shall seek consultation with their supervising physician, other health providers, or qualified professionals having special skills, knowledge or experience whenever the welfare of the patient will be safeguarded or advanced by such consultation. Supervision should include ongoing communication between the physician and the physician assistant regarding the care of all patients.

Physician Assistants shall take personal responsibility for being familiar with and adhering to all federal/state laws applicable to the practice of their profession.

Physician Assistants shall provide only those services for which they are qualified via education and/or experiences and by pertinent legal regulatory process.

Physician Assistants shall not misrepresent in any manner, either directly or indirectly, their skills, training, professional credentials, identity, or services.

Physician Assistants shall uphold the doctrine of confidentiality regarding privileged patient information, unless required to release such information by law or such information becomes necessary to protect the welfare of the patient or the community.

Physician Assistants shall strive to maintain and increase the quality of individual health care service through individual study and continuing education.

Physician Assistants shall have the duty to respect the law, to uphold the dignity of the physician assistant profession and to accept its ethical principles. The physician assistant shall not participate in or conceal any activity that will bring discredit or dishonor to the physician assistant profession and shall expose, without fear or favor, any illegal or unethical conduct in the medical profession.

Physician Assistants, ever cognizant of the needs of the community, shall use the knowledge and experience acquired as professionals to contribute to an improved community.

Physician Assistants shall place service before material gain and must carefully safeguard against conflicts of professional interest.

Physician Assistants shall strive to maintain a spirit of cooperation with their professional organizations and the general public.]

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Healing Arts, Tina Steinman, Executive Director, PO Box 4, Jefferson City, MO 65102, by faxing comments to (573) 751-3166, or by emailing comments to healingarts@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2200—State Board of Nursing
Chapter 6—Intravenous Infusion Treatment Administration

PROPOSED AMENDMENT

20 CSR 2200-6.030 Intravenous Infusion Treatment Administration by Qualified Practical Nurses; Supervision by a Registered Professional Nurse. The board is proposing to amend section (1), subsections (2)(D), (3)(A) and section (7).

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration, Title 20. Therefore, references to 4 CSR 200 are being amended throughout the rule. This amendment also clarifies the individual prohibited from performing certain functions related to intravenous infusion treatment.

(1) Qualified practical nurses shall only perform venous access and intravenous (IV) infusion treatment modalities according to the specific provisions of section 335.016, RSMo, *[4 CSR 200-5.010]* **20 CSR 2200-5.010**, and this chapter. A qualified practical nurse shall only perform such activities under the direction and supervision of a registered professional nurse or a person licensed by a state regulatory board to prescribe medications and intravenous infusion treatments (hereinafter the "licensed prescriber").

(2) Qualified practical nurses who perform venous access and intravenous infusion treatment modalities shall:

(D) Only engage in practical nursing care acts involving venous access and intravenous infusion treatment modalities that are within the individual's authorized scope of practice as specified in section 335.016, RSMo, *[4 CSR 200-5.010]* **20 CSR 2200-5.010**, and this chapter; and

(3) Registered professional nurses who direct and supervise qualified practical nurses in the performance of acts involving venous access and intravenous infusion treatment modalities shall:

(A) Provide appropriate direction and supervision for practical nursing care acts involving venous access and intravenous infusion treatment modalities that are within the qualified practical nurse's authorized scope of practice as specified in section 335.016, RSMo, *[4 CSR 200-5.010]* **20 CSR 2200-5.010**, and this chapter;

(7) Graduate **practical nurses** and licensed practical nurses shall NOT, under any condition, perform the following functions or duties:

AUTHORITY: sections 335.017, RSMo 2000 and 335.036, ***SB 308, Ninety-fourth General Assembly, First Regular Session, 2007****. This rule originally filed as 4 CSR 200-6.030. Original rule filed Sept. 1, 2005, effective April 30, 2006. Moved to 20 CSR 2200-6.030, effective Aug. 28, 2006. Amended: Filed Oct. 30, 2007.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075 or via email at nursing@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 6—Pharmaceutical Care Standards

PROPOSED RULE

20 CSR 2220-6.050 Administration of Influenza Vaccines Per Protocol

PURPOSE: This rule establishes the procedures for pharmacists to administer viral influenza vaccinations per written protocol with a physician.

(1) A pharmacist may administer viral influenza vaccinations:

(A) To persons twelve (12) years of age or older; and

(B) Pursuant to a written protocol authorized by a physician licensed pursuant to Chapter 334, RSMo, who is actively engaged in the practice of medicine in the state of Missouri.

(2) A pharmacist may not delegate the administration of viral influenza vaccinations to another person.

(3) The authorizing physician is responsible for the oversight of, and accepts responsibility for, the viral influenza vaccinations administered by the pharmacist.

(4) Pharmacist Qualifications—A pharmacist who is administering viral influenza vaccinations must:

(A) Hold a current, unrestricted license to practice pharmacy in this state;

(B) Hold a current provider level cardiopulmonary resuscitation (CPR) certification issued by the American Heart Association or the American Red Cross or equivalent;

(C) Successfully complete a certificate program in the administration of viral influenza vaccinations accredited by the Centers for Disease Control, the Accreditation Council for Pharmacy Education (ACPE) or a similar health authority or professional body approved by the board;

(D) Maintain documentation of the above certifications;

(E) Complete a minimum of two (2) hours (0.2 CEU) of continuing education per year related to administration of viral influenza vaccinations. A pharmacist may use the continuing education hours required in this subsection as part of the total continuing education hours required for pharmacist license renewal;

(F) Provide documentation of (A), (B), (C), and (E) of this section to the authorizing physician(s) prior to entering into a protocol or administering viral influenza vaccinations; and

(G) On a yearly basis prior to administering viral influenza vaccinations, establish a new protocol with the authorizing physician and notify the State Board of Pharmacy of their qualifications to do so. This notification shall include the types of drugs being administered and a statement that the pharmacist meets the requirements of (A), (B), (C), (E), and (F) of this section.

(5) General Requirements.

(A) A pharmacist shall administer viral influenza vaccinations in accordance with treatment guidelines established by the Centers for Disease Control and Prevention (CDC) and in accordance with manufacturer's guidelines.

(B) A pharmacist shall comply with all state and federal laws and regulations pertaining to Vaccine Information Statements and informed consent requirements.

(6) Administration by Written Protocol with a Missouri Licensed Physician.

(A) A pharmacist may enter into a written protocol with a physician practicing no further than fifty (50) miles by road for the administration of viral influenza vaccinations to patients twelve (12) years of age or older. The written protocol may be valid for a time period not to exceed one (1) year. The protocol must include the following:

1. The identity of the participating pharmacist and physician, including signatures;
2. Time period of the protocol;
3. The identification of the viral influenza vaccination which may be administered;
4. The identity of the patient or groups of patients to receive the authorized viral influenza vaccination;
5. The identity of the authorized routes and sites of administration allowed;
6. A provision to create a prescription for each administration under the authorizing physician's name;
7. A provision establishing a course of action the pharmacist shall follow to address emergency situations including, but not limited to, adverse reactions, anaphylactic reactions, and accidental needle sticks;
8. A provision establishing a length of time the pharmacist shall observe an individual for adverse events following an injection;
9. A provision establishing the disposal of used and contaminated supplies;
10. The identity of the location at which the pharmacist may administer the authorized viral influenza vaccination;
11. Record keeping requirements and procedures for notification of administration; and
12. A provision that allows for termination of the protocol at the request of any party to it at any time.

(B) The protocol shall be signed and dated by the pharmacist and authorizing physician prior to its implementation, signifying that both are aware of its content and agree to follow the terms of the protocol. The authorizing physician and pharmacist shall each maintain a copy of the protocol from the beginning of implementation to a minimum of eight (8) years after termination of the protocol.

(7) Record Keeping.

(A) A pharmacist who administers a viral influenza vaccination shall maintain the following records regarding each administration. These records must be separate from the prescription files of a pharmacy and include:

1. The name, address, and date of birth of the patient;
2. The date, route, and site of the administration;
3. The name, dose, manufacturer, lot number, and expiration date of the vaccination;
4. The name and address of the patient's primary health care provider, as identified by the patient;
5. The name or identifiable initials of the administering pharmacist; and
6. The nature of an adverse reaction and who was notified, if applicable.

(B) All administrations of viral influenza vaccinations must have a prescription as authorized by protocol on file within seventy-two (72) hours after administration at a pharmacy documenting the dispensing of the drug.

(C) All records required by this regulation shall be kept by the pharmacist and be available for two (2) years from the date of such record, for inspecting and copying by the authorizing physician, the State Board of Pharmacy or the State Board of Registration for the Healing Arts and/or their authorized representatives.

(8) Notification Requirement.

(A) A pharmacist administering viral influenza vaccinations shall notify the authorizing physician within seventy-two (72) hours after administration of the following:

1. The identity of the patient;
2. The identity of the viral influenza vaccination administered;
3. The route of administration;
4. The site of the administration;
5. The dose administered; and
6. The date of administration.

(B) The pharmacist shall provide a written report to the patient's primary health care provider, if different than the authorizing physician, containing the documentation required in subsection (A) of this section within fourteen (14) days of the administration.

(C) In the event of any adverse event or reaction experienced by the patient pursuant to a written protocol, the pharmacist shall notify the patient's primary health care provider and authorizing physician, if different, within twenty-four (24) hours after learning of the adverse event or reaction.

(D) A pharmacist administering viral influenza vaccinations shall report the administration to all entities as required by state or federal law.

AUTHORITY: sections 338.010 and 338.140, RSMo as amended by SB 109 2007. Emergency rule filed Oct. 24, 2007, effective Nov. 3, 2007, expires April 30, 2008. Original rule filed Oct. 24, 2007.

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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the State Board of Pharmacy, PO Box 625, Jefferson City, MO 65102, via facsimile to (573) 751-0091, or email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2245—Real Estate Appraisers
Chapter 2—General Rules

PROPOSED AMENDMENT

20 CSR 2245-2.050 Appraiser's Assignment Log. The board is proposing to amend subsections (1)(F), (1)(G) and add subsection (1)(H).

PURPOSE: This amendment clarifies what is needed on real estate appraisal reports.

(1) Every licensee shall maintain a summarized listing of the real estate appraisal assignments which the licensee is required to retain under section 339.537, RSMo. This summarized listing shall include, at a minimum, the following information:

(F) Appraised value; *[and]*

(G) Type of form used, if any*[.]***; and**

(H) Actual number of hours used to complete the appraisal.

AUTHORITY: section 339.509, RSMo 2000. This rule originally filed as 4 CSR 245-2.050. Original rule filed Sept. 12, 1996, effective March 30, 1997. Moved to 20 CSR 2245-2.050, effective Aug. 28, 2006. Amended: Filed Nov. 21, 2006, effective July 30, 2007. Amended: Filed Oct 30, 2007.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Real Estate Appraisers Commission, Vanessa Beauchamp, Executive Director, PO Box 1335, Jefferson City, MO 65102, by faxing comments to (573) 751-0038, or by emailing comments to reacom@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2270—Missouri Veterinary Medical Board
Chapter 2—Licensure Requirements for Veterinarians

PROPOSED AMENDMENT

20 CSR 2270-2.052 Faculty Licensure. The board is proposing to amend subsection (1)(B).

PURPOSE: This amendment establishes a restricted veterinary license for faculty at the University of Missouri College of Veterinary Medicine.

(1) The board may issue a veterinary faculty license to any qualified applicant associated with the University of Missouri-Columbia, College of Veterinary Medicine, and involved in the instructional program of either undergraduate or graduate veterinary medical students. In order to qualify for a faculty license, the applicant must:

(B) Have been actively engaged in the practice of veterinary medicine for at least five (5) consecutive years immediately prior to making application in Missouri. "Actively engaged," shall mean that the applicant *[worked a minimum of twenty (20) hours per week in a clinical setting]* **has regularly and consistently practiced veterinary medicine. The board may request the applicant produce records demonstrating the regular and consistent practice of veterinary medicine**; or

AUTHORITY: sections 340.210 and 340.247, RSMo 2000. This rule originally filed as 4 CSR 270-2.052. Original rule filed Oct. 10, 1995, effective April 30, 1996. Amended: Filed April 13, 2001, effective Oct. 30, 2001. Moved to 20 CSR 2270-2.052, effective Aug. 28, 2006. Amended: Filed Oct. 30, 2007.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Veterinary Medical Board, Attention: Dana Hoelscher, PO Box 633, Jefferson City, MO 65102, via fax at (573) 526-3856 or via email at vets@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2270—Missouri Veterinary Medical Board
Chapter 2—Licensure Requirements for Veterinarians

PROPOSED AMENDMENT

20 CSR 2270-2.060 Reciprocity. The board is proposing to amend section (1), along with subsections (1)(A) and (1)(B).

PURPOSE: This amendment clarifies requirements for licensure by reciprocity.

(1) To be licensed by reciprocity, **section 340.238, RSMo requires** an applicant *[shall]* **to** have been actively engaged in the practice of the profession in another state, territory, district or province of the United States or Canada for at least five (5) consecutive years immediately prior to making application in Missouri.

(A) For the purposes of *[this rule]* **reciprocity**, the term "actively engaged" shall mean that the applicant *[worked a minimum of twenty (20) hours per week in a clinical setting. No more than ten (10) hours per calendar day will apply toward this twenty (20)-hour minimum.]* **has regularly and consistently practiced veterinary medicine. Whether or not the board requires examinations, and what examinations may be required in a particular case, may be determined by the information provided on the application, or the board may request the applicant produce records demonstrating the regular and consistent practice of veterinary medicine.**

(B) For the purposes of this rule, the term "immediately prior" shall mean **that the five (5) consecutive years ended** within *[twelve (12) months prior to]* **the one (1) year before** applying for licensure in Missouri.

*AUTHORITY: sections 340.210 and 340.238, RSMo [Supp. 1999] **2000 and** 340.234, **RSMo Supp. 2006**. This rule originally filed as 4 CSR 270-2.060. Original rule filed Nov. 4, 1992, effective July 8, 1993. Amended: Filed Oct. 10, 1995, effective April 30, 1996. Amended: Filed July 31, 2000, effective Jan. 30, 2001. Moved to 20 CSR 2270-2.060, effective Aug. 28, 2006. Amended: Filed Oct. 30, 2007.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the

Missouri Veterinary Medical Board, Attention: Dana Hoelscher, PO Box 633, Jefferson City, MO 65102, via fax at (573) 526-3856 or via email at vets@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2270—Missouri Veterinary Medical Board
Chapter 2—Licensure Requirements for Veterinarians

PROPOSED AMENDMENT

20 CSR 2270-2.070 Provisional Licenses. The board is proposing to amend the original purpose statement.

PURPOSE: This amendment corrects the original purpose statement to reflect the correct title of the license.

PURPOSE: This rule provides the procedures and requirements for obtaining a [temporary] ***provisional*** *license in Missouri.*

AUTHORITY: sections 340.210 and 340.250, RSMo 2000 ***and*** *340.246,* ***RSMo Supp. 2006****. This rule originally filed as 4 CSR 270-2.070. Original rule filed Nov. 4, 1992, effective July 8, 1993. Amended: Filed April 13, 2001, effective Oct. 30, 2001. Moved to 20 CSR 2270-2.070, effective Aug. 28, 2006. Amended: Filed Oct. 30, 2007.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Veterinary Medical Board, Attention: Dana Hoelscher, PO Box 633, Jefferson City, MO 65102, via fax at (573) 526-3856 or via email at vets@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2270—Missouri Veterinary Medical Board
Chapter 4—Minimum Standards

PROPOSED AMENDMENT

20 CSR 2270-4.060 Minimum Standards for Supervision. The board is proposing to amend the Required Levels of Supervision chart.

PURPOSE: This amendment makes corrections in terminology on the Required Levels of Supervision chart.

MISSOURI STATE VETERINARY MEDICAL BOARD
REQUIRED LEVELS OF SUPERVISION

	ANES-THESIA MONITOR-ING*	INDUC-TION*	EUTHA-NIZA	SURGERY	DIAG-NOSIS	PRESCRIBING		TREATMENT		ADMIN-ISTER RABIES	BIOLOGICS OTHER	ROUTINE DENTAL PROPHY-LAXIS
						CON-TROLLED	NOT CON-TROLLED	@ FACILITY	NOT @ FACILITY			
[TEMPORARY] **PROVISIONAL** LICENSE	B	B	B	B	B	D	B	C	C	C	C	B
(RVT) REGISTERED VET. TECHNICIAN	B	A	B	D	D	D	D	C	B	D	B	B
UNREGISTERED ASSISTANT	A	D	A	D	D	D	D	C	A	D	A	A
VETERINARY STUDENT	A	A	A	A	A	D	D	C	B	D	B	A
CONSULTING** LICENSEE FROM ALLIED PROFESSIONS	D	D	D	A	A	D	D	A	A	D	D	A

* Monitoring of or administration of pre-calculated dose of anesthesia
** Dentist, Chiropractor, Physician, etc.

A = Immediate Supervision: the licensed veterinarian is in the immediate area and within audible and visual range of animal patient and the person treating the patient;

B = Direct Supervision: the licensed veterinarian is on the premises where the animal is being treated and is quickly and easily available and the animal has been examined by a licensed veterinarian at such times as acceptable veterinary medical practice requires consistent with the particular delegated animal health care task;

C = Indirect Supervision: the licensed veterinarian need not be on the premises but has given either written or oral instructions for the treatment of the animal patient or treatment protocol has been established and the animal has been examined by a license veterinarian at such times as acceptable veterinary medical practice requires consistent with the particular delegated health care task; provided that the patient is not in a surgical plane of anesthesia and the licensed veterinarian is available for consultation on at least a daily basis;

D = Not Legal

AUTHORITY: sections 340.210 and 340.326, RSMo 2000 ***and*** *340.222,* ***RSMo Supp. 2006****. This rule originally filed as 4 CSR 270-4.060. Original rule filed Nov. 4, 1992, effective July 8, 1993. Amended: Filed April 13, 2001, effective Oct. 30, 2001. Amended: Filed April 1, 2003, effective Sept. 30, 2003. Moved to 20 CSR 2270-4.060, effective Aug. 28, 2006. Amended: Filed Oct. 30, 2007.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Veterinary Medical Board, Attention: Dana Hoelscher, PO Box 633, Jefferson City, MO 65102, via fax at (573) 526-3856 or via email at vets@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2270—Missouri Veterinary Medical Board
Chapter 5—Veterinary Facilities Permits

PROPOSED AMENDMENT

20 CSR 2270-5.041 Temporary Continuance of Veterinary Practice Upon Death of Owner. The board is proposing to amend section (1).

PURPOSE: This amendment will add trustee to the rest of individuals who may continue to own and maintain the practice upon the death of an owner.

(1) Upon the demise of the licensed owner of an individually owned veterinary practice, an unlicensed spouse or the executor, administrator**, trustee** or personal representative of the licensee's estate may continue to own and maintain the practice for a period of one (1) year in order to convey or liquidate the practice, provided that the services of a Missouri licensed veterinarian shall be engaged to be the veterinarian in charge.

AUTHORITY: sections 340.210 and 340.264, RSMo [1994] ***2000****. This rule originally filed as 4 CSR 270-5.041. Original rule filed March 10, 1995, effective Sept. 30, 1995. Moved to 20 CSR 2270-5.041, effective Aug. 28, 2006. Amended: Filed Oct. 30, 2007.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Veterinary Medical Board, Attention: Dana Hoelscher, PO Box 633, Jefferson City, MO 65102, via fax at (573) 526-3856 or via email at vets@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2270—Missouri Veterinary Medical Board
Chapter 6—Professional Conduct for the Practice of Veterinary Medicine

PROPOSED AMENDMENT

20 CSR 2270-6.011 Rules of Professional Conduct. The board is proposing to amend section (10).

PURPOSE: This amendment makes a grammatical correction in section (10) of the rule.

(10) Although a licensee may choose whom to serve, once the care of a patient has been undertaken the licensee has an obligation to provide reasonable services or treatment to stabilize*[d]* the patient or to prevent unnecessary suffering or pain.

AUTHORITY: section 340.210, RSMo 2000. This rule originally filed as 4 CSR 270-6.011. Original rule filed Nov. 4, 1992, effective July 8, 1993. Amended: Filed April 14, 1994, effective Sept. 30, 1994. Amended: Filed June 28, 2002, effective Dec. 30, 2002. Moved to 20 CSR 2270-6.011, effective Aug. 28, 2006. Amended: Filed Oct. 30, 2007.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Veterinary Medical Board, Attention: Dana Hoelscher, PO Box 633, Jefferson City, MO 65102, via fax at (573) 526-3856 or via email at vets@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 30—Petroleum Inspection

ORDER OF RULEMAKING

By the authority vested in the Department of Agriculture under section 414.035, RSMo Supp. 2006, the director adopts a rule as follows:

2 CSR 90-30.085 Financial Responsibility for Manufacturers, Installers and Repairers of Petroleum Equipment **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 2, 2007 (32 MoReg 1027–1030). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 6—Wildlife Code: Sport Fishing: Seasons, Methods, Limits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-6.415 Restricted Zones **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1547). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-7.431 Deer Hunting Seasons: General Provisions **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1547–1548). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-7.438 Deer: Regulations for Department Areas **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1548). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges, Permits, Standards

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-9.110 General Prohibition; Applications **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1548). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.115 Bullfrogs and Green Frogs **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1548–1549). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.130 Fishing, General Provisions and Seasons **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1549). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-12.145 Fishing, Length Limits **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 17, 2007 (32 MoReg 1549–1550). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 2—Air Quality Standards and Air Pollution Control Rules Specific to the Kansas City Metropolitan Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission rescinds a rule as follows:

10 CSR 10-2.100 Open Burning Restrictions **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2007 (32 MoReg 1115). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No written or verbal comments were received concerning this proposed rescission during the public comment period.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 3—Air Pollution Control Rules Specific to the Outstate Missouri Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission rescinds a rule as follows:

10 CSR 10-3.030 Open Burning Restrictions **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2007 (32 MoReg 1115). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No written or verbal comments were received concerning this proposed rescission during the public comment period.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 4—Air Quality Standards and Air Pollution Control Regulations for the Springfield-Greene County Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission rescinds a rule as follows:

10 CSR 10-4.090 Open Burning Restrictions **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2007 (32 MoReg 1115-1116). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No written or verbal comments were received concerning this proposed rescission during the public comment period.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 5—Air Quality Standards and Air Pollution Control Rules Specific to the St. Louis Metropolitan Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission rescinds a rule as follows:

10 CSR 10-5.070 Open Burning Restrictions **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2007 (32 MoReg 1116). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No written or verbal comments were received concerning this proposed rescission during the public comment period.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission adopts a rule as follows:

10 CSR 10-6.045 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 16, 2007 (32 MoReg 1116–1118). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received comments on the proposed rule from six (6) sources: Missouri Farm Bureau, U.S. Environmental Protection Agency Region VII, Springfield-Greene County Health Department, Greene County Commission, St. Louis County Department of Health, and a private citizen.

COMMENT #1: The Missouri Farm Bureau spoke in support of the proposed rule at public hearing. The Missouri Farm Bureau was a participant in the workgroup that reviewed the present open burning regulations and developed the proposed rule.
RESPONSE: The department's Air Pollution Control Program appreciates Missouri Farm Bureau's participation in the workgroup and their support. No wording changes have been made to the proposed rulemaking as a result of this comment.

COMMENT #2: The U.S. Environmental Protection Agency commented that they encourage the Department of Natural Resources (DNR) to keep the open-burning regulations in mind as they develop plans to attain the ozone and fine particulate matter standards in St. Louis and Kansas City. To the extent that open burning may impact ozone and particulate matter formation in certain areas, it may be beneficial for the DNR to evaluate if revisions to the open burning regulations are necessary in order to attain the air quality standards.
RESPONSE: The permit requirement in the regulation for those wanting to open burn in and around major metropolitan areas should help minimize the pollution resulting from open burning. Should the need arise, based on monitored levels of pollutants or in anticipation of high pollutant concentrations, these permits may be denied or held until a more favorable meteorological conditions are present. No wording changes have been made to the proposed rulemaking as a result of this comment.

COMMENT #3: The Springfield-Greene County Health Department and the Greene County Commission commented that it is concerned about provisions made in the proposed open burning rule 10 CSR 10-6.045. They agree that it is a good idea to consolidate the existing four open burning regulations, but the new rule appears to reduce existing requirements in Greene County. Paragraph (3)(A)4. of the proposed rule states that as long as you are outside of any incorporated area or municipality, outside the St. Louis metropolitan area, and at least two hundred (200) yards from any occupied structure, land clearing of vegetative debris can be burned without a permit. However, for Springfield-Greene County, as stated in 10 CSR 10-4.090(4), open burning permits are required except for those conditions stated in 10 CSR 10-4.090(4)(A). They feel that the proposed rule should not reduce established requirements for our area and the proposed rule should be amended to include the existing permit requirements.
RESPONSE AND EXPLANATION OF CHANGE: In reviewing these comments and the wording in the existing regulations, a wording change has been made to the proposed rule at (3)(A)4.A. and (3)(B)2. The change includes the listing of the Kansas City metropolitan area and the Springfield-Greene County area. As a result of this change, an open burning permit will be required in the Kansas City metropolitan area, Springfield-Greene County area, and the St. Louis metropolitan area for land clearing operations.

COMMENT #4: The St. Louis County Department of Health comments that the proposed rule be amended at (3)(A)5.D. by prohibiting the open burning of trees, tree leaves, brush or any other type of vegetation in all of St. Louis County. As the rule is proposed, this type of open burning would be allowed in the unincorporated areas of St. Louis County.

RESPONSE: The workgroup developed the proposed rule with the intent of consolidating the existing open burning regulations into a single rule that is more understandable without being any more strict. The present regulation that covers the St. Louis metropolitan area does not prohibit the open burning described above for St. Louis County. The department's Air Pollution Control Program would support the prohibition, but believes that a local ordinance might best handle this situation. No wording changes have been made to the proposed rulemaking as a result of this comment.

COMMENT #5: A private citizen provided support for setting the minimum standard statewide for open burning regulations, but expressed concern for burning that occurs right next to a roadway because it is a health and safety hazard. It was suggested that a requirement be added for burning to occur at a minimum distance from a road, such as fifty feet (50') or one hundred feet (100'). It was also recommended that recreational fires be defined so that vegetative burns cannot avoid a vegetative burn permit by claiming it is a recreational fire. There should be a reasonable balance between the legitimate rights of property owners to burn as well as the legitimate need of some constituents to minimize the effects of smoke on their daily activities, livestock, and health.
RESPONSE: Concerning the smoke near roads, the proposed rule contains language that prohibits open burning which causes or constitutes a public health hazard, nuisance, or a hazard to vehicular or air traffic. Yard waste in the St. Louis metropolitan area can only be open burned from September 16 to April 14 and between the hours of 10 a.m. and 4 p.m., with a base area not to exceed sixteen (16) square feet. Distinguishing between a recreational fire and a non-recreational fire is determined by on-site investigators. No wording changes have been made to the proposed rulemaking as a result of this comment.

10 CSR 10-6.045 Open Burning Requirements

(3) General Provisions. The open burning of tires, petroleum-based products, asbestos containing materials, and trade waste is prohibited, except as allowed below. Nothing in this rule may be construed as to allow open burning which causes or constitutes a public health hazard, nuisance, a hazard to vehicular or air traffic, nor which violates any other rule or statute.

(A) The following types of open burning are allowed by the department when not prohibited by other laws, regulations or ordinances:

1. Recreational and ceremonial fires. These fires shall be comprised of vegetative woody materials or untreated wood products only;

2. Noncommercial preparation of food, such as by barbecuing;

3. Burning of household or domestic refuse. Burning of household or domestic refuse is limited to open burning on a residential premises having not more than four (4) dwelling units, provided that the refuse originates on the same premises, with the following exceptions:

A. Kansas City metropolitan area. The open burning of household refuse must take place in an area zoned for agricultural purposes and outside that portion of the metropolitan area surrounded by the corporate limits of Kansas City and every contiguous municipality;

B. Springfield-Greene County area. The open burning of household refuse must take place outside the corporate limits of Springfield and only within areas zoned A-1, Agricultural District;

C. St. Joseph area. The open burning of household refuse must take place within an area zoned for agricultural purposes and outside that portion of the metropolitan area surrounded by the corporate limits of St. Joseph; and

D. St. Louis metropolitan area. The open burning of household refuse is prohibited;

4. Land clearing of vegetative debris, provided all burning occurs—

A. Outside of any incorporated area or municipality and outside of the Kansas City metropolitan area, Springfield-Greene County area, and the St. Louis metropolitan area;

B. At least two hundred (200) yards from the nearest occupied structure; and

C. Land clearing of vegetative debris that does not meet the conditions of subparagraphs (3)(A)4.A. and (3)(A)4.B. of this rule may be open burned provided an open burning permit is obtained as found in subsection (3)(B) of this rule;

5. Yard waste, with the following exceptions:

A. Kansas City metropolitan area. The open burning of trees, tree leaves, brush or any other type of vegetation shall require an open burning permit;

B. Springfield-Greene County area. The City of Springfield requires an open burning permit for the open burning of trees, brush or any other type of vegetation. The City of Springfield prohibits the open burning of tree leaves;

C. St. Joseph area. Within the corporate limits of St. Joseph, the open burning of trees, tree leaves, brush or any other type of vegetation grown on a residential property is allowed during the following calendar periods and time-of-day restrictions:

(I) A three (3)-week period within the period commencing the first day of March through April 30 and continuing for twenty-one (21) consecutive calendar days;

(II) A three (3)-week period within the period commencing the first day of October through November 30 and continuing for twenty-one (21) consecutive calendar days;

(III) The burning shall take place only between the daytime hours of 10:00 a.m. and 3:30 p.m.; and

(IV) In each instance, the twenty-one (21)-day burning period shall be determined by the director of Public Health and Welfare of the City of St. Joseph for the region in which the City of St. Joseph is located provided, however, the burning period first shall receive the approval of the department director; and

D. St. Louis metropolitan area. The open burning of trees, tree leaves, brush or any other type of vegetation is limited to the period beginning September 16 and ending April 14 of each calendar year and limited to a total base area not to exceed sixteen (16) square feet. Any open burning shall be conducted only between the hours of 10:00 a.m. and 4:00 p.m. and is limited to areas outside of incorporated municipalities;

6. Untreated wood waste materials. Untreated wood waste materials resulting from wood processing facilities in existence as of March 25, 1976, which produce less than eight thousand (8,000) board feet or equivalent per day may be open burned if at least two hundred (200) yards from the nearest occupied structure. Untreated wood waste materials resulting from wood processing plants which relocate or from new wood processing facilities which produce less than eight thousand (8,000) board feet, or equivalent per day, may be open burned if at least one (1) mile outside the city limits of any incorporated area or municipality and at least two hundred (200) yards from the nearest occupied structure;

7. Fire training exercises. Fires set for the purposes of training fire fighters and industrial employees in fire fighting methods provided that—

A. The training is conducted in accordance with National Fire Protection Association standards, NFPA 1403, *Standard on Live Fire Training Evolutions (2002 Edition)*, for fire fighters and NFPA 600, *Standard on Industrial Fire Brigades (2005 Edition)*, for industrial employees. The provisions of NFPA 1403 and 600 shall apply and are hereby incorporated by reference in this rule, as published by the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322. This rule does not incorporate any subsequent amendments or additions. These exercises include, but are not limited to, liquefied gas propane fueled simulators, flashover simulators and stationary live burn towers; and

B. Acquired structures to be used for training exercises are subject to the requirements of 10 CSR 10-6.080, subsection (3)(M),

National Emission Standard for Asbestos. These requirements include, but are not limited to, inspection of and notification to the director. All petroleum-based products are to be removed from any acquired structure that is to be burned as part of a training exercise;

8. Agricultural burning. Fires set in connection with agricultural or forestry operations related to the growing or harvesting of crops with the following exception. In the St. Louis metropolitan area, if open burning for pest or weed control or crop production on existing cropland between April 15 and September 15, the person must notify the director in writing at least forty-eight (48) hours prior to commencement of burning. The department reserves the right to delay the burning on days when the ambient ozone level is forecasted to be high; and

9. Natural resource and land management. Prescribed fires set for natural resource management purposes.

(B) The following types of materials may be open burned provided an open burning permit is obtained from the director. The permit will specify the conditions and provisions of all open burning. The permit may be revoked if the owner or operator fails to comply with the conditions or any provisions of the permit—

1. Burning of untreated wood waste; and

2. Burning of tree trunks, tree limbs, and vegetation at commercial land clearing operations that occur within an incorporated area or municipality or where the proposed open burning will occur within two hundred (200) yards of an occupied structure or when the open burning is located anywhere in the Kansas City metropolitan area, Springfield-Greene County area, or the St. Louis metropolitan area.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.225, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-6.241 Asbestos Projects—Registration, Notification and Performance Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2007 (32 MoReg 1118–1119). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program did not receive any comments on the proposed amendment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.225, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-6.250 Asbestos Projects—Certification, Accreditation and Business Exemption Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2007 (32 MoReg 1119–1122). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program did not receive any comments on the proposed amendment.

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

ORDER OF RULEMAKING

By the authority vested in the Division of Medical Services under sections 208.201, RSMo 2000, and 208.431 and 208.435, RSMo Supp. 2006, the division amends a rule as follows:

13 CSR 70-3.170 Medicaid Managed Care Organization Reimbursement Allowance **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1183–1185). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

ORDER OF RULEMAKING

By the authority vested in the Division of Medical Services under sections 208.153, 208.159 and 208.201, RSMo 2000, the division amends a rule as follows:

13 CSR 70-10.030 Prospective Reimbursement Plan for Nonstate-Operated Facilities for ICF/MR Services **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1186–1188). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Division of Medical Services under sections 208.201, 208.453 and 208.455, RSMo 2000, the division amends a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2007 (32 MoReg 1189–1190). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 25—State Public Health Laboratory
Chapter 36—Testing for Metabolic Diseases

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 191.331, 192.006, RSMo 2000, and 191.332, RSMo Supp. 2006, the department amends a rule as follows:

19 CSR 25-36.010 Testing for Metabolic and Genetic Disorders **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2007 (32 MoReg 1125–1128). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received one (1) comment on the proposed amendment.
COMMENT #1: The State Public Health Laboratory noted that with the amendment the change in the fee charged for specimen collection forms will go into effect July 1, 2007, although the rule itself will not go into effect until January 30, 2008.
RESPONSE AND EXPLANATION OF CHANGE: The department is changing section (6) to make the effective date of the change in fees the same as the effective date of the rule.

19 CSR 25-36.010 Testing for Metabolic and Genetic Disorders

(6) Effective January 30, 2008, a fee of up to sixty-five dollars ($65) shall be charged for each specimen collection form used to obtain a newborn screening blood specimen. If the State Public Health Laboratory determines a submitted blood specimen to be unsatisfactory for testing, then a replacement specimen collection form will be made available without the fee being imposed. The Department of Health and Senior Services may collect the fee from any entity or individual described in 191.331.1, RSMo.

REVISED PUBLIC COST: The cost to state agencies for the first year will be fifty-four thousand four hundred seventy-four dollars ($54,474) versus one hundred four thousand nine hundred forty-nine dollars ($101,949) that was submitted with the original proposal.

REVISED PRIVATE COST: This amendment will cost private entities three hundred eighty-nine thousand five hundred ninety-six dollars ($389,596) versus seven hundred seventy-nine thousand one hundred ninety-three dollars ($779,193) for the first year which was submitted with the original proposal.

REVISED FISCAL NOTE
PUBLIC COST

I. Department Title: 19 Department of Health and Senior Services
Division Title: 25 State Public Health Laboratory
Chapter Title: 36 Testing for Metabolic Diseases

Rule Number and Name:	19 CSR 25-36.010 Testing for Metabolic and Genetic Disorders
Type of Rulemaking:	Order of Rulemaking

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services	**$32,256 year one** **$64,512 years two-three** **$93,184 annually thereafter**
Department of Health and Senior Services	**$20,218 year one** **$40,437 years two-three** **$58,409 annually thereafter**

III. WORKSHEET

11,661 newborn screening test kits x $9.00 increase per kit sold for confirmed Medicaid-eligible babies x Medicaid federal percentage of 61.47% = $64,512 cost per year for years one through three. Anticipated additional increase of $4.00 per kit beginning in fiscal year 2011: 11,661 kits x $4.00 x 61.47% = $28,672.

Department of Health and Senior services costs consist of the remaining 38.53% of the costs that are not reimbursed by Mediciad.

IV. ASSUMPTIONS

Number of kits sold is based on historic data.

Figures are based on state fiscal year of July 1 through June 30, except for year one which is based on costs for December 30, 2007 through June 30, 2008.

Based on estimated costs and cost accounting data for fiscal year 2006. All fees are reviewed annually and adjustments made as needed to meet actual laboratory costs of newborn screening.

The total cost may vary with the number of births and the rate of inflation and is expected to increase annually.

REVISED FISCAL NOTE
PRIVATE COST

I. Department Title: 19 Department of Health and Senior Services
Division Title: 25 State Public Health Laboratory
Chapter Title: 36 Testing for Metabolic Diseases

Rule Number and Title:	19 CSR 25-36.010 Testing for Metabolic and Genetic Disorders
Type of Rulemaking:	Order of Rulemaking

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
124 **3,067**	***Hospitals, ambulatory surgical center** ***Physicians, midwifes**	**$389,596 year one; $779,193 years two-three; $1,125,501 annually thereafter**

III. WORKSHEET

86,577 newborn screening test kits x $9.00 increase per kit sold for non Medicaid-eligible babies = $779,193 cost per year. Anticipated additional increase of $4.00 per kit beginning in fiscal year 2011: 86,577 kits x $4.00 = $346,308 per year.

IV. ASSUMPTIONS

Number of kits sold is based on historic data.

Figures are based on state fiscal year of July 1 through June 30, except for year one which is based on costs for December 30, 2007 through June 30, 2008.

Based on estimated costs and cost accounting data for fiscal year 2006. All fees are reviewed annually and adjustments made as needed to meet actual laboratory costs of newborn screening.

The total cost may vary with the number of births and the rate of inflation and is expected to increase annually.

The cost will most likely be passed on to health insurance companies and health maintenance organizations by the birthing centers.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2110—Missouri Dental Board
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the Missouri Dental Board under sections 332.031 and 332.281, RSMo 2000 and 332.261, RSMo Supp. 2006, the board amends a rule as follows:

20 CSR 2110-2.070 Licensure by Credentials—Dental Hygienists **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1408–1409). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2110—Missouri Dental Board
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the Missouri Dental Board under sections 332.031, RSMo 2000 and 332.181, RSMo Supp. 2006, the board amends a rule as follows:

20 CSR 2110-2.071 License Renewal—Dentists and Dental Hygienists **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1409). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 2—Licensing of Physicians and Surgeons

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Registration for the Healing Arts under sections 334.045, 334.046, 334.090, and 334.125, RSMo 2000 and 334.100, RSMo Supp. 2006, the board amends a rule as follows:

20 CSR 2150-2.001 Definitions **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1409–1410). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 3—Licensing of Physical Therapists and Physical Therapist Assistants

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Registration for the Healing Arts under section 334.125, RSMo 2000, the board amends a rule as follows:

20 CSR 2150-3.020 Application Forms **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1410). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 3—Licensing of Physical Therapists and Physical Therapist Assistants

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Registration for the Healing Arts under sections 334.125, 334.500 and 334.650, RSMo 2000, the board amends a rule as follows:

20 CSR 2150-3.090 Physical Therapist Assistants—Direction, Delegation and Supervision **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1410–1411). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 4—Licensing of Speech-Language Pathologists and Audiologists

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Registration for the Healing Arts under sections 345.015, RSMo Supp. 2006 and 345.030, RSMo 2000, the board rescinds a rule as follows:

20 CSR 2150-4.200 Definition of Uniform Functionally Based Proficiency Evaluation **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1411). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2150—State Board of Registration for the Healing Arts
Chapter 4—Licensing of Speech-Language Pathologists and Audiologists

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Registration for the Healing Arts under sections 345.015 and 345.050, RSMo Supp. 2006 and 334.125 and 345.030, RSMo 2000, the board amends a rule as follows:

20 CSR 2150-4.205 Procedural Process for Registration **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1411–1412). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2230—State Board of Podiatric Medicine
Chapter 1—Organization and Description of Board

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Podiatric Medicine under sections 330.140, RSMo 2000 and 536.023.3, RSMo Supp. 2006, the board amends a rule as follows:

20 CSR 2230-1.010 General Organization **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1412). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2230—State Board of Podiatric Medicine
Chapter 1—Organization and Description of Board

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Podiatric Medicine under sections 330.110, RSMo Supp. 2006 and 330.140, RSMo 2000, the board amends a rule as follows:

20 CSR 2230-1.020 Board Member Compensation **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1412–1413). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2230—State Board of Podiatric Medicine
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Podiatric Medicine under sections 330.010 and 330.040, RSMo Supp. 2006 and 330.140, RSMo 2000, the board amends a rule as follows:

20 CSR 2230-2.010 Application for Licensure by Examination **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1414–1415). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2230—State Board of Podiatric Medicine
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Podiatric Medicine under sections 330.140, RSMo 2000 and 330.160.2, RSMo Supp. 2006, the board rescinds a rule as follows:

20 CSR 2230-2.020 Professional Conduct Rules **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1416). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2230—State Board of Podiatric Medicine
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Podiatric Medicine under sections 330.140, RSMo 2000 and 330.160.2, RSMo Supp. 2006, the board adopts a rule as follows:

20 CSR 2230-2.020 Professional Conduct Rules **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1416–1417). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2230—State Board of Podiatric Medicine
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Podiatric Medicine under sections 330.140, RSMo 2000 and 330.160, RSMo Supp. 2006, the board amends a rule as follows:

20 CSR 2230-2.021 Advertising Regulation **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1418). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2230—State Board of Podiatric Medicine
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Podiatric Medicine under section 330.140, RSMo 2000, the board adopts a rule as follows:

20 CSR 2230-2.023 Infection Control **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1418–1421). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2230—State Board of Podiatric Medicine
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Podiatric Medicine under sections 330.030, RSMo Supp. 2006 and 330.140, RSMo 2000, the board amends a rule as follows:

20 CSR 2230-2.050 Reciprocity **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1422). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2230—State Board of Podiatric Medicine
Chapter 2—General Rules

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Podiatric Medicine under sections 330.010 and 330.065, RSMo Supp. 2006 and 330.140, RSMo 2000, the board amends a rule as follows:

20 CSR 2230-2.065 Temporary Licenses for Internship/Residency **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2007 (32 MoReg 1422–1423). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2245—Real Estate Appraisers
Chapter 7—Prelicense Course Approval

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Appraisers Commission under sections 339.509, RSMo 2000 and 339.517, RSMo Supp. 2006, the board amends a rule as follows:

20 CSR 2245-7.010 Standards for Prelicense Course Approval **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* August 15, 2007 (32 MoReg 1423). No changes have been made to the text of the

proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.