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SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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IN THIS ISSUE:

EMERGENCY RULES

Department of Insurance, Financial Institutions and Professional Registration

- Insurer Conduct2897
- State Committee of Dietitians2899
- State Committee of Marital and Family Therapists2900

Missouri Family Trust

- Director and Board of Trustees2900

PROPOSED RULES

Department of Natural Resources

- Clean Water Commission2906

Department of Insurance, Financial Institutions and Professional Registration

- Insurer Conduct2920
- State Committee of Dietitians2922
- State Committee of Marital and Family Therapists2926

Missouri Family Trust

- Director and Board of Trustees2936

ORDERS OF RULEMAKING

Department of Agriculture

- Animal Health2939

Department of Natural Resources

- Land Reclamation Commission3072

Department of Revenue

- Director of Revenue3073

IN ADDITIONS

Department of Health and Senior Services

- Missouri Board of Nursing Home Administrators3074

CONTRACTOR DEBARMENT LIST3075

DISSOLUTIONS3077

SOURCE GUIDES

- RULE CHANGES SINCE UPDATE3079**
- EMERGENCY RULES IN EFFECT3088**
- EXECUTIVE ORDERS3090**
- REGISTER INDEX3093**

Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
August 1, 2011 August 15, 2011	September 1, 2011 September 15, 2011	September 30, 2011 September 30, 2011	October 30, 2011 October 30, 2011
September 1, 2011 September 15, 2011	October 3, 2011 October 17, 2011	October 31, 2011 October 31, 2011	November 30, 2011 November 30, 2011
October 3, 2011 October 17, 2011	November 1, 2011 November 15, 2011	November 30, 2011 November 30, 2011	December 30, 2011 December 30, 2011
November 1, 2011 November 15, 2011	December 1, 2011 December 15, 2011	December 31, 2011 December 31, 2011	January 30, 2012 January 30, 2012
December 1, 2011 December 15, 2011	January 3, 2012 January 17, 2012	January 30, 2012 January 30, 2012	February 29, 2012 February 29, 2012
January 3, 2012 January 17, 2012	February 1, 2012 February 15, 2012	February 29, 2012 February 29, 2012	March 30, 2012 March 30, 2012
February 1, 2012 February 15, 2012	March 1, 2012 March 15, 2012	March 31, 2012 March 31, 2012	April 30, 2012 April 30, 2012
March 1, 2012 March 15, 2012	April 2, 2012 April 16, 2012	April 30, 2012 April 30, 2012	May 30, 2012 May 30, 2012
April 2, 2012 April 16, 2012	May 1, 2012 May 15, 2012	May 31, 2012 May 31, 2012	June 30, 2012 June 30, 2012
May 1, 2012 May 15, 2012	June 1, 2012 June 15, 2012	June 30, 2012 June 30, 2012	July 30, 2012 July 30, 2012

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

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HOW TO CITE RULES AND RSMo

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

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

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

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

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

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

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

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

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

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

Division 100—Insurer Conduct

Chapter 5—Health Care Consumer Procedures

EMERGENCY AMENDMENT

20 CSR 100-5.020 Grievance Review Procedures. The division is adding new sections (2), (7)–(9), and (15)–(17); amending old sections (6), (7), (9), and (10); and renumbering as needed.

PURPOSE: This amendment sets forth with greater specificity the procedures by which the department will process a grievance concerning an adverse determination by a health carrier or its designee for a health plan that has a managed care component, to comply with federal standards. This rule is promulgated pursuant to section 376.1399, RSMo, and implements section 376.1387, RSMo.

EMERGENCY STATEMENT: This emergency amendment makes modifications to the grievance review procedures, consistent with new federal standards. Specifically, it addresses elements of the state external review process intended to clarify consumer protections that already exist in the law. This amendment addresses areas where the current regulation is in conflict with new federal standards, and the amendments herein will allow the state of Missouri to continue administering the external review process for Missourians, rather than allowing the federal government to operate and oversee the

external review process in Missouri. The new federal standards become effective on January 1, 2012 and Missouri must be in compliance before that date in order to continue administering the external review process. Missouri was notified by federal government on October 18, 2011 that the existing rule was not in compliance with the new federal standards. This emergency amendment is necessary to protect the public health, safety, and welfare as it clarifies consumer protections for individuals seeking a review of a health carrier's determination. Without this amendment, Missouri's state-based external review process will be pre-empted in favor of a less accessible and less consumer-friendly federal process. As a result, the Department of Insurance, Financial Institutions and Professional Registration finds an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and it complies with the protections extended in the *Missouri* and *United States Constitutions*. The Department of Insurance, Financial Institutions and Professional Registration believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed November 15, 2011, becomes effective January 1, 2012, and expires June 28, 2012.

(2) As used in this rule, “enrollee’s representative” or “representative” means—

(A) A person to whom an enrollee has given express written consent to represent the enrollee in an external review;

(B) A person authorized by law to provide substituted consent for an enrollee; or

(C) A family member of the enrollee or the enrollee’s treating health care professional only when the enrollee is unable to provide consent.

[(2)](3) 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 director without exhausting all remedies available under the carrier’s grievance process. Medicaid participants also may use 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.

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

[(4)](5) A grievance will be processed by the division as any other consumer complaint. The division will assign the grievance a file number. 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. The division will attempt to resolve the issue with the health carrier (or party).

[(5)](6) If the director determines a grievance is unresolved after completion of the division’s consumer complaint process, 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.

(7) The director shall seek the services of an IRO(s) by competitive bid pursuant to Chapter 34, RSMo. Any IRO selected through the competitive bid process shall be accredited by a nationally recognized private accrediting organization. The department shall maintain a current list of IROs under contract with the department on its website.

(8) An IRO shall maintain written policies and procedures governing all aspects of the external review process that include a quality assurance mechanism that, at a minimum—

(A) Ensures the selection of qualified and impartial clinical peers to conduct external reviews on behalf of the IRO;

(B) Ensures assignment of clinical peers to specific cases related to their area(s) of expertise;

(C) Ensures that the IRO employs or contracts with an adequate number of clinical peers to meet the foregoing objectives;

(D) Ensures that external reviews are conducted within the specified time frames and required notices are provided in a timely manner;

(E) Ensures the confidentiality of medical and treatment records and clinical review criteria; and

(F) Ensures that any person employed by or under contract with the IRO adheres to the requirements of subsections (D) and (E).

(9) An IRO may not own or control, be a subsidiary of, or in any way be owned or controlled by, or exercise control with a health carrier; a national, state, or local trade association of health carriers; or a national, state, or local trade association of health care providers. Neither the IRO selected to conduct the external review nor the clinical peer assigned by the IRO to conduct the external review may have a material, professional, familial, or financial conflict of interest with any of the following:

(A) The health carrier that is the subject of the external review;

(B) The enrollee whose treatment is the subject of the external review or the enrollee's authorized representative;

(C) Any officer, director, or management employee of the health carrier that is the subject of the external review;

(D) The health care provider, the health care provider's medical group, or independent practice association recommending the health care service or treatment that is the subject of the external review;

(E) The facility at which the recommended health care service or treatment would be provided, if known; or

(F) The developer or manufacturer of the principal drug, device, procedure, or other therapy being recommended for the enrollee whose treatment is the subject of the external review.

[(6)](10) 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 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.

[(7)](11) The enrollee, enrollee's representative, or health carrier may also submit additional information to the division which the division shall forward to the IRO. All additional information must be received by 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 the division within fifteen (15) working days from the date 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 the division by means other than mail if it is in writing, typeset, or easily transferred into typeset by the division's technology and a date

of transmission is easily determined by the division. Any additional information submitted by the enrollee or the enrollee's representative shall be reviewed by the IRO when conducting the external review. At the director's discretion, additional information which is received past the fifteen (15) working-day deadline may be submitted to the IRO.

[(8)](12) The IRO shall request from the division any additional information it wants. 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 the division is unable to obtain the requested information, the IRO shall base its opinion on the information already provided.

[(9)](13) Within twenty (20) calendar days of [receiving all material] the receipt of the request for external review, the IRO shall submit to the director its opinion of the issues reviewed. [If] Under exceptional circumstances, if the IRO requires additional time to complete its review, it should request in writing from the director an extension in the time to process the review, not to exceed five (5) calendar days. Such a request should include the reasons for the request and a specific time at which the review is expected to be complete.

[(10)](14) After the director receives the IRO's opinion, the director shall issue a decision which shall be binding upon the enrollee and the health carrier. The director's decision shall be in writing and must be provided to the enrollee and health carrier within twenty-five (25) calendar days of receiving the IRO's opinion. In no event shall the time between the date the IRO receives the request for external review and the date the enrollee and the health carrier are notified of the director's decision be longer than forty-five (45) days.

(15) An enrollee or enrollee's representative or health carrier may request an expedited external review if the adverse determination—

(A) Concerns an admission, availability of care, continued stay, or health care service for which the enrollee received emergency services, but has not been discharged from a facility; or

(B) Involves a medical condition for which the delay occasioned by the standard external review time frame would jeopardize the life or health of the enrollee or jeopardize the enrollee's prognosis or ability to regain maximum function.

(16) As expeditiously as possible after receipt of the request for expedited external review by the IRO, the IRO must issue its opinion as to whether the adverse determination should be upheld or reversed and submit its opinion to the director. As expeditiously as possible, but within no more than seventy-two (72) hours after the receipt of the request for expedited external review by the IRO, the director shall issue notice to the enrollee and the health carrier of the director's determination and may issue a decision to uphold or reverse the adverse determination. If the notice is not in writing, the director must provide the written decision within forty-eight (48) hours after the date of the notice of the determination.

(17) If a request for external review of an adverse determination involves a denial of coverage based on a determination that the health care service or treatment recommended or requested is experimental or investigational, the following additional requirements must be met:

(A) The IRO shall make a preliminary determination as to whether the recommended or requested health care service or treatment that is the subject of the adverse determination is a covered benefit under the person's health benefit plan except for the health carrier's determination that the service or treatment

is experimental or investigational for a particular medical condition; and is not explicitly listed as an excluded benefit under the enrollee's health benefit plan with the health carrier.

(B) The request for external review of an adverse determination involving a denial of coverage based on a health carrier's determination that the health care service or treatment recommended or requested is experimental or investigational must include a certification from the enrollee's physician that—

1. Standard health care services or treatments have not been effective in improving the condition of the enrollee; or

2. Standard health care services or treatments are not medically appropriate for the enrollee; or

3. There is no available standard health care service or treatment covered by the health carrier that is more beneficial than the recommended or requested health care service or treatment; and

4. The request for external review of an adverse determination involving the denial of coverage based on a determination that the requested treatment is experimental or investigational shall also include documentation a) that the enrollee's treating physician has recommended a health care service or treatment that the physician certifies, in writing, is likely to be more beneficial to the enrollee, in the physician's opinion, than any available standard health care services or treatments; or b) that the enrollee's treating physician, who is a licensed, board certified, or board-eligible physician qualified to practice in the area of medicine appropriate to treat the enrollee's condition, has certified in writing that scientifically valid studies using accepted protocols demonstrate that the health care service or treatment requested by the enrollee that is the subject of the adverse determination is likely to be more beneficial to the enrollee than any available standard health care services or treatments.

(C) When conducting such an external review, the IRO must select one (1) or more clinical peers, who must be physicians or other health care professionals who meet minimum qualifications and through clinical experience in the past three (3) years are experts in the treatment of the enrollee's condition and knowledgeable about the recommended or requested health care service or treatment. Each clinical peer shall provide a written opinion to the assigned IRO on whether the recommended or requested health care service or treatment should be covered.

(D) Each such clinical peer's opinion submitted to the IRO shall include the following information:

1. A description of the enrollee's medical condition;

2. A description of the indicators relevant to determining whether there is sufficient evidence to demonstrate that the recommended or requested health care service or treatment is more likely than not to be beneficial to the enrollee than any available standard health care services or treatments and the adverse risks of the recommended or requested health care service or treatment would not be substantially increased over those of available standard health care services or treatments;

3. A description and analysis of any medical or scientific evidence considered in reaching the opinion;

4. Information on whether the reviewer's rationale for the opinion is based upon whether the recommended or requested health care service or treatment has been approved by the federal Food and Drug Administration for the condition, or whether medical or scientific evidence or evidence-based standards demonstrate that the expected benefits of the recommended or requested health care service or treatment is more likely than not to be beneficial to the covered person than any available standard health care service or treatment and the adverse risks of the recommended or requested health care service or treatment would not substantially be increased over those of available standard health care services or treatments; and

5. A description and analysis of any evidence-based standard.

AUTHORITY: section[s] 376.1387, RSMo 2000, and sections 374.045 and 376.1399, RSMo Supp. [2007] 2010. Original rule filed Nov. 3, 1997, effective June 30, 1998. Amended: Filed Nov. 1, 2007, effective July 30, 2008. Emergency amendment filed Nov. 15, 2011, effective Jan. 1, 2012, expires June 28, 2012. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

**Division 2115—State Committee of Dietitians
Chapter 1—General Rules**

EMERGENCY AMENDMENT

20 CSR 2115-1.040 Fees. The committee is proposing to amend subsection (1)(C).

PURPOSE: The committee is statutorily obligated to enforce and administer the provisions of sections 324.200–324.228, RSMo. Pursuant to section 324.212, RSMo, the committee shall set by rule the appropriate amount of fees so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the committee for administering the provisions of sections 324.200–324.228, RSMo. Therefore, the committee is proposing to reduce the biennial renewal fee.

EMERGENCY STATEMENT: The State Committee of Dietitians is statutorily obligated to set all fees, by regulation, necessary to administer the provisions of sections 324.200–324.228, RSMo. Pursuant to section 324.212, RSMo, the committee shall by regulation set the amount of fees authorized by sections 324.200–324.228, RSMo, to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 324.200–324.228, RSMo. Therefore, the committee is proposing to decrease the biennial renewal fee from fifty dollars (\$50) to twenty dollars (\$20).

The dietitian licenses expire on March 31, 2012. The renewal notices for dietitians will be mailed January 2, 2012 and any dietitians wishing to reinstate or renew their license beginning January 2011 will be assessed the decreased renewal fee. Without this emergency amendment, the decreased fee requirement will not be effective in time for the renewal notice and the committee will collect more revenue than it is statutorily authorized to collect.

The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. In developing this emergency amendment, the committee has determined that the fee decrease is necessary for the 2011 renewal period to prevent funds from exceeding the maximum fund balance thereby resulting in a transfer from the fund to general revenue as set forth in section 324.212, RSMo. Pursuant to section 324.001.10, RSMo, a compelling governmental interest is deemed to exist for the purposes of section 536.025, RSMo, for licensure fees to be reduced by emergency rule, if the projected fund balance of any agency assigned to the Division of Professional Registration is reasonably expected to exceed an amount that would require transfer from that fund to general revenue. The committee believes this emergency amendment to be fair to all interested parties under the circumstances. This emergency amendment was filed November 15, 2011, becomes effective December 20, 2011, and expires June 16, 2012.

(1) The following fees are hereby established by the State Committee of Dietitians:

(C) Biennial Renewal Fee \$/50.00/20.00

AUTHORITY: section[s] 324.212.4, RSMo Supp. [2005] 2010, and section 324.228, RSMo 2000. This rule originally filed as 4 CSR 115-1.040. Original rule filed March 15, 2000, effective Sept. 30, 2000. Amended: Filed June 16, 2003, effective Dec. 30, 2003. Amended: Filed Jan. 17, 2006, effective July 30, 2006. Moved to 20 CSR 2115-1.040, effective Aug. 28, 2006. Emergency amendment filed Nov. 15, 2011, effective Dec. 20, 2011, expires June 16, 2012. A proposed amendment covering this same material is published in this issue of the Missouri Register.

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

**Division 2233—State Committee of Marital and Family
Therapists**

Chapter 1—General Rules

EMERGENCY AMENDMENT

20 CSR 2233-1.040 Fees. The state committee is proposing to amend subsection (1)(C).

PURPOSE: The State Committee of Marital and Family Therapists is statutorily obligated to enforce and administer the provisions of sections 337.700 to 337.739, RSMo. Pursuant to section 337.712, RSMo, the state committee shall by rule and regulation set the amount of fees authorized by sections 337.700 to 337.739, RSMo, so that the revenue shall not substantially exceed the cost and expense of administering the provisions of sections 337.700 to 337.739, RSMo. Based on the state committee's five (5)-year projections, the state committee finds it necessary to reduce fees.

EMERGENCY STATEMENT: The State Committee of Marital and Family Therapists is statutorily obligated to set all fees, by regulation, necessary to administer the provisions of sections 337.700 to 337.739, RSMo. Pursuant to section 337.712, RSMo, the state committee shall by regulation set the amount of fees authorized by sections 337.700 to 337.739, RSMo, to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 337.700 to 337.739, RSMo. Therefore, the state committee is proposing to decrease the biennial renewal fee from two hundred twenty-five dollars (\$225) to one hundred twenty-five dollars (\$125).

The marital and family therapist license expires on February 29, 2012. The renewal notice for marital and family therapists will be mailed December 1, 2011, and any marital and family therapist renewing a license beginning December 2011 will be assessed the decreased renewal fee. Without this emergency amendment, the decreased fee requirement will not be effective in time for the renewal notice and the state committee will collect more revenue than it is statutorily authorized to collect.

The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. In developing this emergency amendment, the state committee has determined that the fee decrease is necessary for the 2011 renewal period to prevent funds from exceeding the maximum fund balance thereby resulting in a transfer from the fund to general revenue as set forth in section 337.712, RSMo. Pursuant to section 324.001.10, RSMo, a compelling governmental interest is deemed to exist for the purposes of section 536.025, RSMo, for licensure fees to be reduced by emergency rule, if the projected fund balance of any agency assigned to the Division of Professional Registration is reasonably expected to exceed an amount that would require transfer from that fund to general revenue. The state committee believes this emergency amendment to be fair to all interested parties under the circumstances. This

emergency amendment was filed November 15, 2011, becomes effective November 25, 2011, and expires May 22, 2012.

(1) The following fees are established by the Division of Professional Registration and are payable in the form of a cashier's check, personal check, or money order:

(C) Biennial License Renewal Fee	[\$225.00] \$125.00
and in addition—	
1. One day to sixty (1–60) days late (an additional)	\$ 75.00
2. Sixty-one (61) days to two (2) years late (an additional)	\$100.00

AUTHORITY: sections 337.712[, RSMo Supp. 2004] and 337.727, RSMo [2000] Supp. 2010. This rule originally filed as 4 CSR 233-1.040. Original rule filed Dec. 31, 1997, effective July 30, 1998. Amended: Filed May 22, 2001, effective Nov. 30, 2001. Amended: Filed Feb. 15, 2005, effective Aug. 30, 2005. Moved to 20 CSR 2233-1.040, effective Aug. 28, 2006. Emergency amendment filed Nov. 15, 2011, effective Nov. 25, 2011, expires May 22, 2012. A proposed amendment covering this same material is published in this issue of the Missouri Register.

**Title 21—MISSOURI FAMILY TRUST
Division 10—Director and Board of Trustees
Chapter 1—General Organization**

EMERGENCY RESCISSION

21 CSR 10-1.010 General Organization. This rule complied with section 536.023(3), RSMo, which requires each agency to adopt as a rule a description of its operation and the procedures where the public may obtain information or make submissions or requests.

PURPOSE: With the passage of SB 70 which went into effect August 28, 2011, this proposed rescission is necessary to eliminate multiple conflicts between the existing rule and new statutory language. With the extensive changes made to the enabling statute, the Missouri Family Trust can operate in full compliance with applicable federal requirements and protect public benefits for life beneficiaries of trusts it administers.

EMERGENCY STATEMENT: This emergency rescission informs citizens that the revised statutes for the Missouri Family Trust (MFT) are in effect as of August 28, 2011, and eliminates conflicts in rule with the statute presently in effect. This emergency rescission is necessary to protect the public health, safety, and welfare of Special Needs Trust life beneficiaries and people with disabilities or their families who presently have a trust or wish to establish a trust to protect public benefits and provide vital medical, dental, and other supplemental services. Prior to and during the 2011 legislative session, the Missouri Family Trust Board of Trustees worked closely with the legislature, the Missouri Bar Probate and Trust Subcommittee, and other stakeholders to make necessary changes in the statute. Board members reached out to legislators and other advocates to educate them about the need for updating the enabling statute, identified sponsors, attended hearings, and offered testimony in support of the proposed statutory changes. As a result, the revised statute governing the Missouri Family Trust as Truly Agreed and Finally Passed in May 2011 was dramatically restructured and reorganized to establish consistency with federal statutes and regulations that govern Special Needs Trusts and administration of Special Needs Trusts. The legislature, in passing Senate Bill 70 in the 2011 session, recognized the compelling need for updates to the statute to assure that the MFT continued to be available as an affordable and accessible option for Special Needs Trusts that would protect eligibility for Medicaid and the federal program that provides Supplemental Security Income. The

statutory language that went into effect on August 28, 2011, includes new terminology and definitions for the large majority of terms also defined in rule. In addition, the operational framework for trusts was altered, resulting in functional inaccuracies and incorrect statutory references in the existing rules. For anyone who consults the rules in the **Missouri Code of State Regulations**, the inconsistencies and inaccuracies when compared to statute or federal requirements create confusion, uncertainty, and risk that could affect a life beneficiary's eligibility and access to public benefits as well as everyday use of the trust for supplemental medical, dental, and other services and supports for independent living. Families and persons with disabilities who are in need of a Special Needs Trusts as well as their legal advocates must have consistent guidance and direction in this specialized and complex area of the law. Families, beneficiaries, and attorneys must also have trust and confidence in the organization administering the trust which can be eroded by conflicting or erroneous information. Federal- and state-eligibility authorities could also question the validity and status of the trust as an exempted resource based on the inaccurate and outdated information presently in the rules. Rescission of the existing rules eliminates inconsistencies that potentially impact trust operations, public confidence, and assures that the trusts administered by the Missouri Family Trust will continue to have exempt status with federal authorities and agencies. The risk of loss of public benefits which support vital health care services and cash assistance that provides for basic needs for already vulnerable persons with disabilities is especially concerning since individuals with disabilities require medical and rehabilitation services to protect their health, functional abilities, and safety. After careful deliberation and in recognition of these risks, its fiduciary duties as a board of trustees, and its regulatory responsibilities as a public governmental body, the Missouri Family Trust Board determined at their meeting on July 30, 2011, that the interests and well being of the public would be best protected by emergency rescissions of the existing rules when the statute took effect on August 28, 2011. The Missouri Family Trust Board of Trustees voted unanimously to instruct the executive director to prepare rule rescissions. As a result, the Missouri Family Trust Board finds an immediate danger to the public health, safety, and welfare and a compelling governmental interest which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency rescission is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The Missouri Family Trust Board believes this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed November 8, 2011, becomes effective November 25, 2011, and expires May 22, 2012.

AUTHORITY: sections 402.210.6. and 402.225, RSMo 2000, and section 402.215.1., RSMo Supp. 2004. Original rule filed July 30, 1992, effective April 8, 1993. Amended: Filed Nov. 2, 1994, effective March 30, 1995. Amended: Filed April 11, 1997, effective Sept. 30, 1997. Amended: Filed April 29, 2005, effective Dec. 30, 2005. Emergency rescission filed Nov. 8, 2011, effective Nov. 25, 2011, expires May 22, 2012. A proposed rescission covering this same material is published in this issue of the **Missouri Register**.

Title 21—MISSOURI FAMILY TRUST
Division 10—Director and Board of Trustees
Chapter 1—General Organization

EMERGENCY RESCISSION

21 CSR 10-1.020 Definitions. This rule expanded on definitions and certain terms found in sections 402.199–402.225, RSMo.

PURPOSE: With the passage of SB 70 which went into effect August 28, 2011, this proposed rescission is necessary to eliminate multiple conflicts between the existing rule and new statutory language. With the extensive changes made to the enabling statute, the Missouri Family Trust can operate in full compliance with applicable federal requirements and protect public benefits for life beneficiaries of trusts it administers.

EMERGENCY STATEMENT: This emergency rescission informs citizens that the revised statutes for the Missouri Family Trust (MFT) are in effect as of August 28, 2011, and eliminates conflicts in rule with the statute presently in effect. This emergency rescission is necessary to protect the public health, safety, and welfare of Special Needs Trust life beneficiaries and people with disabilities or their families who presently have a trust or wish to establish a trust to protect public benefits and provide vital medical, dental, and other supplemental services. Prior to and during the 2011 legislative session, the Missouri Family Trust Board of Trustees worked closely with the legislature, the Missouri Bar Probate and Trust Subcommittee, and other stakeholders to make necessary changes in the statute. Board members reached out to legislators and other advocates to educate them about the need for updating the enabling statute, identified sponsors, attended hearings, and offered testimony in support of the proposed statutory changes. As a result, the revised statute governing the Missouri Family Trust as Truly Agreed and Finally Passed in May 2011 was dramatically restructured and reorganized to establish consistency with federal statutes and regulations that govern Special Needs Trusts and administration of Special Needs Trusts. The legislature, in passing Senate Bill 70 in the 2011 session, recognized the compelling need for updates to the statute to assure that the MFT continued to be available as an affordable and accessible option for Special Needs Trusts that would protect eligibility for Medicaid and the federal program that provides Supplemental Security Income. The statutory language that went into effect on August 28, 2011, includes new terminology and definitions for the large majority of terms also defined in rule. In addition, the operational framework for trusts was altered, resulting in functional inaccuracies and incorrect statutory references in the existing rules. For anyone who consults the rules in the **Missouri Code of State Regulations**, the inconsistencies and inaccuracies when compared to statute or federal requirements create confusion, uncertainty, and risk that could affect a life beneficiary's eligibility and access to public benefits as well as everyday use of the trust for supplemental medical, dental, and other services and supports for independent living. Families and persons with disabilities who are in need of a Special Needs Trusts as well as their legal advocates must have consistent guidance and direction in this specialized and complex area of the law. Families, beneficiaries, and attorneys must also have trust and confidence in the organization administering the trust which can be eroded by conflicting or erroneous information. Federal- and state-eligibility authorities could also question the validity and status of the trust as an exempted resource based on the inaccurate and outdated information presently in the rules. Rescission of the existing rules eliminates inconsistencies that potentially impact trust operations, public confidence, and assures that the trusts administered by the Missouri Family Trust will continue to have exempt status with federal authorities and agencies. The risk of loss of public benefits which support vital health care services and cash assistance that provides for basic needs for already vulnerable persons with disabilities is especially concerning since individuals with disabilities require medical and rehabilitation services to protect their health, functional abilities, and safety. After careful deliberation and in recognition of these risks, its fiduciary duties as a board of trustees, and its regulatory responsibilities as a public governmental body, the Missouri Family Trust Board determined at their meeting on July 30, 2011, that the interests and well being of the public would be best protected by emergency rescissions of the existing rules when the statute took effect on August 28, 2011. The Missouri Family Trust Board of Trustees voted unanimously to

instruct the executive director to prepare rule rescissions. As a result, the Missouri Family Trust Board finds an immediate danger to the public health, safety, and welfare and a compelling governmental interest which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency rescission is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The Missouri Family Trust Board believes this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed November 8, 2011, becomes effective November 25, 2011, and expires May 22, 2012.

AUTHORITY: section[s] 402.210.6., RSMo 2000, and section 402.215.1. and 2., RSMo Supp. 2004. Original rule filed July 30, 1992, effective April 8, 1993. Amended: Filed April 29, 2005, effective Dec. 30, 2005. Emergency rescission filed Nov. 8, 2011, effective Nov. 25, 2011, expires May 22, 2012. An emergency rescission and a proposed rescission covering this same material will be published in the December 15, 2011, issue of the **Missouri Register**.

Title 21—MISSOURI FAMILY TRUST
Division 10—Director and Board of Trustees
Chapter 1—General Organization

EMERGENCY RESCISSION

21 CSR 10-1.030 Meetings of the Board of Trustees. This rule set forth provisions relative to meetings of the board of trustees found in section 402.215.1., RSMo.

PURPOSE: With the passage of SB 70 which went into effect August 28, 2011, this proposed rescission is necessary to eliminate multiple conflicts between the existing rule and new statutory language. With the extensive changes made to the enabling statute, the Missouri Family Trust can operate in full compliance with applicable federal requirements and protect public benefits for life beneficiaries of trusts it administers.

EMERGENCY STATEMENT: This emergency rescission informs citizens that the revised statutes for the Missouri Family Trust (MFT) are in effect as of August 28, 2011, and eliminates conflicts in rule with the statute presently in effect. This emergency rescission is necessary to protect the public health, safety, and welfare of Special Needs Trust life beneficiaries and people with disabilities or their families who presently have a trust or wish to establish a trust to protect public benefits and provide vital medical, dental, and other supplemental services. Prior to and during the 2011 legislative session, the Missouri Family Trust Board of Trustees worked closely with the legislature, the Missouri Bar Probate and Trust Subcommittee, and other stakeholders to make necessary changes in the statute. Board members reached out to legislators and other advocates to educate them about the need for updating the enabling statute, identified sponsors, attended hearings, and offered testimony in support of the proposed statutory changes. As a result, the revised statute governing the Missouri Family Trust as Truly Agreed and Finally Passed in May 2011 was dramatically restructured and reorganized to establish consistency with federal statutes and regulations that govern Special Needs Trusts and administration of Special Needs Trusts. The legislature, in passing Senate Bill 70 in the 2011 session, recognized the compelling need for updates to the statute to assure that the MFT continued to be available as an affordable and accessible option for Special Needs Trusts that would protect eligibility for Medicaid and the federal program that provides Supplemental Security Income. The statutory language that went into effect on August 28, 2011, includes new terminology and definitions for the large majority of

terms also defined in rule. In addition, the operational framework for trusts was altered, resulting in functional inaccuracies and incorrect statutory references in the existing rules. For anyone who consults the rules in the **Missouri Code of State Regulations**, the inconsistencies and inaccuracies when compared to statute or federal requirements create confusion, uncertainty, and risk that could affect a life beneficiary's eligibility and access to public benefits as well as everyday use of the trust for supplemental medical, dental, and other services and supports for independent living. Families and persons with disabilities who are in need of a Special Needs Trusts as well as their legal advocates must have consistent guidance and direction in this specialized and complex area of the law. Families, beneficiaries, and attorneys must also have trust and confidence in the organization administering the trust which can be eroded by conflicting or erroneous information. Federal- and state-eligibility authorities could also question the validity and status of the trust as an exempted resource based on the inaccurate and outdated information presently in the rules. Rescission of the existing rules eliminates inconsistencies that potentially impact trust operations, public confidence, and assures that the trusts administered by the Missouri Family Trust will continue to have exempt status with federal authorities and agencies. The risk of loss of public benefits which support vital health care services and cash assistance that provides for basic needs for already vulnerable persons with disabilities is especially concerning since individuals with disabilities require medical and rehabilitation services to protect their health, functional abilities, and safety. After careful deliberation and in recognition of these risks, its fiduciary duties as a board of trustees, and its regulatory responsibilities as a public governmental body, the Missouri Family Trust Board determined at their meeting on July 30, 2011, that the interests and well being of the public would be best protected by emergency rescissions of the existing rules when the statute took effect on August 28, 2011. The Missouri Family Trust Board of Trustees voted unanimously to instruct the executive director to prepare rule rescissions. As a result, the Missouri Family Trust Board finds an immediate danger to the public health, safety, and welfare and a compelling governmental interest which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency rescission is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The Missouri Family Trust Board believes this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed November 8, 2011, becomes effective November 25, 2011, and expires May 22, 2012.

AUTHORITY: section[s] 402.210.6., RSMo 2000, and 610.010–610.030, RSMo 2000 and Supp. 2004. Original rule filed July 30, 1992, effective April 8, 1993. Amended: Filed April 29, 2005, effective Dec. 30, 2005. Emergency rescission filed Nov. 8, 2011, effective Nov. 25, 2011, expires May 22, 2012. A proposed rescission covering this same material is published in this issue of the **Missouri Register**.

Title 21—MISSOURI FAMILY TRUST
Division 10—Director and Board of Trustees
Chapter 2—Missouri Family Trust

EMERGENCY RESCISSION

21 CSR 10-2.010 Terms and Conditions of the Missouri Family Trust. This rule set forth terms and conditions of the Missouri Family Trust.

PURPOSE: With the passage of SB 70 which went into effect August 28, 2011, this proposed rescission is necessary to eliminate multiple

conflicts between the existing rule and new statutory language. With the extensive changes made to the enabling statute, the Missouri Family Trust can operate in full compliance with applicable federal requirements and protect public benefits for life beneficiaries of trusts it administers.

EMERGENCY STATEMENT: This emergency rescission informs citizens that the revised statutes for the Missouri Family Trust (MFT) are in effect as of August 28, 2011, and eliminates conflicts in rule with the statute presently in effect. This emergency rescission is necessary to protect the public health, safety, and welfare of Special Needs Trust life beneficiaries and people with disabilities or their families who presently have a trust or wish to establish a trust to protect public benefits and provide vital medical, dental, and other supplemental services. Prior to and during the 2011 legislative session, the Missouri Family Trust Board of Trustees worked closely with the legislature, the Missouri Bar Probate and Trust Subcommittee, and other stakeholders to make necessary changes in the statute. Board members reached out to legislators and other advocates to educate them about the need for updating the enabling statute, identified sponsors, attended hearings, and offered testimony in support of the proposed statutory changes. As a result, the revised statute governing the Missouri Family Trust as Truly Agreed and Finally Passed in May 2011 was dramatically restructured and reorganized to establish consistency with federal statutes and regulations that govern Special Needs Trusts and administration of Special Needs Trusts. The legislature, in passing Senate Bill 70 in the 2011 session, recognized the compelling need for updates to the statute to assure that the MFT continued to be available as an affordable and accessible option for Special Needs Trusts that would protect eligibility for Medicaid and the federal program that provides Supplemental Security Income. The statutory language that went into effect on August 28, 2011, includes new terminology and definitions for the large majority of terms also defined in rule. In addition, the operational framework for trusts was altered, resulting in functional inaccuracies and incorrect statutory references in the existing rules. For anyone who consults the rules in the **Missouri Code of State Regulations**, the inconsistencies and inaccuracies when compared to statute or federal requirements create confusion, uncertainty, and risk that could affect a life beneficiary's eligibility and access to public benefits as well as everyday use of the trust for supplemental medical, dental, and other services and supports for independent living. Families and persons with disabilities who are in need of a Special Needs Trusts as well as their legal advocates must have consistent guidance and direction in this specialized and complex area of the law. Families, beneficiaries, and attorneys must also have trust and confidence in the organization administering the trust which can be eroded by conflicting or erroneous information. Federal- and state-eligibility authorities could also question the validity and status of the trust as an exempted resource based on the inaccurate and outdated information presently in the rules. Rescission of the existing rules eliminates inconsistencies that potentially impact trust operations, public confidence, and assures that the trusts administered by the Missouri Family Trust will continue to have exempt status with federal authorities and agencies. The risk of loss of public benefits which support vital health care services and cash assistance that provides for basic needs for already vulnerable persons with disabilities is especially concerning since individuals with disabilities require medical and rehabilitation services to protect their health, functional abilities, and safety. After careful deliberation and in recognition of these risks, its fiduciary duties as a board of trustees, and its regulatory responsibilities as a public governmental body, the Missouri Family Trust Board determined at their meeting on July 30, 2011, that the interests and well being of the public would be best protected by emergency rescissions of the existing rules when the statute took effect on August 28, 2011. The Missouri Family Trust Board of Trustees voted unanimously to instruct the executive director to prepare rule rescissions. As a result, the Missouri Family Trust Board finds an immediate danger to the

public health, safety, and welfare and a compelling governmental interest which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency rescission is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The Missouri Family Trust Board believes this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed November 8, 2011, becomes effective November 25, 2011, and expires May 22, 2012.

AUTHORITY: section[s] 402.210.6., RSMo 2000, and section 402.215.2.(1), RSMo Supp. 2004. Original rule filed July 30, 1992, effective April 8, 1993. Amended: Filed Nov. 2, 1994, effective March 30, 1995. Amended: Filed April 11, 1997, effective Sept. 30, 1997. Amended: Filed April 29, 2005, effective Dec. 30, 2005. Emergency rescission filed Nov. 8, 2011, effective Nov. 25, 2011, expires May 22, 2012. A proposed rescission covering this same material is published in this issue of the **Missouri Register**.

**Title 21—MISSOURI FAMILY TRUST
Division 10—Director and Board of Trustees
Chapter 3—Charitable Trust**

EMERGENCY RESCISSION

21 CSR 10-3.010 Charitable Trust Regulations. This rule set forth the regulations of the Charitable Trust of the Missouri Family Trust.

PURPOSE: With the passage of SB 70 which went into effect August 28, 2011, this proposed rescission is necessary to eliminate multiple conflicts between the existing rule and new statutory language. With the extensive changes made to the enabling statute, the Missouri Family Trust can operate in full compliance with applicable federal requirements and protect public benefits for life beneficiaries of trusts it administers.

EMERGENCY STATEMENT: This emergency rescission informs citizens that the revised statutes for the Missouri Family Trust (MFT) are in effect as of August 28, 2011, and eliminates conflicts in rule with the statute presently in effect. This emergency rescission is necessary to protect the public health, safety, and welfare of Special Needs Trust life beneficiaries and people with disabilities or their families who presently have a trust or wish to establish a trust to protect public benefits and provide vital medical, dental, and other supplemental services. Prior to and during the 2011 legislative session, the Missouri Family Trust Board of Trustees worked closely with the legislature, the Missouri Bar Probate and Trust Subcommittee, and other stakeholders to make necessary changes in the statute. Board members reached out to legislators and other advocates to educate them about the need for updating the enabling statute, identified sponsors, attended hearings, and offered testimony in support of the proposed statutory changes. As a result, the revised statute governing the Missouri Family Trust as Truly Agreed and Finally Passed in May 2011 was dramatically restructured and reorganized to establish consistency with federal statutes and regulations that govern Special Needs Trusts and administration of Special Needs Trusts. The legislature, in passing Senate Bill 70 in the 2011 session, recognized the compelling need for updates to the statute to assure that the MFT continued to be available as an affordable and accessible option for Special Needs Trusts that would protect eligibility for Medicaid and the federal program that provides Supplemental Security Income. The statutory language that went into effect on August 28, 2011, includes new terminology and definitions for the large majority of terms also defined in rule. In addition, the operational framework for trusts was altered, resulting in functional inaccuracies and incorrect statutory references in the existing rules. For

anyone who consults the rules in the *Missouri Code of State Regulations*, the inconsistencies and inaccuracies when compared to statute or federal requirements create confusion, uncertainty, and risk that could affect a life beneficiary's eligibility and access to public benefits as well as everyday use of the trust for supplemental medical, dental, and other services and supports for independent living. Families and persons with disabilities who are in need of a Special Needs Trusts as well as their legal advocates must have consistent guidance and direction in this specialized and complex area of the law. Families, beneficiaries, and attorneys must also have trust and confidence in the organization administering the trust which can be eroded by conflicting or erroneous information. Federal- and state-eligibility authorities could also question the validity and status of the trust as an exempted resource based on the inaccurate and outdated information presently in the rules. Rescission of the existing rules eliminates inconsistencies that potentially impact trust operations, public confidence, and assures that the trusts administered by the Missouri Family Trust will continue to have exempt status with federal authorities and agencies. The risk of loss of public benefits which support vital health care services and cash assistance that provides for basic needs for already vulnerable persons with disabilities is especially concerning since individuals with disabilities require medical and rehabilitation services to protect their health, functional abilities, and safety. After careful deliberation and in recognition of these risks, its fiduciary duties as a board of trustees, and its regulatory responsibilities as a public governmental body, the Missouri Family Trust Board determined at their meeting on July 30, 2011, that the interests and well being of the public would be best protected by emergency rescissions of the existing rules when the statute took effect on August 28, 2011. The Missouri Family Trust Board of Trustees voted unanimously to instruct the executive director to prepare rule rescissions. As a result, the Missouri Family Trust Board finds an immediate danger to the public health, safety, and welfare and a compelling governmental interest which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency rescission is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Missouri Family Trust Board believes this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed November 8, 2011, becomes effective November 25, 2011, and expires May 22, 2012.

AUTHORITY: section 402.210.6., RSMo 2000, and section 402.215.1., RSMo Supp. 2004. Original rule filed July 30, 1992, effective April 8, 1993. Amended: Filed Nov. 2, 1994, effective March 30, 1995. Amended: Filed April 29, 2005, effective Dec. 30, 2005. Emergency rescission filed Nov. 8, 2011, effective Nov. 25, 2011, expires May 22, 2012. A proposed rescission covering this same material is published in this issue of the *Missouri Register*.

Title 21—MISSOURI FAMILY TRUST
Division 10—Director and Board of Trustees
Chapter 4—Fees

EMERGENCY RESCISSION

21 CSR 10-4.010 Administrative Fees for Missouri Family Trust Accounts. This rule established the fees to be charged by the board of trustees for administering trust accounts.

PURPOSE: With the passage of SB 70 which went into effect August 28, 2011, this proposed rescission is necessary to eliminate multiple conflicts between the existing rule and new statutory language. With the extensive changes made to the enabling statute, the Missouri Family Trust can operate in full compliance with applicable federal

requirements and protect public benefits for life beneficiaries of trusts it administers.

EMERGENCY STATEMENT: This emergency rescission informs citizens that the revised statutes for the Missouri Family Trust (MFT) are in effect as of August 28, 2011, and eliminates conflicts in rule with the statute presently in effect. This emergency rescission is necessary to protect the public health, safety, and welfare of Special Needs Trust life beneficiaries and people with disabilities or their families who presently have a trust or wish to establish a trust to protect public benefits and provide vital medical, dental, and other supplemental services. Prior to and during the 2011 legislative session, the Missouri Family Trust Board of Trustees worked closely with the legislature, the Missouri Bar Probate and Trust Subcommittee, and other stakeholders to make necessary changes in the statute. Board members reached out to legislators and other advocates to educate them about the need for updating the enabling statute, identified sponsors, attended hearings, and offered testimony in support of the proposed statutory changes. As a result, the revised statute governing the Missouri Family Trust as Truly Agreed and Finally Passed in May 2011 was dramatically restructured and reorganized to establish consistency with federal statutes and regulations that govern Special Needs Trusts and administration of Special Needs Trusts. The legislature, in passing Senate Bill 70 in the 2011 session, recognized the compelling need for updates to the statute to assure that the MFT continued to be available as an affordable and accessible option for Special Needs Trusts that would protect eligibility for Medicaid and the federal program that provides Supplemental Security Income. The statutory language that went into effect on August 28, 2011, includes new terminology and definitions for the large majority of terms also defined in rule. In addition, the operational framework for trusts was altered, resulting in functional inaccuracies and incorrect statutory references in the existing rules. For anyone who consults the rules in the *Missouri Code of State Regulations*, the inconsistencies and inaccuracies when compared to statute or federal requirements create confusion, uncertainty, and risk that could affect a life beneficiary's eligibility and access to public benefits as well as everyday use of the trust for supplemental medical, dental, and other services and supports for independent living. Families and persons with disabilities who are in need of a Special Needs Trusts as well as their legal advocates must have consistent guidance and direction in this specialized and complex area of the law. Families, beneficiaries, and attorneys must also have trust and confidence in the organization administering the trust which can be eroded by conflicting or erroneous information. Federal- and state-eligibility authorities could also question the validity and status of the trust as an exempted resource based on the inaccurate and outdated information presently in the rules. Rescission of the existing rules eliminates inconsistencies that potentially impact trust operations, public confidence, and assures that the trusts administered by the Missouri Family Trust will continue to have exempt status with federal authorities and agencies. The risk of loss of public benefits which support vital health care services and cash assistance that provides for basic needs for already vulnerable persons with disabilities is especially concerning since individuals with disabilities require medical and rehabilitation services to protect their health, functional abilities, and safety. After careful deliberation and in recognition of these risks, its fiduciary duties as a board of trustees, and its regulatory responsibilities as a public governmental body, the Missouri Family Trust Board determined at their meeting on July 30, 2011, that the interests and well being of the public would be best protected by emergency rescissions of the existing rules when the statute took effect on August 28, 2011. The Missouri Family Trust Board of Trustees voted unanimously to instruct the executive director to prepare rule rescissions. As a result, the Missouri Family Trust Board finds an immediate danger to the public health, safety, and welfare and a compelling governmental interest which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the

Missouri Register. The scope of this emergency rescission is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The Missouri Family Trust Board believes this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed November 8, 2011, becomes effective November 25, 2011, and expires May 22, 2012.

AUTHORITY: section 402.210.6., RSMo 2000. Original rule filed July 30, 1992, effective April 8, 1993. Amended: Filed April 29, 2005, effective Dec. 30, 2005. Emergency rescission filed Nov. 8, 2011, effective Nov. 25, 2011, expires May 22, 2012. A proposed rescission covering this same material is published in this issue of the **Missouri Register**.

Title 21—MISSOURI FAMILY TRUST
Division 10—Director and Board of Trustees
Chapter 4—Fees

EMERGENCY RESCISSION

21 CSR 10-4.020 Administrative Fees for the Charitable Trust.

This rule established the fees to be charged by the board of trustees for administering the Charitable Trust.

PURPOSE: With the passage of SB 70 which went into effect August 28, 2011, this proposed rescission is necessary to eliminate multiple conflicts between the existing rule and new statutory language. With the extensive changes made to the enabling statute, the Missouri Family Trust can operate in full compliance with applicable federal requirements and protect public benefits for life beneficiaries of trusts it administers.

EMERGENCY STATEMENT: This emergency rescission informs citizens that the revised statutes for the Missouri Family Trust (MFT) are in effect as of August 28, 2011, and eliminates conflicts in rule with the statute presently in effect. This emergency rescission is necessary to protect the public health, safety, and welfare of Special Needs Trust life beneficiaries and people with disabilities or their families who presently have a trust or wish to establish a trust to protect public benefits and provide vital medical, dental, and other supplemental services. Prior to and during the 2011 legislative session, the Missouri Family Trust Board of Trustees worked closely with the legislature, the Missouri Bar Probate and Trust Subcommittee, and other stakeholders to make necessary changes in the statute. Board members reached out to legislators and other advocates to educate them about the need for updating the enabling statute, identified sponsors, attended hearings, and offered testimony in support of the proposed statutory changes. As a result, the revised statute governing the Missouri Family Trust as Truly Agreed and Finally Passed in May 2011 was dramatically restructured and reorganized to establish consistency with federal statutes and regulations that govern Special Needs Trusts and administration of Special Needs Trusts. The legislature, in passing Senate Bill 70 in the 2011 session, recognized the compelling need for updates to the statute to assure that the MFT continued to be available as an affordable and accessible option for Special Needs Trusts that would protect eligibility for Medicaid and the federal program that provides Supplemental Security Income. The statutory language that went into effect on August 28, 2011, includes new terminology and definitions for the large majority of terms also defined in rule. In addition, the operational framework for trusts was altered, resulting in functional inaccuracies and incorrect statutory references in the existing rules. For anyone who consults the rules in the **Missouri Code of State Regulations**, the inconsistencies and inaccuracies when compared to statute or federal requirements create confusion, uncertainty, and risk that could affect a life beneficia-

ry's eligibility and access to public benefits as well as everyday use of the trust for supplemental medical, dental, and other services and supports for independent living. Families and persons with disabilities who are in need of a Special Needs Trusts as well as their legal advocates must have consistent guidance and direction in this specialized and complex area of the law. Families, beneficiaries, and attorneys must also have trust and confidence in the organization administering the trust which can be eroded by conflicting or erroneous information. Federal- and state-eligibility authorities could also question the validity and status of the trust as an exempted resource based on the inaccurate and outdated information presently in the rules. Rescission of the existing rules eliminates inconsistencies that potentially impact trust operations, public confidence, and assures that the trusts administered by the Missouri Family Trust will continue to have exempt status with federal authorities and agencies. The risk of loss of public benefits which support vital health care services and cash assistance that provides for basic needs for already vulnerable persons with disabilities is especially concerning since individuals with disabilities require medical and rehabilitation services to protect their health, functional abilities, and safety. After careful deliberation and in recognition of these risks, its fiduciary duties as a board of trustees, and its regulatory responsibilities as a public governmental body, the Missouri Family Trust Board determined at their meeting on July 30, 2011, that the interests and well being of the public would be best protected by emergency rescissions of the existing rules when the statute took effect on August 28, 2011. The Missouri Family Trust Board of Trustees voted unanimously to instruct the executive director to prepare rule rescissions. As a result, the Missouri Family Trust Board finds an immediate danger to the public health, safety, and welfare and a compelling governmental interest which requires this emergency action. A proposed rescission, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency rescission is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The Missouri Family Trust Board believes this emergency rescission is fair to all interested persons and parties under the circumstances. This emergency rescission was filed November 8, 2011, becomes effective November 25, 2011, and expires May 22, 2012.

AUTHORITY: section 402.210.6., RSMo 2000. Original rule filed July 30, 1992, effective April 8, 1993. Amended: Filed April 29, 2005, effective Dec. 30, 2005. Emergency rescission filed Nov. 8, 2011, effective Nov. 25, 2011, expires May 22, 2012. A proposed rescission covering this same material is published in this issue of the **Missouri Register**.