

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbolology under the heading of proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety- (90-) day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

(1) The following words and terms, used with specific intent throughout this rule and 1 CSR 20-5.020 or in their administration, are defined for clarity:

(C) Sick leave is a benefit granted by the state to the employee in the form of paid time off from work due to illness, under the conditions set forth in 1 CSR 20-5.020(2) **or for Personal Wellness Leave as set forth in 1 CSR 20-5.020(2);**

(E) **Personal Wellness Leave is the ability of an employee to use up to one (1) hour of accrued sick leave per month for personal wellness under specific conditions that are set forth in 1 CSR 20-5.020(2)(O);**

~~(E)~~(F) Paid time off from work authorized by the state and conferred upon the employee by the appointing authority and solely at the discretion of the appointing authority for the purpose deemed appropriate and in the best interest of the state may be called administrative leave; and

~~(F)~~(G) A semi-monthly pay period of semi-month is that period of one-half (1/2) of a calendar month established by the Office of Administration as the pay cycle for state employees.

AUTHORITY: section[s] 36.060, RSMo Supp. 2012, and section 36.070, RSMo [Supp. 1998] 2000. Original rule filed July 21, 1994, effective Feb. 26, 1995. Amended: Filed Sept. 15, 1999, effective April 30, 2000. Amended: Filed Sept. 11, 2013.

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 Personnel Advisory Board, Nancy Johnston, Director of Personnel, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 10:00 a.m., December 10, 2013, in the Personnel Advisory Board Conference Room, Room 430 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 1—OFFICE OF ADMINISTRATION Division 20—Personnel Advisory Board and Division of Personnel

Chapter 5—Working Hours, Holidays and Leaves of Absence

PROPOSED AMENDMENT

1 CSR 20-5.015 Definition of Terms. The Personnel Advisory Board is amending subsection (1)(C), adding subsection (1)(E), and renumbering the remaining subsections.

PURPOSE: The primary focus of the proposed amendment is to expand the permissible use of sick leave to include the use of up to one (1) hour per month of sick leave as Personal Wellness Leave. The proposed amendment describes the types of activities that would properly fall under Personal Wellness Leave as well as conditions that should be met before leave is approved.

Title 1—OFFICE OF ADMINISTRATION Division 20—Personnel Advisory Board and Division of Personnel

Chapter 5—Working Hours, Holidays and Leaves of Absence

PROPOSED AMENDMENT

1 CSR 20-5.020 Leaves of Absence. The Personnel Advisory Board is amending subsections (2)(A) and (2)(H) and paragraphs (2)(B)1. and (2)(B)3. and adding a new subsection (2)(O).

PURPOSE: The primary focus of the proposed amendment is to expand the permissible use of sick leave to include the use of up to one (1) hour per month of sick leave as Personal Wellness Leave. The proposed amendment describes the types of activities that would properly fall under Personal Wellness Leave as well as conditions that should be met before leave is approved. The proposed amendment also includes a slight change to the conditions under which an employee returning to state service within five (5) years of leaving may be credited with previously unused sick leave. Under the current language, employees have argued that leave should be credited if the appointment they return to is non-benefit eligible. The amendment

would not allow an employee to be credited with unused sick leave unless and until the employee returns to a "benefit eligible" position."

(2) Sick leave shall be governed by the following provisions:

(A) Except to the extent restricted below, sick leave under these rules is defined to mean a period in which the employee is incapacitated for the performance of assigned duties by sickness or injury, or by pregnancy, childbirth, and recovery from them, or periods of time required for medical, surgical, dental, or optical examination or treatment, or where through exposure to contagious disease the presence of the employee on duty would jeopardize the health of others, **and shall also include leave requested and approved for the specific purpose of Personal Wellness Leave under specific conditions set forth in 1 CSR 20-5.020(2)(0)**;

(B) Employees who are employed on a fulltime basis in positions of a continuing or permanent nature shall be allowed sick leave with full pay as follows:

1. If they are paid on a semi-monthly pay period, computed at the rate of five (5) hours for each semi-month of service in which they are in pay status for eighty (80) or more hours. For employees paid on a semi-monthly pay period, sick leave will be credited at the rate of one-half (1/2) the full-time accrual rate for semi-months in which the employee is in pay status *[from]* for forty (40) hours and prorated for all hours in which they are in pay status from forty to eighty (40-80) hours. Sick leave will be credited for semi-months in which they are in pay status;

2. Sick leave shall not be credited to employees who have ceased active duty preliminary to separation from the state service except that this provision shall not apply to an employee who has submitted a formal notice of retirement;

3. In all cases where an employee has been absent on sick leave, the employee immediately upon return to work shall submit a statement in a form the appointing authority may require indicating that the absence was due to illness, disease, disability, or other causes for which sick leave is allowed under these rules. The appointing authority shall establish and advise employees of required procedures for initial and continuing notification by the employee to the appointing authority regarding absence due to illness and for submission of a written request for allowance of sick leave together with proof of illness as the appointing authority deems necessary. **The appointing authority shall establish and advise employees of required procedures for approval and documentation by the employee for Personal Wellness Leave. The employee shall submit documentation and request preapproval for Personal Wellness Leave in a form the appointing authority may require in order to be granted Personal Wellness Leave by the appointing authority;**

4. Sick leave shall not be credited to any employee while on a paid leave of absence for educational purposes when that leave is for a period of three (3) or more months;

5. Notwithstanding any other provisions to the contrary, any employee placed on a furlough without pay, pursuant to 1 CSR 20-3.070(8), or who voluntarily requests a leave of absence without pay in lieu of being furloughed, shall continue to earn sick leave as if the employee had actually been working during the time of the furlough. Upon approval of the appointing authority, an employee in a position subject to a furlough may take a voluntary leave of absence without pay in lieu of being furloughed;

(H) All accumulated and unused sick leave shall be credited to any employee returned to a **benefit eligible position** of employment in the state service within five (5) years of leaving the service, transferred to or employed in another division of service, or returning from leave of absence. Leave shall not be accepted in an amount exceeding that which would have been accumulated and transferred under these rules, and an appointing authority shall require that each employee submit a written statement from the former employing agency specifying the basis on which sick leave was earned, the peri-

od of service involved and the total unused leave accumulated. This rule will be applied retroactively with respect to those persons employed on the date this rule is effective who have not previously received credit for these sick leave credits;

(M) When an employee's personal care and attention is required in connection with the adoption of a child, loss of time that is supported by appropriate documentation will be referred to as adoption leave. Such leave will be charged against the employee's accumulated sick leave unless the employee elects to use annual leave or compensatory time. The final decision concerning the granting of leave under this section shall rest with the appointing authority and shall be based upon the degree to which the employee is responsible for providing personal care and attention; *[and]*

(N) Employees of the Missouri School for the Blind, Missouri School for the Deaf, and State Schools for the Severely Handicapped, who are employed for the academic year established for those schools and whose work schedule and attendance are regulated by the class calendar of those schools, shall be exempt from the provisions of this section. In lieu of sick leave with pay as provided in 1 CSR 20-5.020(2)(A), sick leave and sick leave compensation for these employees shall be as established by the appointing authority in a comprehensive leave policy consistent with the work schedule necessary to accommodate the annual academic calendar of their schools*./*; and

(O) Employees will be permitted to use only one (1) hour of accrued sick leave per month for Personal Wellness Leave. Personal Wellness Leave shall not accrue or accumulate. Personal Wellness Leave shall only be used for a program or activity directly related to health promotion or disease prevention for the individual employee. Qualifying activities include, but are not limited to: attending a gym or a fitness class; taking a walk, jogging, bicycling; attending a class, seminar or webinar on diet, exercise, or wellness-related topics; participating in an event or activity facilitated by a Department Wellness Team; attending yoga, aerobics, kickboxing, or other health related course; participating in a tobacco cessation, weight management, stress management, or other related disease management session. Examples of inappropriate use of Personal Wellness Leave include, but are not limited to: shopping; running errands; visiting family members and friends; taking extended lunch periods wherein health and wellness is not the focus of the lunch. The final decision concerning the granting of leave under this section shall rest with the appointing authority and can be denied if operational needs of the employer would be hindered by granting said leave or if the leave is not properly requested or used for permissible purposes under this rule.

AUTHORITY: section 36.070, RSMo 2000. Original rule filed Aug. 20, 1947, effective Aug. 30, 1947. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 11, 2013.

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 Personnel Advisory Board, Nancy Johnston, Director of Personnel, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 10:00 a.m., December 10, 2013, in the Personnel Advisory Board Conference Room, Room 430 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO.

**Title 7—DEPARTMENT OF TRANSPORTATION
Division 60—Traffic and Highway Safety Division
Chapter 2—Breath Alcohol Ignition Interlock Device
Certification and Operational Requirements**

PROPOSED AMENDMENT

7 CSR 60-2.010 Definitions. The Missouri Highways and Transportation Commission is amending the division title and subsection (1)(A).

PURPOSE: This proposed amendment defines the terms used in the breath alcohol ignition interlock device certification and operational requirements.

(1) Definitions.

(A) The following words and terms as used in these requirements shall have the following meaning:

1. Alcohol retest setpoint—The breath alcohol concentration at which the ignition interlock device is set *[to lock the ignition]* for the rolling retests;

2. Alcohol setpoint—The breath alcohol concentration at which the ignition interlock device is set to lock the ignition. The alcohol setpoint is the nominal lock point at which the ignition interlock device is set at the time of calibration;

3. Alveolar air—Deep lung air or alveolar breath, which is the last portion of a prolonged, uninterrupted exhalation;

4. Authorized service provider—A person, company, or authorized franchise who is certified by the state of Missouri to provide breath alcohol ignition interlock devices under sections 577.600–577.614, RSMo;

5. Bogus breath sample—Any gas sample other than an unaltered, undiluted, and unfiltered alveolar air sample from a driver;

6. Breath alcohol concentration (BAC)—The number of grams of alcohol (% weight/volume) per two hundred ten (210) liters of breath;

7. Breath alcohol ignition interlock device (BAIID)—A mechanical unit that is installed in a vehicle which requires the taking of a BAC test prior to the starting of the vehicle and at periodic intervals after the engine has been started. If the unit detects a BAC test result below the alcohol setpoint, the unit will allow the vehicle's ignition switch to start the engine **and will provide a warning message**. If the unit detects a BAC test result at or above the alcohol setpoint, the vehicle will be prohibited from starting;

8. Breath sample—Expired human breath containing primarily alveolar air;

9. Calibration—The process which ensures an accurate alcohol concentration reading on a device;

10. Circumvention—An unauthorized, intentional, or overt act or attempt to start, drive, or operate a vehicle equipped with a breath alcohol ignition interlock device without the driver of the vehicle providing a pure breath sample;

11. **Committee—The persons delegated to conduct informal reviews of suspension or revocation of a device by the Missouri Highways and Transportation Commission;**

12. **Designated monitoring period—The period of time indicated by the Department of Revenue for required monitoring of the driver's ignition interlock use by the authorized service provider;**

[11.]13. Device—Breath alcohol ignition interlock device (BAIID);

[12.]14. Download—The transfer of information from the interlock device's memory onto disk or other electronic or digital transfer protocol;

[13.]15. Emergency service—Unforeseen circumstances in the use and/or operation of a breath alcohol ignition interlock device, not covered by training or otherwise documented, which requires immediate action;

[14.]16. Filtered breath sample—A breath sample which has

been filtered through a substance in an attempt to remove alcohol from the sample;

17. **Global positioning system—A feature of the device that will log the location (longitude and latitude), date, and time of each breath sample including any refusal, any circumvention attempt, and any attempt to tamper with the ignition interlock device;**

[15.]18. Independent laboratory—A laboratory which is properly equipped and staffed to conduct laboratory tests on ignition interlock devices;

[16.]19. Initial breath test—A breath test required to start a vehicle to ensure that the driver's BAC is below the alcohol setpoint;

[17.]20. Installation—Mechanical placement and electrical connection of a breath alcohol ignition interlock device in a vehicle by installers;

[18.]21. Installer—A dealer, distributor, supplier, individual, or service center who provides device calibration, installation, and other related activities as required by the authorized service provider;

[19.]22. Lockout—The ability of the device to prevent a vehicle's engine from starting unless it is serviced or recalibrated;

[20.]23. NHTSA—Federal agency known as the National Highway Traffic Safety Administration;

[21.]24. Operator—Any person who operates a vehicle that has a court-ordered or Department of Revenue required breath alcohol ignition interlock device installed;

[22.]25. Permanent lockout—A feature of a device in which a vehicle will not start until the device is reset by a device installer;

26. **Photo ID technology—A feature of the device that incorporates technology that will photograph the person who is providing the breath test;**

27. **Refusal—The failure of a driver to provide a breath sample and complete the breath test when prompted by the ignition interlock device;**

[23.]28. Pure breath sample—Expired human breath containing primarily alveolar air and having a breath alcohol concentration below the alcohol setpoint of twenty-five thousandths (.025);

[24.]29. Reinstallation—Replacing a breath alcohol ignition interlock device in a vehicle by an installer after it has been removed for service;

[25.]30. Retest—Two (2) additional chances to provide a breath sample below the alcohol setpoint when the first sample failed; or three (3) chances to provide a breath alcohol sample below the alcohol setpoint on the rolling retest;

31. **Revocation—A revocation is a removal of a device from the approved list and requires reapplication under 7 CSR 60-2.020. After revocation, an authorized service provider must wait at least one (1) year or longer, if determined by Traffic and Highway Safety Division or the Committee, before reapplication;**

[26.]32. Rolling retest—A subsequent breath test that must be conducted **within** five (5) minutes after starting the vehicle and randomly during each subsequent thirty- (30-)/-minute time period thereafter while the vehicle is in operation;

[27.]33. Service lockout—A feature of the breath alcohol ignition interlock device which will not allow a breath test and will not allow the vehicle to start until the device is serviced and recalibrated as required;

34. **Suspension—The period after a finding by the Missouri Department of Transportation, Traffic and Highway Safety Division or the committee designated by the Missouri Highways and Transportation Commission to conduct informal review of a device that is to be or has been removed from the list of approved devices. A suspension is temporary and may not require the manufacturer to go through the approval procedure although the Traffic and Highway Safety Division or the committee may impose requirements before the suspension is removed;**

[28.]35. Tampering—An overt, purposeful attempt to physically alter or disable an ignition interlock device, or disconnect it from its power source, or remove, alter, or deface physical anti-tampering

measures, so a driver can start the vehicle without taking and passing an initial breath test;

[29.]36. Temporary lockout—A feature of the device which will not allow the vehicle to start for fifteen (15) minutes after three (3) failed attempts to blow a pure breath sample; and

[30.]37. Violations reset—A feature of a device in which a service reminder is activated due to one (1) of the following reasons:

A. Two (2) fifteen- (15-)/-minute temporary lockouts within a thirty- (30-)/-day period;

B. Any three (3) refusals to provide a retest sample within a thirty- (30-)/-day period; [or]

C. Any three (3) retest breath samples above the alcohol set-point within a thirty- (30-)/-day period[.]; or

D. Any attempts to circumvent or tamper with a device.

AUTHORITY: sections 302.060, 302.304, 302.309, and 302.525, RSMo Supp. 2012, sections 577.041, 577.600–577.614, RSMo 2000 and RSMo Supp. [2009] 2012, and section 226.130, RSMo 2000. This rule originally filed as 11 CSR 60-2.010. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 12, 2013, effective Oct. 1, 2013, expires March 29, 2014. Amended: Filed Sept. 12, 2013.

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 Department of Transportation, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. 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 7—DEPARTMENT OF TRANSPORTATION Division 60—Traffic and Highway Safety Division Chapter 2—Breath Alcohol Ignition Interlock Device Certification and Operational Requirements

PROPOSED AMENDMENT

7 CSR 60-2.020 Approval Procedure. The Missouri Highways and Transportation Commission is amending the division title and subsections (1)(B) and (1)(C).

PURPOSE: This proposed amendment outlines the necessary steps for manufacturers to get their interlock devices approved and certified in the state of Missouri.

(1) Approval Procedure.

(B) Application.

1. Application to become an authorized service provider must be made by submitting a letter requesting approval of a breath alcohol ignition interlock device to the /S/state of Missouri, Department of Transportation, **Traffic and Highway Safety Division**, PO Box 270, Jefferson City, MO 65102, in the manner described herein. All applicants must certify that their device—

A. Does not impede the safe operation of a vehicle;

B. Minimizes opportunities to circumvent the device; and

C. Prevents an operator from starting a vehicle when the operator has a breath alcohol concentration which exceeds the alcohol setpoint.

2. An application for certification must include all of the following:

A. A written request for certification of a device on the company's letterhead, signed by an authorized representative of the company;

B. The name and business address of the applicant;

C. The name and model number of the device[. A separate application is required for each model of device];

D. Complete technical specifications describing the device's accuracy, reliability, security, data collection and recording, tamper detection, and environmental features;

E. A quality control plan that outlines the requirements for installation sites, service centers, and technicians who install and/or service ignition interlock devices. The plan must be submitted annually, or when changes occur, and must include, but not be limited to, the following:

(I) Certification that ignition interlock technicians do not have two (2) or more alcohol-related enforcement contacts as defined in section 302.525, RSMo, or a manslaughter, involuntary manslaughter, or any other type of crime or conduct involving moral turpitude that would compromise the program;

(II) Installation sites and service centers are operating as a business meeting all federal, state, and local government regulations;

(III) The process the authorized service provider will use for ongoing supervision of the sites and technicians in the state; and

(IV) Outline suspension and revocation procedures for installation sites, service centers, and technicians for non-compliance of requirements set forth in 7 CSR 60-2.010 through 7 CSR 60-2.060 or any policies outlined by the authorized service provider;

[E]/F. Before May 8, 2014, [A/a complete and certified copy of data from an independent laboratory demonstrating that the device meets or exceeds the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 57 FR 11772–11787 (April 7, 1992), which is incorporated by reference and made a part of this rule as published in the Federal Register by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective April 7, 1992. This rule does not incorporate any subsequent amendments or additions to this publication. On and after May 8, 2014, a complete and certified copy of data from an independent laboratory demonstrating that the device meets or exceeds the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 78 FR 26849–26867 as published in the Federal Register on May 8, 2013 by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and that shall become effective beginning on March 8, 2014, which is hereby incorporated by reference and made a part of this rule. This paragraph does not incorporate any subsequent amendments or additions to this publication;

[F]/G. A complete listing of all installers that includes the name, location, phone number, contact name, and hours of operation; [and]

[G]/H. The applicant's toll-free customer service/question/complaint hot-line number[.]; and

I. A separate application is required for devices that differ in any operational aspect.

3. The applicant seeking certification shall—

A. Agree to ensure any service performed outside the state of Missouri on a device installed pursuant to Missouri law shall be in compliance with all requirements included herein;

B. Agree to ensure proper record keeping and provide testimony relating to any aspect of the installation, service, repair, removal, interpretation of any report, or information recorded in

the data storage system of a device;

C. Advise the Missouri Department of Transportation, Traffic and Highway Safety Division, whether the device for which certification is being sought in Missouri is the subject of any action to disallow, or has ever been, in any way, disallowed for use in another state whether such action occurred before or after approval in Missouri and if or when such action is or has been appealed in the other state and the outcome of the appeal;

D. Upon request of the Missouri Department of Transportation, Traffic and Highway Safety Division, and/or an agent of the state, for each device submitted for certification or certified under this section, agree to install the device with all proposed anti-circumvention features activated in a vehicle provided by the state, and/or an agent of the state; and

E. The state, and/or an agent of the state, may conduct compliance testing on the device submitted for certification and periodically throughout the certification period.

[3.]4. All compliance costs associated with the [certification and recertification process] requirements set forth in 7 CSR 60-2.010 through 7 CSR 60-2.060 shall be borne by the applicant or authorized service provider.

(C) Approval.

1. The state of Missouri will issue a letter of certification or a letter of refusal to certify within sixty (60) days after receipt of a completed application. No device should be deemed approved, regardless of the time frame, unless the applicant has received written notification from the state of Missouri, Department of Transportation, Traffic and Highway Safety Division.

2. The state of Missouri will notify applicants for certification if their application is incomplete and, if the application is incomplete, will specify what information or documents are needed to complete the application.

3. The state of Missouri, Department of Transportation, Traffic and Highway Safety Division, will publish and maintain a list of approved devices. The list will be updated as changes occur.

AUTHORITY: sections 302.060, 302.304, 302.309, and 302.525, RSMo Supp. 2012, sections 577.041, 577.600–577.614, RSMo 2000 and RSMo Supp. [2008] 2012, and section 226.130, RSMo 2000. This rule originally filed as II CSR 60-2.020. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. Moved to 7 CSR 60-2.020, effective Aug. 28, 2003. Emergency amendment filed Sept. 12, 2013, effective Oct. 1, 2013, expires March 29, 2014. Amended: Filed Sept. 12, 2013.

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 Department of Transportation, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. 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 7—DEPARTMENT OF TRANSPORTATION
Division 60—Traffic and Highway Safety Division
Chapter 2—Breath Alcohol Ignition Interlock Device
Certification and Operational Requirements**

PROPOSED AMENDMENT

7 CSR 60-2.030 Standards and Specifications. The Missouri Highways and Transportation Commission is amending the division title, subsections (1)(A)–(1)(F), and adding a new subsection (1)(G).

PURPOSE: This proposed amendment clarifies installation and certification standards and procedures for ignition interlock devices in the state of Missouri.

(1) Standards and Specifications.

(A) [Beginning July 1, 2009,] Before May 8, 2014, all devices [newly] installed into a vehicle must be based on electro-chemical fuel cell sensor technology and shall meet or exceed the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration, identified as “Model Specifications for Breath Alcohol Ignition Interlock Devices” 57 FR 11772–11787 (April 7, 1992), which is incorporated by reference and made a part of this rule as published in the *Federal Register* by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective April 7, 1992. This rule does not incorporate any subsequent amendments or additions to this publication. [Beginning July 1, 2011, all devices currently installed in an operator’s vehicle that are not electro-chemical fuel cell technology shall be removed by the authorized service provider of the non-electro-chemical fuel cell device and such authorized service provider shall install new devices based on electro-chemical fuel cell technology, which must be selected from the state of Missouri’s list of such approved devices. The authorized service provider shall notify by May 1, 2011, operators with non-electro-chemical fuel cell devices in their vehicles that such devices are to be removed from the operators’ vehicles at the cost of the authorized service provider and that new devices shall be installed at the authorized service provider’s expense.] On and after May 8, 2014, installed into a vehicle must be based on electro-chemical fuel cell sensor technology and shall meet or exceed the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration, identified as “Model Specifications for Breath Alcohol Ignition Interlock Devices” 78 FR 26849–26867 as published in the *Federal Register* by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and that shall become effective beginning on May 8, 2014, which is hereby incorporated by reference and made a part of this rule. This paragraph does not incorporate any subsequent amendments or additions to this publication.

1. All devices approved by the Missouri Department of Transportation, Traffic and Highway Safety Division, must contain an anti-circumvention feature to help deter bogus breath samples and that feature should not be disengaged by any other person, including, but not limited to, the installer.

2. All devices approved by the Missouri Department of Transportation, Traffic and Highway Safety Division, shall be programmed to allow the vehicle to be restarted without requiring an additional breath test for three (3) minutes after the ignition has been turned off or the vehicle has stalled, except when the driver has failed to take a random test or has provided a breath sample over the alcohol setpoint.

3. An ignition interlock installer shall—

A. Be prohibited from installing an ignition interlock device on a vehicle that is inoperable. Any vehicle towed in for installation must be driven away from the installation facility of its own power;

B. Ensure that a driver or other unauthorized person does not witness the installation or removal of an ignition interlock device; and

C. Inspect all vehicles prior to installation to determine that mechanical and electrical parts of the vehicle affected by an ignition interlock device are deemed in acceptable condition by

the technician and not install a device unless and until the vehicle is in acceptable condition.

4. The following anti-tampering measures shall be utilized when installing an ignition interlock device:

A. Place all connections between a device and the vehicle under the dash or in an inconspicuous area of the vehicle;

B. Cover all of the following connections with unique and easily identifiable seal, epoxy, resin, wire, sheathing, or tape:

(I) Any wiring between an ignition interlock device and the vehicle;

(II) All wires used to install the device that are not inside a secured enclosure; and

(III) All exposed electrical connections.

(B) All approved devices must have an alcohol setpoint of twenty-five thousandths (.025) for initial startup.

1. A device shall be programmed to allow a maximum of three (3) attempts to blow a breath sample below the alcohol setpoint within a ten- (10-)/-minute period.

2. Three (3) failed startup attempts within a ten- (10-)/-minute period shall result in a fifteen- (15-)/-minute temporary lockout.

3. Two (2) fifteen- (15-)/-minute temporary lockouts within a thirty- (30-)/-day period will result in a violations reset message.

4. The violations reset message shall instruct the operator to return the device to the installer for servicing within *[five (5)] seven (7) [working]* days.

A. As the result of a reset message, the installer must download and calibrate the device.

B. The installer must report all violations to the court-ordered supervising authority within three (3) working days.

5. If the vehicle is not returned to the installer within *[five (5)] seven (7) [working]* days, the device shall cause the vehicle to enter a permanent lockout condition.

(C) A rolling retest feature is required for all devices.

1. A device shall be programmed to require a rolling retest within five (5) minutes after the start of the vehicle and randomly during each subsequent thirty- (30-)/-minute time period thereafter as long as the vehicle is in operation.

2. Any breath sample above the alcohol retest setpoint of twenty-five thousandths (.025) or any failure to provide a rolling retest sample within five (5) minutes shall activate the vehicle's horn or other installed alarm and/or cause the vehicle's emergency lights to flash until the engine is shut off by the operator. Three (3) rolling retest breath samples above the alcohol setpoint or three (3) refusals by the driver to provide a retest sample within a thirty- (30-)/-day period *[will]* shall result in a violations reset message.

3. The violations reset message shall instruct the operator to return the device to the installer for servicing within *[five (5)] seven (7) [working]* days.

A. As the result of a reset message, the installer must download and calibrate the device.

B. The installer must report all violations to the court-ordered supervising authority within three (3) working days.

4. If the vehicle is not returned to the installer within *[five (5)] seven (7) [working]* days, the device shall cause the vehicle to enter a permanent lockout condition.

(D) The device shall be calibrated at least once every thirty (30) days. If the vehicle is not returned to the installer within *[five (5)] seven (7) [working]* days of a scheduled service date, the device shall cause the vehicle to enter a service lockout condition.

(E) A device shall record data in its memory in such a manner that a hard copy report can be printed which includes all of the following information:

1. The date and time of any use or attempted use of a vehicle;

2. The date and time of any act or attempt to tamper or circumvent the device;

3. The date, time, and breath alcohol concentration, in grams per two hundred ten (210) liters of air, of each breath sample provided to the device;

4. The date and time of any malfunctions of the device;

5. The date and time of any failures to provide retest samples;

6. The date that a "service required" (that is, violations reset) message is issued to the operator; *[and]*

7. The date that any service is performed *[.];* and

8. Photo identification and global positioning data when the features are enabled as required by the court supervising authority, Department of Revenue, or Missouri statute. The GPS and photo ID data should be captured during the events outlined in paragraphs 2. through 5. above.

(F) A device must provide all of the following information to an operator:

1. The device's readiness for acceptance of a breath sample;

2. A numeric display of the breath alcohol concentration in grams per two hundred ten (210) liters of air, or a visual pass/fail indicator, or a combination audio response and visual pass/fail indicator, or a combination audio response and a numeric display;

3. A reminder seven (7) working days prior to a scheduled service date; and

4. A warning to obtain service within *[five (5)] seven (7) [working]* days if any of the following conditions occur:

A. Any act or attempt to tamper or circumvent the device; and

B. A scheduled service date is missed.

(G) The sale or use of any type of remote code or reset feature allowing a driver to bypass an installed ignition interlock without providing a pure breath sample at startup or during operation of the vehicle is prohibited.

AUTHORITY: sections 302.060, 302.304, 302.309, and 302.525, RSMo Supp. 2012, sections 577.041, 577.600-577.614, RSMo 2000 and RSMo Supp. [2009] 2012, and section 226.130, RSMo 2000. This rule originally filed as 11 CSR 60-2.030. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 12, 2013, effective Oct. 1, 2013, expires March 29, 2014. Amended: Filed Sept. 12, 2013.

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 Department of Transportation, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. 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 7—DEPARTMENT OF TRANSPORTATION
Division 60—Traffic and Highway Safety Division
Chapter 2—Breath Alcohol Ignition Interlock Device
Certification and Operational Requirements**

PROPOSED AMENDMENT

7 CSR 60-2.040 Responsibilities of Authorized Service Providers. The Missouri Highways and Transportation Commission is amending the division title and subsections (1)(A) and (1)(B).

PURPOSE: This proposed amendment clarifies the record keeping protocols for breath alcohol ignition interlock device authorized service providers.

(1) Responsibilities of Authorized Service Providers.

(A) The responsibilities of a breath alcohol ignition interlock device authorized service provider to the state of Missouri shall include:

1. The authorized service provider shall carry product liability insurance with minimum liability limits of one (1) million dollars per occurrence and three (3) million dollars aggregate total. The liability insurance shall include coverage for defects in product design and materials as well as manufacturing, calibration, installation, and removal of devices. The authorized service provider shall ensure that its installers are named additional insureds or that its installers carry like insurance in the amounts stated herein. The proof of insurance shall include a statement from the insurance company that thirty (30) days' notice will be given to the director, **Traffic and Highway Safety Division**, before cancellation of the insurance. Proof of insurance must be submitted to the Missouri Department of Transportation, **Traffic and Highway Safety Division** within thirty (30) days after a Letter of Certification has been issued. Failure to provide certificate of insurance may result in suspension or revocation of approval for the device;

2. The authorized service provider shall indemnify and hold harmless the state of Missouri and its officers, employees, and agents from all claims, demands, actions, and costs whatsoever which may arise, directly or indirectly, out of any act or omission by the authorized service provider or its installers relating to the installation, service, repair, use, or removal of a device;

3. The authorized service provider shall provide expert or other required testimony in any civil or criminal proceedings or administrative hearings as to the method of manufacture of the device, how said device functions, *[and]* the testing protocol by which the device was evaluated for approval, **and interpretation of any report or information recorded in the data storage system of the device**. Failure to provide testimony may result in suspension or revocation of approval for the device;

4. **Before May 8, 2014, [T]he authorized service provider shall** notify the Missouri Department of Transportation, **Traffic and Highway Safety Division** in writing of any material modification or alteration in the components, design, or installation and operating instructions of any device approved for use in the state of Missouri and shall provide the **Traffic and Highway Safety Division** satisfactory proof that any modifications or alterations do not adversely affect the ability of the device to satisfy the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 57 FR 11772-11787 (April 7, 1992), which is incorporated by reference and made a part of this rule as published in the *Federal Register* by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective April 7, 1992. This rule does not incorporate any subsequent amendments or additions to this publication. **Also, on and after May 8, 2014, the authorized service provider shall notify the Missouri Department of Transportation, Traffic and Highway Safety Division in writing of any material modification or alteration in the components, design, or installation and operating instructions of any device approved for use in the state of Missouri and shall provide the Traffic and Highway Safety Division satisfactory proof that any modifications or alterations do not adversely affect the ability of the device to satisfy the standards established by the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 78 FR 26849-26867 as published in the Federal Register on May 8, 2013 by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and that shall become effective beginning on May 8, 2014, which is hereby incorporated by reference and made a part of this rule. This paragraph does not incorporate any subsequent amendments or additions to this publication;**

5. The authorized service provider must provide informational materials to the Division of Probation and Parole, the circuit courts (including circuit, associate, and municipal divisions), and the Department of Revenue for distribution to operators at no cost;

6. In cases of operator noncompliance, the authorized service provider or his/her installer must notify the appropriate court-ordered supervising authority before the end of the next working day. Noncompliance shall include tampering, circumvention, violations resets, high breath alcohol concentration (BAC), missing a scheduled service date, or other noncompliance as determined by the referring court;

7. The authorized service provider shall notify the appropriate court-ordered supervising authority by the end of the next working day of removal of a device;

8. The authorized service provider, **installation site, and service center** shall conduct physical tamper inspections any time the device is serviced or given routine inspection, maintenance, or repair. Tamper inspections shall include the following:

A. Inspection of all external wiring, insulation, connections, tamper seals, and sheathing for the device and where the device connects to the vehicle; and

B. Checking the device for proper operation to ensure tamper detection capabilities;

9. The authorized service provider must immediately notify the chief law enforcement official of the county, or a city not within a county, where the installer is located, and the court-ordered supervising authority of any evidence of tampering with or circumvention of the device. The evidence must be preserved by the authorized service provider or his/her installer until otherwise notified by local law enforcement officials;

10. The authorized service provider must provide summary reports every thirty (30) days to the court-ordered supervising authority. The summary reports must contain a summary of violations, the number of starts, and all noncompliance on devices placed in service in the state of Missouri under sections 577.600-577.614, RSMo;

11. The authorized service provider must provide to the court-ordered supervising authority additional reports, to include, but not be limited to, records of installation, calibrations, maintenance checks, and usage records on devices placed in service in the state of Missouri under sections 577.600-577.614, RSMo. These records shall be agreed upon and transmitted using electronic transfer protocols or in hard copy;

12. The authorized service provider must provide a quarterly status report to the Missouri Department of Transportation, **Traffic and Highway Safety Division**. The first quarter of each year shall be January 1 through March 31. The quarterly reports should reach the **Traffic and Highway Safety Division** on or before the fifteenth of the month immediately following the end of the quarter. The reports shall be filed electronically and contain the following information: the name of the ignition interlock device, total number of devices in operation in Missouri each quarter at the time of reporting, total number of devices installed during the quarter, total number of voluntary installations during the quarter, total number of devices removed during the quarter, **total number of breath tests**, total number of breath alcohol tests resulting in a BAC above the alcohol setpoint, total number of attempts to circumvent the device **as defined in 7 CSR 60-2.010**, **total number of vehicle starts**, **total number of miles driven**, and the total number of devices that malfunctioned or were defective;

13. The authorized service provider shall grant the state of Missouri, **or an agent of the state**, the right to inspect or request copies of any and all operator files and records on a random basis **at no cost**;

14. The authorized service provider shall supply for each ignition interlock device installed as a result of a Missouri *[probation order]* **ignition interlock requirement** a warning label, which shall not be less than one-half inch (1/2") in height by three inches (3") in

length and shall contain the following language: "WARNING! ANY PERSON TAMPERING, CIRCUMVENTING OR OTHERWISE MISUSING THIS DEVICE IS GUILTY OF A CLASS A MISDEMEANOR.";

15. The authorized service provider must notify the **Traffic and Highway Safety Division** electronically [*or in writing*] of changes in the status of any installer and additions or deletions or other changes to its complete listing of all installers that includes the name, location, phone number, and contact name[, and hours of operation]. Such notification shall occur at least once per month and shall occur more frequently if additional changes are made; [*and*]

16. Data downloaded from an ignition interlock device shall be—

A. Reviewed by the authorized service provider for any evidence of violations reset, tampering, and/or circumvention as defined in 7 CSR 60-2.010 for the designated monitoring period; and

B. All information obtained as a result of each calibration or inspection must be retained by the authorized service provider for three (3) years from the date the ignition interlock device is removed from the vehicle;

[16.]17. The authorized service provider shall electronically notify the Department of Revenue in a format as determined by the director of revenue within one (1) working day of the following:

A. The date the ignition interlock device was installed;

B. [*The driver's failure to have the ignition interlock device calibrated every thirty (30) days*] **A service lockout condition; [*and*]**

C. The date the ignition interlock device was removed[.]; and

D. The completion of the designated monitoring period of ignition interlock use by the driver with no violation resets, tampering, and/or circumventions as defined in 7 CSR 60-2.010;

18. Each installation site and service center must maintain records documenting all calibrations, downloads, and any other services performed on an ignition interlock device, including service of a violation reset; and

19. Retention of the record of installation, calibrations, downloads, service, and associated invoices must be maintained for a minimum of three (3) years.

(B) The responsibilities of an authorized service provider to the operator shall include:

1. Written instructions on how to clean and care for the device;

2. Written instructions on what type of vehicle malfunctions or repairs may affect the device, and what to do when such repairs are necessary;

3. Written and hands-on training for the operator, and all persons who will use the vehicle, on how to use the device after it is installed in the operator's vehicle. Training shall include operation, maintenance, and safeguards against improper operations;

4. A[*n emergency*] twenty-four- (24-)/-hour toll-free telephone number that the operator may contact to receive assistance in the event of device failure or vehicle problems related to the interlock device. **Calls must either be answered by an ignition interlock technician qualified to service the manufacturer's ignition interlock device, or the call must be returned by a qualified technician within thirty (30) minutes of the original call.**

A. Assistance shall include technical information, tow service, and/or road service.

B. [*Emergency a*] Assistance related to the failure of a device should be provided within two (2) hours [*for vehicles located in or near an area with an installation or repair center*].

C. The device must be made functional within twenty-four (24) hours from when the call for assistance is made or the device must be replaced;

5. Restoration of the operator's vehicle to its original condition after removal of the breath alcohol ignition interlock device; and

6. Access to an enclosed building with a separate waiting area for operators. If installation is by a mobile unit, the operator must

have a separate, enclosed waiting area available.

AUTHORITY: sections 302.060, 302.304, 302.309, and 302.525, RSMo Supp. 2012, sections 577.041, 577.600–577.614, RSMo 2000 and RSMo Supp. [2008] 2012, and section 226.130, RSMo 2000. This rule originally filed as 11 CSR 60-2.040. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 12, 2013, effective Oct. 1, 2013, expires March 29, 2014. Amended: Filed Sept. 12, 2013.

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 Department of Transportation, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. 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 7—DEPARTMENT OF TRANSPORTATION
Division 60—Traffic and Highway Safety Division
Chapter 2—Breath Alcohol Ignition Interlock Device
Certification and Operational Requirements**

PROPOSED AMENDMENT

7 CSR 60-2.050 Breath Alcohol Ignition Interlock Device Security. The Missouri Highways and Transportation Commission is amending the division title and subsection (1)(A).

PURPOSE: This proposed amendment provides for physical tamper inspection by authorized breath alcohol ignition interlock service providers.

(1) Security.

(A) The authorized service providers shall be responsible for ensuring that the installers comply with all of the following security requirements:

1. Only authorized [*employees*] technicians of an installer may observe the installation of a device. Reasonable security measures must be taken to prevent the operator from observing the installation of a device, or obtaining access to installation materials;

2. An installer is prohibited from assisting or facilitating any tampering or circumvention of a device; [*and*]

3. An installer [*may*] shall not install or service a device on a vehicle owned or operated by any of its employees[.]; and

4. Physical tamper inspections shall be conducted any time the device is serviced or given routine inspection, maintenance, or repair. Tamper inspections shall include the following:

A. Inspection of all external wiring, insulation, connections, tamper seals, and sheathing for the device and where the device connects to the vehicle; and

B. Checking the device for proper operation to ensure tamper detection capabilities.

AUTHORITY: sections 302.060, 302.304, 302.309, and 302.525, RSMo Supp. 2012, sections 577.041, 577.600–577.614, RSMo 2000 and RSMo Supp. [2008] 2012, and section 226.130, RSMo 2000. This rule originally filed as 11 CSR 60-2.050. Emergency rule filed

Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. Moved to 7 CSR 60-2.050, effective Aug. 28, 2003. Emergency amendment filed Sept. 12, 2013, effective Oct. 1, 2013, expires March 29, 2014. Amended: Filed Sept. 12, 2013.

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 Department of Transportation, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. 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 7—DEPARTMENT OF TRANSPORTATION
Division 60—Traffic and Highway Safety Division
Chapter 2—Breath Alcohol Ignition Interlock Device
Certification and Operational Requirements**

PROPOSED AMENDMENT

7 CSR 60-2.060 Suspension, or Revocation of Approval of a Device. The Missouri Highways and Transportation Commission is amending the division title and section (1) and adding sections (2) and (3).

PURPOSE: This proposed amendment clarifies the conditions for which ignition interlock device certification may be suspended or revoked.

(1) Suspension[, or Revocation] of Approval of a Device.

(A) The state of Missouri, Department of Transportation, Traffic and Highway Safety Division may suspend [or revoke] approval of a device, and temporarily remove it from the list of approved devices, for any of the following reasons:

[1. Defects in design, materials, or workmanship causing repeated failures of a device;]

[2.]1. Termination or cancellation of an authorized service provider's liability insurance;

[3. Discontinuance in the business of manufacturing devices;]

[4.]2. Voluntary request by an authorized service provider to [cancel] suspend approval of a device; or

[5. Violation by an authorized service provider, or installer, of any of the provisions set forth in 7 CSR 60-2.010 through 7 CSR 60-2.060; or

6. Modification or alteration of the components, design, or installation and operation instructions in such a way that the requirements of the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 57 FR 11772-11787, which is incorporated by reference and made a part of this rule as published in the *Federal Register* by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective April 7, 1992, are no longer satisfied. This rule does not incorporate any subsequent amendments or additions to this publication.]

3. Any issues with a device, installation site, service center, or technician that are determined to be minor in nature and do not compromise the safety of the public.

(B) A suspension shall last for at least ninety (90) days after the final decision of the Missouri Department of Transportation, Traffic and Highway Safety Division, or the committee, whichever comes last. A device that has been suspended may have to follow the procedures of 7 CFR 60-2.020 to become re-approved. The Missouri Department of Transportation, Traffic and Highway Safety Division, or the committee may impose additional requirements to ensure the safety of the public for a suspended device to be approved. Actions that have the effect of jeopardizing public safety by the authorized service provider and/or their installers may result in a longer suspension, not to exceed one (1) year.

(2) Revocation of Approval of a Device.

(A) The state of Missouri, Department of Transportation, Traffic and Highway Safety Division may revoke approval of a device, and remove it from the list of approved devices, for any of the following reasons:

1. Defects in design, materials, or workmanship causing repeated failures of a device;

2. Discontinuance in the business of manufacturing devices;

3. Voluntary request by an authorized service provider to revoke approval of a device;

4. Violation by an authorized service provider, or installer, of any of the provisions set forth in 7 CSR 60-2.010 through 7 CSR 60-2.060; or

5. Before May 8, 2014, modification or alteration of the components, design, installation, and operation instructions in such a way that the requirements of the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 57 FR 11772-11787 (April 7, 1992), as published in the *Federal Register* by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and effective April 7, 1992, and which is hereby incorporated by reference and made a part of this rule, are no longer satisfied. This paragraph 5. does not incorporate any subsequent amendments or additions to this publication.

6. On and after May 8, 2014, modification or alteration of the components, design, installation, and operation instructions in such a way that the requirements of the United States Department of Transportation, National Highway Traffic Safety Administration, identified as "Model Specifications for Breath Alcohol Ignition Interlock Devices" 78 FR 26849-26867 as published in the *Federal Register* on May 8, 2013 by the National Highway Traffic Safety Administration, 1200 New Jersey SE, Washington, DC 20590 and that shall become effective beginning on May 8, 2014, which is hereby incorporated by reference and made a part of this rule, are no longer satisfied. This paragraph 6. does not incorporate any subsequent amendments or additions to this publication.

(B) A revocation shall last for at least one (1) year after the final decision of the Missouri Department of Transportation, Traffic and Highway Safety Division or the committee, whichever comes last. A device that has been revoked will have to follow the procedures of 7 CFR 60-2.020 to become approved. The Missouri Department of Transportation, Traffic and Highway Safety Division or the committee may impose additional requirements to ensure the safety of the public for a revoked device to be approved. Actions that have the effect of jeopardizing public safety by the authorized service provider and/or their installers may result in a longer revocation, not to exceed five (5) years.

(3) Notice and Review.

[(B)](A) Notice of suspension or revocation shall be mailed to a

representative of the authorized service provider at the last known address on file with the Missouri Department of Transportation, **Traffic and Highway Safety Division**. The notice is deemed received three (3) days after mailing unless returned by postal authorities.

(C)(B) A suspension or revocation is effective fifteen (15) days after notification is deemed received by the authorized service provider **when no written request for an informal review has been received by the Missouri Department of Transportation, Traffic and Highway Safety Division.**

(C) If, in the sole discretion of the Missouri Department of Transportation, **Traffic and Highway Safety Division**, the device shall be suspended or revoked immediately due to a risk to public safety, such suspension or revocation is effective the day notification is deemed received by the authorized service provider.

(D) An authorized service provider may request an informal review of a suspension or revocation. This request must be submitted to the Missouri Department of Transportation, **Traffic and Highway Safety Division**, in writing, within ten (10) days of receipt of a notice of suspension or revocation.

1. The informal review may be conducted in person, in writing, or by telephone with Missouri Department of Transportation, **Traffic and Highway Safety Division** personnel delegated to conduct such informal review by the Missouri Highways and Transportation Commission.

2. In the event that the informal review is unable to resolve the dispute between the **Traffic and Highway Safety Division** and the authorized service provider, the *[initial determination]* committee may issue a decision which shall become the final decision of the commission.

(E) Within *[ninety (90)]* **thirty (30)** days of the event of suspension, revocation or voluntary surrender of approval, an authorized service provider shall be responsible for notifying operators of decertified devices and shall bear the cost for the removal of any and all decertified devices from operators' vehicles and the installation of new devices which must be selected from the state of Missouri's list of approved devices.

AUTHORITY: sections 302.060, 302.304, 302.309, and 302.525, RSMo Supp. 2012, sections 577.041, 577.600-577.614, RSMo 2000 and RSMo Supp. [2008] 2012, and section 226.130, RSMo 2000. This rule originally filed as 11 CSR 60-2.060. Emergency rule filed Feb. 5, 1996, effective Feb. 15, 1996, expired Aug. 12, 1996. Original rule filed Feb. 16, 1996, effective Aug. 30, 1996. Moved to 7 CSR 60-2.060, effective Aug. 28, 2003. Amended: Filed Sept. 12, 2013.

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 Department of Transportation, Pamela J. Harlan, Secretary to the Commission, PO Box 270, Jefferson City, MO 65102. 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 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 100—Child Support Program, General
Administration**

PROPOSED RULE

13 CSR 40-100.040 State Directory of New Hires

PURPOSE: For new hire reporting purposes under section 285.300, RSMo, this rule defines "newly hired employee" in accordance with The Trade Adjustment Assistance Extension Act of 2011 (Public Law 112-40) amendment to section 453A(a)(2) of the Social Security Act.

- (1) "Newly hired employee" means an employee who—
(A) Has not previously been employed by the employer; or
(B) Was previously employed by the employer but has been separated from such prior employment for at least sixty (60) consecutive days.

AUTHORITY: section 454.400.2(5), RSMo 2000. Emergency rule filed Sept. 16, 2013, effective Sept. 26, 2013, expires March 24, 2014. Original rule filed Sept. 16, 2013.

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 Department of Social Services, Family Support Division, Alyson Campbell, Director, 615 Howerton Court, PO Box 2320, Jefferson City, MO 65102. 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 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 3—Conditions of Provider Participation,
Reimbursement and Procedure of General Applicability**

PROPOSED AMENDMENT

13 CSR 70-3.030 Sanctions for False or Fraudulent Claims for MO HealthNet Services. The division is amending section (1) and subsection (2)(D).

PURPOSE: This amendment updates the reference date and website address in section (1) and adds clarification on the administration of the MO HealthNet (Medicaid) program.

- (1) Administration.
(A) The MO HealthNet program shall be administered by the Department of Social Services, MO HealthNet Division. 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 and shall be included in the MO HealthNet provider manuals, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website [www.dss.mo.gov/mhd], [September 15, 2009] **October 15, 2013**. This rule does not incorporate any subsequent amendments or additions.
(B) When a rule published in the Missouri Code of State Regulations relating to a specific provider type or service incorporates by reference a MO HealthNet provider manual which contains a later date of incorporation than 13 CSR 70-3.030, the manual incorporated into the more specific rule shall be applied in place of the manual incorporated into 13 CSR 70-3.030.

- (2) The following definitions will be used in administering this rule:

(D) Contemporaneous means at the time the service was performed or within seventy-two (72) hours or **three (3) business days, whichever is longer**, of the time the service was provided;

AUTHORITY: sections 208.153 and 208.201, RSMo Supp. [2008] 2012. This rule was previously filed as 13 CSR 40-81.160. Original rule filed Sept. 22, 1979, effective Feb. 11, 1980. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 16, 2013.

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 delivered by regular mail, express or overnight mail, in person, or by courier 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—MO HealthNet Division
Chapter 15—Hospital Program**

PROPOSED AMENDMENT

13 CSR 70-15.030 Limitations on Payment for Inpatient Hospital Care. The division is amending the purpose statement and sections (1), (2), (3), (5), and (6).

PURPOSE: This amendment changes reference of Medicaid to MO HealthNet and recipients to participants. It also updates outdated policy.

PURPOSE: This rule establishes a limitation on admissions occurring on Friday or Saturday for inpatient hospital care and on the number of days of preoperative inpatient hospital care which may be paid for by Title XIX Medicaid on behalf of eligible [recipients] participants. Budgetary limitations necessitate the restriction.

(1) For inpatient hospital admissions that have been certified under 13 CSR 70-15.020 and for admissions that do not require certification, the number of days which [Medicaid] MO HealthNet will cover for each admission and continuous period of hospitalization shall be limited to [the lowest of] those listed in subsection (1)(A), (B), or (C).

(A) The number of days indicated as appropriate in accordance with the length-of-stay schedule as set forth in paragraph (1)(A)1. with the exception of those specific diagnoses for which a length-of-stay schedule has been developed by the Medicaid agency as set forth in paragraph(s) (1)(A)2. and 3., or as stated in paragraph (1)(A)4., or as established in 13 CSR 70-15.020 and as stated in paragraph (1)(A)5/3.

1. For the diagnosis at the 75th percentile average length-of-stay in the 1988 edition of the *Length of Stay by Diagnosis for the United States, North Central Region* for claims and adjustments processed for payment on or after January 1, 1990.

[2. A length-of-stay schedule, as developed by the Medicaid agency, for limited categories of rehabilitation diag-

noses provided in facilities which meet the following criteria:

A. Medicare certification of ten (10) beds or more as a rehabilitation hospital or a rehabilitation distinct part which is exempt from the Medicare prospective rate-setting system; or

B. Certification of ten (10) beds or more by the Commission for Accreditation of Rehabilitation Facilities.

Diagnosis Description and Days

Spinal cord injury—quadriplegia—thirty (30) days
Spinal cord injury—cervical fracture—twenty-five (25) days
Spinal cord injury—paraplegia—thirty (30) days
Spinal cord injury—hemiplegia—twenty-five (25) days
Cerebral vascular accident—twenty-nine (29) days
Head trauma—thirty-five (35) days
Muscular dystrophy—twenty (20) days
Orthopedic trauma—arm—twenty-nine (29) days
Orthopedic trauma—leg—twenty-nine (29) days
Late effect of injury to the nervous system— thirty (30) days
Degenerative joint disease—twenty (20) days.]

[3.]2. An average length-of-stay schedule, as developed by the Medicaid agency, for live born infants according to type of birth.

Diagnosis Description, Code and Days

V3000, V3900

Single diagnosis, not operated—three (3) days

Single diagnosis, operated—four (4) days

Multiple diagnosis, not operated—four (4) days

Multiple diagnosis, operated—ten (10) days

V3001, V3101, V3201, V3301, V3401, V3501, V3601, V3701, V3901

Single diagnosis, not operated—three (3) days

Single diagnosis, operated—three (3) days

Multiple diagnosis, not operated—five (5) days

Multiple diagnosis, operated—fifteen (15) days

V3100, V3200, V3300, V3400, V3500, V3600, V3700

Single diagnosis, not operated—four (4) days

Single diagnosis, operated—four (4) days

Multiple diagnosis, not operated—seven (7) days

Multiple diagnosis, operated—twelve (12) days

V301, V311, V321, V331, V341, V351, V361, V371, V391

Single diagnosis, not operated—two (2) days

Single diagnosis, operated—two (2) days

Multiple diagnosis, not operated—four (4) days

Multiple diagnosis, operated—fifteen (15) days

[Any liveborn low birthweight (under two thousand grams (2,000 g)) born in a hospital or before admission to a hospital, single or multiple diagnosis, operated or not operated, may be billed under the code GRO. All inpatient days to and including the day on which the infant reaches two thousand grams (2,000 g) weight will be paid. Use of this code will require attachment to the claim of medical chart progress notes which show the date on which this weight is attained.

4. For infants who are less than one (1) year of age at admission, all medically necessary days will be paid at any hospital. For children who are less than six (6) years of age at admission and who receive services from a disproportionate share hospital, all medically necessary days will be paid.]

[5.]3. Continued stay reviews will be performed for alcohol and drug abuse detoxification services to determine the days that are medically necessary and appropriate for inpatient hospital care.

(B) The number of days certified as medically necessary by the [Hospital Utilization Review Committee] medical review agent.

(2) In administering this limitation, the counting of days which may be allowable under the provider's internal Hospital Utilization Review Committee's certified medically necessary days always shall be from the beginning date of admission for a continuous period of hospitalization. The counting of days which may be Medicaid allowable also will be from the beginning date of admission unless conditions described in subsection (2)(A), (B), or (C) apply.

(A) If the [recipient's] participant's beginning date of eligibility is later than the date of admission, the counting of days which may be allowable will be from the beginning eligibility date.

(B) If the [recipient] participant has exhausted Title XVIII inpatient benefits, the counting of days which may be allowable will be from the date following the date on which the Title XVIII benefits are exhausted.

(3) Reimbursement shall be made at the applicable per diem rate in effect as of the initial date of admission and for only allowable days during which the [recipient] participant is eligible.

[(4) This limitation applies to inpatient hospital stays or portions of hospital stays during which there are no Medicare Part A Benefits available.

(5) Effective with this limitation, there shall be no provision for claiming of additional covered days through submission of a form of medical necessity and medical documentation.

(6) Exception Process.

(A) An exception process to the coverage of inpatient days as determined under provisions of section (1) shall be established for post-payment consideration of inpatient claims exceeding fifteen (15) days beyond the allowable days, if requested by the provider, and the date of receipt was prior to September 1, 1986.

(B) For requests received on or after September 1, 1986, for admissions prior to July 1, 1988, post-payment consideration of inpatient claims will only be made for claims exceeding thirty (30) days beyond the allowed days. Only the days exceeding thirty (30) days beyond the allowed days are eligible for approval; days one through thirty (1-30) in excess of the allowed days are not eligible for consideration of approval nor additional reimbursement. There will be no post-payment consideration of inpatient claims for admissions on and after July 1, 1988.]

[(C)](4) The state agency will conduct reviews, approve and specify any additional days which may be allowed beyond the number of days already paid, or may review recommendations submitted by [either a duly appointed Medicaid utilization review subcommittee or] a medical consultant licensed to practice medicine in Missouri. At its discretion, the state may concur with a recommendation and approve all days for payment, disagree and not pay any days or modify and pay some portion of the days recommended.

[(D)](5) Reimbursement for any additional days approved for acute care will be made at the hospital's per diem rate in effect on the date of admission. If a hospital has an established intermediate care facility/skilled nursing facility (ICF/SNF) or SNF-only Medicaid rate for providing nursing home services in a distinct part setting, reimbursement for any additional days approved for only ICF or SNF level of care provided in the inpatient hospital setting will be made at the hospital's ICF/SNF or SNF-only rate. If a hospital does not have an established ICF/SNF or SNF-only Medicaid rate for providing nursing home services in a distinct part setting, reimbursement for any additional days approved for only ICF or SNF level of care will be made at the [statewide swing bed rate] hospital's per diem rate in effect at the time of admission. No additional days will be approved and no Medicaid payments will be made on behalf

of any [recipient] participant who it is determined received inpatient hospital care when s/he did not need either inpatient hospital services or nursing home ICF or SNF services.

[(E) Requests for post-payment consideration of inpatient claims must be received no later than one (1) year from the date of discharge.]

AUTHORITY: sections 208.152, 208.153, and 208.201, RSMo Supp. [2007] 2012. This rule was previously filed as 13 CSR 40-81.051. Emergency rule filed April 7, 1981, effective April 20, 1981, expired July 10, 1981. Original rule filed April 7, 1981, effective July 11, 1981. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 16, 2013.

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 delivered by regular mail, express or overnight mail, in person, or by courier 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—MO HealthNet Division
Chapter 20—Pharmacy Program**

PROPOSED AMENDMENT

13 CSR 70-20.031 List of Excludable Drugs for Which Prior Authorization Is Required. The division is amending the purpose statement and section (3).

PURPOSE: This amendment updates the name of the Missouri Medicaid program to MO HealthNet, the name of the division to MO HealthNet Division, and the website address.

PURPOSE: This rule establishes a listing of excludable drugs and categories of drugs for which prior authorization is required in order for them to be reimbursable under the [Missouri Medicaid] MO HealthNet Pharmacy Program.

(3) List of drugs or categories of excludable drugs which are restricted to require prior authorization for certain specified indications shall be made available through the Department of Social Services, [Division of Medical Services] MO HealthNet Division website at [www.dss.mo.gov/dms] dss.mo.gov/mhd, provider bulletins, and updates to the provider manual 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 65109, at its website, [February 15, 2007] **October 15, 2013**. This rule does not incorporate any subsequent amendments or additions. The division reserves the right to affect changes in the list of excludable drugs for which prior authorization is required by amending this rule.

AUTHORITY: sections 208.153 and 208.201, RSMo [2000] Supp.

2012. Original rule filed Dec. 13, 1991, effective Aug. 6, 1992. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 16, 2013.

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 delivered by regular mail, express or overnight mail, in person, or by courier 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—MO HealthNet Division
Chapter 20—Pharmacy Program**

PROPOSED AMENDMENT

13 CSR 70-20.032 List of Excludable Drugs Excluded From Coverage Under the [Missouri Medicaid] MO HealthNet Pharmacy Program. The division is amending the rule title, the purpose statement, and section (2).

PURPOSE: This amendment updates the reference date and the terminology in section (2) to reflect the division name and website.

PURPOSE: This rule establishes a listing of excludable drugs or categories for which reimbursement is not available through the [Missouri Medicaid] MO HealthNet Pharmacy Program.

(2) List of drugs or classes which are excluded from reimbursement through the [Missouri Medicaid] MO HealthNet Pharmacy Program shall be made available through the Department of Social Services, [Division of Medical Services] MO HealthNet Division website at [www.dss.mo.gov/dms] dss.mo.gov/mhd/index/htm, provider bulletins, and updates to the provider manual 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 65109, at its website, [February 15, 2007] **October 15, 2013**. This rule does not incorporate any subsequent amendments or additions. The division reserves the right to affect changes in the list of excluded drugs by amending this rule.

AUTHORITY: sections 208.153 and 208.201, RSMo [2000] Supp. 2012. Original rule filed Dec. 13, 1991, effective Aug. 6, 1992. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 16, 2013.

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 delivered by regular mail, express or overnight mail, in person, or by courier 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—MO HealthNet Division
Chapter 20—Pharmacy Program**

PROPOSED AMENDMENT

13 CSR 70-20.050 Return of Drugs. The division is amending the purpose statement and sections (2)–(4).

PURPOSE: This amendment updates the division's name, changes recipient to participant, and corrects a spelling error.

PURPOSE: The [Division of Medical Services] MO HealthNet Division establishes that when a pharmacy dispenses drugs in a controlled-dose delivery system, the pharmacy must give the [Division of Medical Services] MO HealthNet Division credit for any unused portion of the drug that is reusable in accordance with applicable federal or state law.

(2) Drugs dispensed in controlled-dose delivery system packaging and other drug products which may be returned for reuse per federal and state laws or regulations shall be returned to the dispensing pharmacy in accordance with federal or state laws or regulations when the [recipient] participant no longer uses the drug and that product, in the pharmacist's professional [judgment] judgment may be reused.

(3) The [Division of Medical Services] MO HealthNet Division shall not pay for an unused pharmacy item returned to the dispensing pharmacy by or on behalf of a [Medicaid recipient] MO HealthNet participant, due to a change in prescription, hospitalization, death of a [recipient] participant, or other reason when the item can be accepted for reuse by the pharmacy in accordance with applicable federal or state laws or regulations.

(4) When a pharmacy dispenses drugs in a controlled-dose delivery system the pharmacy must give the [Division of Medical Services] MO HealthNet Division credit for all reusable items (any unused portion) not taken by the [Medicaid recipient] MO HealthNet participant. The [Division of Medical Services] MO HealthNet Division may provide additional compensation to the pharmacy to recognize administrative costs for processing reusable returned drugs, subject to appropriation. In instances in which charges have been submitted prior to the return of an item the pharmacy shall file an adjustment to notify the [Division of Medical Services] MO HealthNet Division of the need to process a credit. The dispensing pharmacy that receives the returned drugs must provide a credit to the [Division of Medical Services] MO HealthNet Division for the amount reimbursed for drug costs from which the prescription was billed, prorated to the quantity of the drug returned. The credited amount should not include dispensing fees.

AUTHORITY: section 208.201, RSMo [2000] Supp. 2012. Original rule filed Dec. 15, 2000, effective July 30, 2001. Amended: Filed Sept. 16, 2013.

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 delivered by regular mail, express or overnight mail, in person, or by courier 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—MO HealthNet Division
Chapter 20—Pharmacy Program**

PROPOSED AMENDMENT

13 CSR 70-20.250 Prior Authorization of New Drug Entities or New Drug Dosage Form. The division is amending the purpose statement and sections (2), (3), and (5).

PURPOSE: This amendment updates the division's name along with the division website, and also changes recipient to participant.

PURPOSE: This rule outlines the process by which new drugs or new drug dosage forms of existing drugs may be subject to prior authorization prior to payment by [the] Missouri's medical assistance program.

(2) Prior authorization restrictions shall continue on new drug entities and new drug product dosage forms of existing drugs until reviewed by the division and the division eliminates the restriction or makes a final determination to require restriction. The division shall consider known cost and use data, medical and clinical criteria, and prudent utilization of state funds in the review. Interested parties may present clinical data to the *[division's Pharmacy Program Director] division*.

(3) The review referenced in section (2) shall occur within thirty (30) business days after the division receives notice through pricing updates of the availability of the drug entity on the market. Upon completion of the review, the division shall make the drug available for use *[without prior authorization at that time]* by all *[Medicaid recipients] MO HealthNet participants* or refer the new drug or new drug dosage form to the *[Medicaid] MO HealthNet Drug Prior Authorization Committee (MDPAC)* with a recommendation for continued prior authorization. *[During the subsequent review by the MDPAC and Drug Use Review (DUR) Board, the drug shall continue to be available only through prior authorization.]* Staff recommendations regarding continued prior authorization of a new drug or new drug dosage form shall be made in writing to the MDPAC *[outlining the criteria used to develop such recommendations]*. A copy shall be available to the public prior to the MDPAC meeting in which the continued prior authorization is to be discussed.

(5) If the MDPAC finds that use and cost data, pharmacoeconomic information, along with medical and clinical implications of restriction, are documented and restriction is warranted, the MDPAC shall hold a public hearing regarding the continued restriction and make a

recommendation to the division. Such recommendation shall be provided to the division, in writing, prior to the division making a final determination. The division shall provide notice of the final determination through the Department of Social Services, *[Division of Medical Services] MO HealthNet Division* website at *[www.dss.state.mo.us/dms]* **dss.state.mo.gov/mhd**, provider bulletins, and updates to the provider manual.

AUTHORITY: sections 208.153 and 208.201, RSMo [2000] Supp. 2012. Emergency rule filed May 22, 2002, effective June 1, 2002, expires Nov. 27, 2002. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed Sept. 16, 2013.

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 delivered by regular mail, express or overnight mail, in person, or by courier 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—MO HealthNet Division
Chapter 20—Pharmacy Program**

PROPOSED AMENDMENT

13 CSR 70-20.300 Retrospective Drug Use Review Process. The division is amending sections (1), (7), (8), (10), (13), and (14).

PURPOSE: This amendment updates the division's name and also changes recipient to participant.

(1) Drug Use Review (DUR) Board. This rule establishes a *[Medicaid] MO HealthNet DUR board* in the Department of Social Services, *[Division of Medical Services] MO HealthNet Division*. The board shall be composed as specified in section 208.175, RSMo.

(7) The DUR board shall provide, either directly or through contracts between the *[Division of Medical Services] MO HealthNet Division* and accredited health care schools, state medical societies or state pharmacist associations or societies or other appropriate organizations, *[provide]* for educational outreach programs as required by P.L. 101-508, Section 4401, to educate practitioners on common drug therapy problems with the aim of improving~~,~~ prescribing and dispensing practices. This outreach shall include an educational newsletter to *[Missouri Medicaid] MO HealthNet* providers including appropriate drug use guidelines and *[Medicaid] MO HealthNet* utilization statistics.

(8) As specified by P.L. 101-508, Section 4401, the DUR board shall monitor drug use, and prescribing and dispensing practices in the *[Medicaid] MO HealthNet* program. This monitoring shall include reviewing and refining therapeutic criteria modules used in both retrospective and prospective DUR, as well as overseeing retrospective DUR intervention methods used.

(10) The DUR board shall review and research recommendations from the **Drug Prior Authorization Committee**, as established by 13 CSR 70-20.200, regarding the advisability of implementing or removing prior authorization requirements for a drug or class of drugs, and make a recommendation to the Department of Social Services.

(13) **Agency Responsibility Regarding Confidentiality of Information.** All information concerning applicants and *[recipients of medical services]* **MO HealthNet participants** shall be confidential and any disclosure of this information shall be restricted to purposes directly related to the administration of the medical assistance program. Purposes directly related to administration of the medical assistance program include:

(14) **Provider Responsibility Regarding Confidentiality of Information.** All information concerning applicants and *[recipients]* **participants** of medical services shall be confidential. Any disclosure of this information shall be restricted to purposes directly related to the treatment of the patient and promotion of improved quality of care. The confidential information includes:

AUTHORITY: sections 208.153, [RSMo Supp. 1991,] 208.175, [RSMo Supp. 1993] and 208.201, RSMo Supp. [1987] 2012. Original rule filed Dec. 14, 1992, effective June 7, 1993. Amended: Filed Sept. 16, 2013.

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 delivered by regular mail, express or overnight mail, in person, or by courier 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—MO HealthNet Division Chapter 20—Pharmacy Program

PROPOSED AMENDMENT

13 CSR 70-20.310 Prospective Drug Use Review Process and Patient Counseling. The division is amending the purpose statement and updating sections (1)–(9).

PURPOSE: This amendment updates the division's name, changes Medicaid to MO HealthNet, changes recipient to participant, and updates language to reflect current MO HealthNet policy.

PURPOSE: This rule establishes provisions for prospective drug use review and patient counseling for [Medicaid] MO HealthNet beneficiaries, as required by Section 4401 or Public Law 101-508 (Omnibus Budget Reconciliation Act of 1990) and by section 208.176, RSMo.

(1) **Prospective Drug Use Review (DUR).** This rule establishes a *[Medicaid]* **MO HealthNet** prospective drug use review process

within the Department of Social Services, *[Division of Medical Services]* **MO HealthNet Division**, as specified in section 208.176, RSMo.

(2) **Electronic Point-of-Sale Review.** The *[Division of Medical Services]* **MO HealthNet Division** shall provide for electronic point-of-sale review of drug therapy using predetermined standards before each prescription is dispensed to the *[non-nursing home Medicaid recipient]* **MO HealthNet participant** or *[Medicaid recipient's]* **MO HealthNet participant's** caregiver for the current date of service. The process will provide screening for potential drug therapy problems using clinical modules which have been reviewed and approved for use by the Missouri Drug Use Review Board.

(3) **Federal Prospective DUR screening requirements for [Medicaid] MO HealthNet beneficiaries.** 42 CFR part 456.705(b) requires that the state plan must provide for a point of distribution review of drug therapy using predetermined standards before each prescription is filled or delivered to the *[recipient]* **participant** or the *[recipient's]* **participant's** caregiver. The review, performed with or without online access to the *[Pharmacy Point of Service]* **pharmacy point of service** system, must include screening to identify potential drug therapy problems of the following types:

(B) Adverse drug-drug interaction, that is, the potential for, or occurrence of, an adverse medical effect as a result of the *[recipient]* **participant** using two (2) or more drugs together;

(D) Therapeutic duplication, that is, the prescribing and dispensing of two (2) or more drugs from the same therapeutic class so that the combined daily dose puts the *[recipient]* **participant** at risk of an adverse medical result or incurs additional program costs without additional therapeutic benefit;

(4) **Screens Available for [Medicaid] MO HealthNet Beneficiaries.** The following screens will be provided by the *[Pharmacy Point of Service]* **pharmacy point of service** system:

(5) **[Medicaid] MO HealthNet Patient Counseling.** As part of the prospective DUR program, participating pharmacies shall perform *[Medicaid]* patient counseling according to the standards established by the Board of Pharmacy under *[4 CSR 220-2.190]* **20 CSR 2220-2.190**.

(6) **[Medicaid] MO HealthNet Patient Profiles.** The term, reasonable effort means that each time a *[Medicaid]* **MO HealthNet** patient or caregiver presents a prescription, the pharmacist or pharmacist's designee should request profile information verbally or in writing. For example, if the patient presents the prescription in person, the request should be *[make]* **made** verbally, and if the prescription is received by mail, the request should be made in writing. This does not imply that the service should be denied solely on the basis of the patient's refusal to supply this information. Pharmacies must make a reasonable effort to obtain records and maintain patient profiles containing, at a minimum:

(7) **Documentation of Offer to Counsel.** The pharmacist shall document for each *[Medicaid]* **MO HealthNet** patient's prescription in a uniform fashion, whether the offer to counsel was accepted or refused by the patient or the patient's agent.

(8) **Agency Responsibility Regarding Confidentiality of Information.** All information concerning applicants and *[recipients]* **participants** of medical services shall be kept confidential by the *[Division of Medical Services]* **MO HealthNet Division**, and any disclosure of this information shall be restricted to purposes directly related to the administration of the medical assistance program. Purposes directly related to administration of the medical assistance program include:

(C) Providing services for *[recipients]* **participants**; and

(9) Provider Responsibility Regarding Confidentiality of *[Medicaid]* MO HealthNet Beneficiary Information. All information concerning applicants and *[recipients]* participants of medical services shall be confidential. Any disclosure of this information by the pharmacy provider shall be restricted to purposes directly related to the treatment of the patient and promotion of improved quality of care, or conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the program. The confidential information includes:

AUTHORITY: sections 208.153[, RSMo Supp. 1991] and 208.201, RSMo Supp. [1987] 2012. Original rule filed June 3, 1993, effective Dec. 9, 1993. Amended: Filed Sept. 16, 2013.

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 delivered by regular mail, express or overnight mail, in person, or by courier 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 25—State Public Health Laboratory

Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva, and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva, and Urine

PROPOSED AMENDMENT

19 CSR 25-30.031 Type II Permit. The department is amending subsection (7)(A) and Report No. 1 that follows the rule in the *Code of State Regulations*.

PURPOSE: This amendment reflects the name change in one (1) of the approved instruments and updates the maintenance report to reflect that name change as well.

(7) For the maintenance checks referred to in sections (3)–(5) of this rule, the appropriate maintenance report form for the specific instrument being checked shall be used—

(A) When performing a maintenance check on the *[DataMaster]* Intox DMT, the report incorporated in the instrument software shall be used (see Report No. 1 included herein for example);



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
STATE PUBLIC HEALTH LABORATORY
BREATH ALCOHOL PROGRAM
INTOX DMT MAINTENANCE REPORT

REPORT #1

Complete this report at the time of the regular monthly preventive maintenance check (not to exceed 35 days).
Complete this report whenever the instrument is serviced or repaired and whenever it is placed into service.
Retain the original and send a copy within 15 days to the Breath Alcohol Program, DHSS.

INTOX DMT SN	NAME OF AGENCY	DATE OF INSPECTION
LOCATION OF INSTRUMENT (STREET AND CITY)		TIME OF INSPECTION

CHECKLIST: Place a mark on the line by each item if found to be satisfactory or is operating within established limits. (Write in observed values where determined). Unmarked items must be corrected before using instrument.

DIAGNOSTIC RECORD

DATE AND TIME _____	<input type="checkbox"/> DETECTOR
<input type="checkbox"/> PROGRAM	<input type="checkbox"/> FILTER 1
<input type="checkbox"/> SAMPLE CHAMBER _____	<input type="checkbox"/> FILTER 2
<input type="checkbox"/> BREATH TUBE _____	<input type="checkbox"/> FILTER 3
<input type="checkbox"/> PUMP	<input type="checkbox"/> INTERNAL STANDARD

BREATH ANALYZER ACCURACY STANDARDS

SIMULATOR SOLUTION COMPRESSED ETHANOL-GAS MIXTURE

STANDARD SUPPLIER _____ LOT # _____ EXP. DATE _____

SIMULATOR TEMP (34°C ± 0.2°C) _____ SIMULATOR SN _____ SIMULATOR EXP DATE _____

CALIBRATION CHECK - (ONLY ONE STANDARD IS TO BE USED PER MAINTENANCE REPORT)
Run three tests using a standard solution. All three tests must be within ±5% of the standard value and must have a spread of .005 or less. Mark the box corresponding to the standard solution being used.

0.10% STANDARD - MUST READ BETWEEN 0.095% AND 0.105% INCLUSIVE

0.08% STANDARD - MUST READ BETWEEN 0.076% AND 0.084% INCLUSIVE

0.04% STANDARD - MUST READ BETWEEN 0.038% AND 0.042% INCLUSIVE

TEST 1:	TEST 2:	TEST 3:
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PERFORM R.F.I. TEST

INDICATE THE NUMBER OF BREATH TEST IN THE FOLLOWING RANGES SINCE THE LAST MAINTENANCE REPORT:

REFUSALS	0-.04	.05-.09	.10-.14	.15-.19	OVER .19
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LIST ANY NEW PARTS AND DESCRIBE ANY ALTERATION OR MODIFICATION THAT WAS MADE TO RESTORE THE INSTRUMENT TO OPERATE SATISFACTORILY AND WITHIN ESTABLISHED LIMITS (USE OTHER SIDE IF NECESSARY)

INSPECTING OFFICER

SIGNATURE	PRINT FULL NAME
TYPE II PERMIT NUMBER	EXPIRATION DATE
TELEPHONE NUMBER ()	

RETURN COMPLETED REPORT TO THE
Breath Alcohol Program, Missouri Department of Health and Senior Services, Southeast District Office, 2875 James Blvd, Poplar Bluff, MO 63901

AUTHORITY: sections 192.006 and 577.026, RSMo 2000, and sections 306.114, 306.117, 577.020, and 577.037, RSMo Supp. [2011] 2012. This rule previously filed as 19 CSR 20-30.031. Original rule filed July 15, 1988, effective Sept. 29, 1988. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 4, 2013, effective Sept. 15, 2013, expires March 13, 2014. Amended: Filed Sept. 4, 2013.

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 Harold Kirbey, Division Director, Missouri Department of Health and Senior Services, Division of Community and Public Health, PO Box 570, Jefferson City, MO 65102. 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.

AUTHORITY: sections 192.006 and 577.026, RSMo 2000, and sections 306.114, 306.117, 577.020, and 577.037, RSMo Supp. [2011] 2012. This rule was previously filed as 13 CSR 50-140.050 and 19 CSR 20-30.050. Original rule filed Oct. 1, 1965, effective Oct. 13, 1965. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 4, 2013, effective Sept. 15, 2013, expires March 13, 2014. Amended: Filed Sept. 4, 2013.

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 Harold Kirbey, Division Director, Missouri Department of Health and Senior Services, Division of Community and Public Health, PO Box 570, Jefferson City, MO 65102. 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 25—State Public Health Laboratory
Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva, and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva, and Urine**

PROPOSED AMENDMENT

19 CSR 25-30.050 Approved Breath Analyzers. The department is amending section (1).

PURPOSE: This amendment reflects the name change in one (1) of the approved instruments as well as the change in manufacturer for two (2) of the approved instruments.

(1) Approved breath analyzers are—

NAME OR ITEM	MANUFACTURER OR SUPPLIER
Alco-Sensor IV with printer and Intox EC/IR II	Intoximeters, Inc., St. Louis, MO
BAC DataMaster and Intox DMT (formerly DataMaster DMT)	Intoximeters, Inc., St. Louis, MO or National Patent Analytical Systems, Inc., Mansfield, OH <i>[(formerly a subsidiary of National Patent Development Corporation, East Hartford, CT, formerly Verax Systems, Inc., Fairport, NY)]</i>
Intoxilyzer, Model 5000 and Intoxilyzer, Model 8000	CMI/MPH, Operations of MPD, Inc., Owensboro, KY <i>[(formerly CMI, Inc., a subsidiary of Federal Signal Corp., Minturn, CO)]</i>

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

**Division 25—State Public Health Laboratory
Chapter 30—Determination of Blood Alcohol by Blood, Breath, Saliva, and Urine Analysis; and Determination for the Presence of Drugs in Blood, Saliva, and Urine**

PROPOSED AMENDMENT

19 CSR 25-30.051 Breath Analyzer Calibration and Accuracy Verification Standards. The department is amending sections (2) and (5).

PURPOSE: This amendment clarifies which standard simulator solutions of the listed concentrations may be used in verifying and calibrating breath analyzers, as well as the annual checks required on simulators used in conjunction with the standard simulator solution.

(2) Standard simulator solutions, used to verify and calibrate evidential breath analyzers, shall be solutions from approved suppliers. The standard simulator solutions used shall have a vapor concentration within five percent (5%) of the following values:

- (A) 0.10%;
- (B) 0.08%; [and] or
- (C) 0.04%.

(5) Compressed ethanol-gas standard mixtures used to verify and calibrate evidential breath analyzers shall be mixtures provided from approved suppliers. The compressed ethanol-gas mixtures used shall have a concentration within five percent (5%) of the following values:

- (A) 0.10%;
- (B) 0.08%; [and] or
- (C) 0.04%.

AUTHORITY: sections 192.006 and 577.026, RSMo 2000, and sections 577.020 and 577.037, RSMo Supp. [2011] 2012. Emergency rule filed Aug. 22, 1997, effective Sept. 1, 1997, expired Feb. 27, 1998. Original rule filed Aug. 25, 1997, effective Feb. 28, 1998. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 4, 2013.

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 Harold Kirbey, Division Director, Missouri Department of Health and Senior Services, Division of Community and Public Health, PO Box 570, Jefferson City, MO 65102. 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 25—State Public Health Laboratory
Chapter 30—Determination of Blood Alcohol by Blood,
Breath, Saliva, and Urine Analysis; and Determination
for the Presence of Drugs in Blood, Saliva, and Urine**

PROPOSED AMENDMENT

19 CSR 25-30.060 Operating Procedures for Breath Analyzers.
The department is amending section (4) and form #11 which follows the rule.

PURPOSE: This amendment reflects the name change to one (1) of the approved instruments, and updates the blood alcohol test report to reflect that name change as well.

(4) When using [DataMaster] Intox DMT, the procedures on the form incorporated within the instrument software shall be performed and the form shall be completed (see form #11 included herein for example).



MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
BLOOD ALCOHOL TEST REPORT - INTOX DMT

FORM #11

LOCATION OF INSTRUMENT		INSTRUMENT SERIAL NUMBER	DATE OF TEST	TIME OF TEST
SUBJECT NAME			DATE OF BIRTH	
SEX	SUBJECT DRIVER'S LICENSE NUMBER		STATE	
ARRESTING OFFICER		ARRESTING OFFICER ID		
OPERATOR		OPERATOR PERMIT	PERMIT EXP DATE	

OPERATIONAL CHECKLIST: INTOX DMT

- 1. Examination of mouth conducted. If any substance is observed or indicated to be present, the substance observed or indicated must be removed prior to starting the 15 minute observation period.
- 2. Subject observed for at least 15 minutes by _____. No smoking, oral intake or vomiting during this time; if vomiting occurs, start over with the 15 minute observation period.
- 3. Assure that the power switch is ON and the screen is displaying "READY <PUSH RUN>".
- 4. Press the Run button on the display screen.
- 5. Enter subject and officer information.
- 6. When display reads "Please Blow" and gives audible beep, insert mouthpiece and take the subject's breath sample.

SUBJECT TEST RESULTS

COMMENTS

CERTIFICATION BY OPERATOR

BAC

As set forth in the rules promulgated by the Department of Health and Senior Services related to the determination of blood alcohol by breath analysis, I certify that:

- 1. There was no deviation from the procedure approved by the department.
- 2. To the best of my knowledge the instrument was functioning properly.
- 3. I am authorized to operate the instrument.
- 4. No radio transmission occurred inside the room where and when this test was being conducted.

SIGNATURE OF OPERATOR	DATE
WITNESS (IF ANY)	DATE

AUTHORITY: sections 192.006 and 577.026, RSMo 2000, and sections 306.114, 306.117, 577.020, and 577.037, RSMo Supp. [2011] 2012. This rule was previously filed as 13 CSR 50-140.060 and 19 CSR 20-30.060. Original rule filed July 11, 1979, effective Oct. 12, 1979. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Sept. 4, 2013, effective Sept. 15, 2013, expires March 13, 2014. Amended: Filed Sept. 4, 2013.

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 Harold Kirbey, Division Director, Missouri Department of Health and Senior Services, Division of Community and Public Health, PO Box 570, Jefferson City, MO 65102. 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 1140—Division of Finance

Chapter 30—Mortgage Broker and Originator Rules

PROPOSED AMENDMENT

20 CSR 1140-30.240 Operations and Supervision of Residential Mortgage Loan Brokers. The director is amending the rule by adding a new section (1) and renumbering the existing sections accordingly.

PURPOSE: This amendment requires that prior to initially applying for or renewing a Missouri Residential Mortgage Loan Broker License, each applicant shall create a company/business account/record or otherwise register with the Nationwide Mortgage Licensing System and Registry (NMLSR).

(1) Creation of a company/business account/record through the Nationwide Mortgage Licensing System and Registry (NMLSR).

(A) Prior to initial licensure or renewal, each applicant for a broker's license shall create a company/business account/record or otherwise register through the NMLSR or its successor(s), in order to obtain a unique or other identifier assigned by protocols established by the NMLSR. Applicants shall continue to satisfy the requirements set forth by the NMLSR in order to keep its company/business account/record in current or active status, including but not limited to the payment of any applicable fees.

(B) Applicants for initial licensure or renewal shall apply through the NMLSR on forms acceptable to the director and shall be verified by the oath or affirmation of the applicant or a principal officer thereof. In addition to the documents and information required by law or rule, the director may require additional information in order to enable the director to determine that the applicant meets or the licensee continues to meet the requirements of the Missouri Secure and Fair Enforcement for Mortgage Licensing and Residential Mortgage Brokers Licensing Act. Where the NMLSR does not make available submission of any document or report required or permitted by law to be filed with the director, an applicant shall directly submit such information to the director in the format requested.

(C) Notwithstanding a licensee's biennial renewal anniversary date, each licensee shall annually attest to the completeness, truth-

fulness, and accuracy of its company/business account/record during the annual year-end renewal period established by the NMLSR. Failure to do so shall result in the suspension of the broker's license.

[(1)](2) Initial Licensing. Applications for an initial broker's license shall be in a form prescribed by the director and shall include a non-refundable license investigation fee which shall be set by the director from time-to-time, not to exceed one thousand five hundred dollars (\$1,500).

(A) Failure to meet a request for additional information within ten (10) business days may result in denial of the application. A denial under such circumstances shall not affect subsequent applications filed with the appropriate investigation fee.

(B) Upon approval of an initial broker's license, the director shall collect a nonrefundable license fee, which shall be set by the director from time-to-time, not to exceed one thousand five hundred dollars (\$1,500). The license fee shall cover the licensing of the broker's main office in Missouri. Additional licensing fees for the establishment of branch locations will apply as provided for in these rules.

[(2)](3) Renewal Applications. Applications for renewal of a broker's license shall be in a form prescribed by the director and may require a nonrefundable license investigation fee which shall be set by the director from time-to-time, not to exceed one thousand five hundred dollars (\$1,500). Such completed renewal application shall be received by the director at least sixty (60) days prior to such licensee's biennial renewal date. Upon approval of a biennial renewal of a broker's license, the director shall collect a nonrefundable renewal license fee, which shall be set from time-to-time by the director, not to exceed three thousand dollars (\$3,000), one half (1/2) of which is to be paid upon issuance of the license, and the balance one (1) year thereafter. Failure by an existing licensee to submit a renewal application and any applicable investigation fees to the director at least sixty (60) days in advance of a licensee's biennial renewal date may not allow sufficient time for the director to process the licensee's renewal application and may result in the expiration of licensee's existing license.

[(3)](4) Fees. The director may assess the reasonable costs of an investigation incurred by the division that are outside the normal expense of any annual or special examination or any other costs incurred by the division as a result of a licensee's violation of sections 443.701 to 443.893, RSMo, or these rules.

(A) For each duplicate original license issued, the director shall collect a duplicate original license fee not to exceed one hundred fifty dollars (\$150).

(B) For each amended license issued, the director shall collect an amended original license fee not to exceed one hundred fifty dollars (\$150).

(C) For each notice of change of officers or directors or change of name or address, the director shall collect a fee not to exceed one hundred fifty dollars (\$150). A broker must report any change in directors or principal officers within thirty (30) days to the director.

(D) Each licensee who intends to operate and maintain an additional full-service office shall file a Notice of Intent to Establish an Additional Full-Service Office on a form prescribed by the director, thirty (30) days prior to the proposed operation; the director shall collect a fee not to exceed one hundred fifty dollars (\$150) at the time the notice is filed.

AUTHORITY: sections 443.821, 443.825, 443.827, 443.833, 443.839, 443.843, 443.869, and 443.887, RSMo Supp. [2009] 2012. Emergency rule filed April 5, 2010, effective April 18, 2010, expired Jan. 26, 2011. Original rule filed April 15, 2010, effective Nov. 30, 2010. Amended: Filed Sept. 16, 2013.

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

PRIVATE COST: Based on the three hundred eighty-seven (387) residential mortgage broker companies currently licensed by the division, it is estimated that the proposed amendment, at a minimum, will cost those licensees approximately thirty-eight thousand seven hundred dollars (\$38,700) in fiscal year 2014, and, at a minimum, approximately thirty-eight thousand seven hundred dollars (\$38,700) annually for the life of the rule. According to the protocols established by the NMLSR, each company must register annually. Currently, the cost to register and renew a company's registration is one hundred dollars (\$100). As registration and renewal fees are set by the NMLSR and not subject to the control of the division, such fees could fluctuate in the future.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with James W. Gallaher, IV, Senior Counsel, Division of Finance, PO Box 716, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE COST

- I. Department of Insurance, Financial Institutions and Professional Registration
Division of Finance
Chapter 30

Rule Number and Name:	20 CSR 1140-30.240
Type of Rulemaking	Proposed Amendment

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:	Classifications 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:
*387 Residential Mortgage Loan Broker Companies	Licenses: Mortgage Brokers Mortgage Lenders Mortgage Servicers	387 Residential Mortgage Loan Broker Companies currently licensed by the Division x initial cost of \$100.00 to create an account with the Nationwide Mortgage Licensing System Registry (NMLSR) = \$38,700.

III. WORKSHEET & ASSUMPTIONS

*As of September 12, 2013, there were three hundred eighty-seven (387) licensed Residential Mortgage Broker Companies operating in Missouri under the regulation of the Division. In order to create an account with NMLSR as the proposed amendment provides, there is an initial cost of one hundred dollars (\$100), which is set and received by the NMLSR. The Division will receive none of the proceeds.

According to the current protocols established by the NMLSR, each company must renew its account annually, which is currently, one hundred dollars (\$100). As registration and renewal fees are set by the NMLSR and not subject to the control of the Division, such fees could fluctuate in the future. Those companies with multiple locations in Missouri wishing to register them on the NMLSR database will be charged twenty dollars (\$20) per location.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2063—Behavior Analyst Advisory Board
Chapter 6—Standards of Practice**

PROPOSED RULE

20 CSR 2063-6.005 Ethical Rules of Conduct

PURPOSE: This rule complies with section 337.310, RSMo which allows the committee through the division to promulgate ethical principles governing the practice of behavior analysis.

(1) General Principles.

(A) Purpose. The ethical rules of conduct constitute the standards against which the required professional conduct of behavior analysts and assistant behavior analysts is measured.

(B) Scope. Behavior analysts and assistant behavior analysts shall be governed by these ethical rules of conduct. These ethical rules of conduct shall apply to the conduct of all licensees and applicants, including the applicant's conduct during the period of education, training, and employment which is required for licensure. The terms behavior analyst and assistant behavior analyst, as used within these ethical rules of conduct, shall be interpreted accordingly whenever applied behavior analysis is being provided in any context. These rules of ethical conduct apply to teaching, publishing, or researching regarding behavior analysis only where there is a behavior analysis clinical component to such teaching, publishing, or researching; where there are behavior analysis clinical services being provided as a part of the teaching, publishing, or researching; and where there is interaction with behavior analysis clients in teaching, publishing, or researching behavioral analysis.

(C) Responsibility for Own Actions. Behavior analysts and assistant behavior analysts, when functioning as a licensed behavior analyst or assistant behavior analyst, shall be fully responsible for his or her own professional decisions and professional actions.

(D) Violations. A violation of these ethical rules of conduct constitutes unprofessional conduct and is sufficient reason for disciplinary action or denial of original licensure, reinstatement, or renewal of licensure.

(E) Aids to Interpretation. *The Ethical Principles of Psychologists, Code of Conduct, Standards of Providers of Psychological Services and Specialty Guidelines for the Delivery of Psychological Services*, (publication date August, 1990) promulgated by the American Psychological Association and the *Code of Conduct* (publication date August, 1990) promulgated by the Association of State and Provincial Psychology Boards, shall be used as an aid in resolving ambiguities which may arise in the interpretation of the ethical rules of conduct, except that these ethical rules of conduct shall prevail whenever any conflict exists between these rules and any professional association standard. *The Ethical Principles of Psychologists and Code of Conduct, Standards of Providers of Psychological Services and Specialty Guidelines for the Delivery of Psychological Services* can be obtained from the American Psychological Association, 750 First Street, NE, Washington, DC 20002-4242, or by calling (800) 374-2721. *The Code of Conduct* can be obtained by contacting the Association of State and Provincial Psychology Boards, PO Box 241245, Montgomery, AL 36124-1245 or by calling (334) 832-4580.

(2) Definitions.

(A) Client—The term client as used here is broadly applicable to whomever the behavior analyst or assistant behavior analyst provides services whether an individual person (service recipient), parent or guardian of a service recipient, an institutional representative, a public or private agency, a firm or corporation.

(B) Confidential information—means information revealed to a behavior analyst or assistant behavior analyst or otherwise obtained

by a behavior analyst or assistant behavior analyst, where there is a reasonable expectation that because of the relationship between the individual(s) and the behavior analyst or assistant behavior analyst, or the circumstances under which the information was revealed or obtained, the information shall not be disclosed by the behavior analyst or assistant behavior analyst without the informed written consent of the individual(s). When a corporation or other organization is the client, rules of confidentiality apply to information pertaining to the organization, including personal information about individuals when obtained in the proper course of that contract. That information about individuals is subject to confidential control of the organization, not of the individual, and can be made available to the organization, unless there is reasonable expectation by that individual that information was obtained in a separate professional relationship with that individual and is therefore subject to confidentiality requirements.

(C) Court order—means the written or oral communication of a member of the judiciary, or other court magistrate or administrator, if that authority has been lawfully delegated to that magistrate or administrator.

(D) Licensed—means licensed, certified, or any other term when such term identifies a person whose professional behavior is subject to regulation by the committee or board.

(E) Professional relationship—means a mutually agreed upon relationship between a behavior analyst and assistant behavior analyst and a client or any combination of two or more such individuals or entities for the purpose of the client obtaining the behavior analyst's and assistant behavior analyst's professional expertise.

(F) Professional service—means all actions of the behavior analyst and assistant behavior analyst in the context of a professional relationship with a client.

(G) Supervision, supervisor, and supervisee—means any and all actions of a person (supervisor) overseeing a person (supervisee) regarding the provision of behavior analysis services.

(3) Competence.

(A) Limits on Practice. Behavior analysts and assistant behavior analysts shall provide services, teach, and conduct research only within the boundaries of their competence, based on their education, training, supervised experience, or appropriate professional experience. If important aspects of the client's problems fall outside the boundaries of competency, then the behavior analyst and assistant behavior analyst shall assist his or her client in obtaining additional professional consultation.

(B) Reliance on Scientific Knowledge. Behavior analysts and assistant behavior analysts shall rely on scientifically and professionally derived knowledge when making scientific or professional judgments in providing professional service, or when engaging in scholarly or professional endeavors.

(C) Maintaining Competency. Behavior analysts and assistant behavior analysts shall maintain current competency in the areas in which they practice, through continuing education, consultation, other training, or any combination of these, in conformance with current standards of scientific and professional knowledge.

(D) Adding New Services and Techniques. Behavior analysts and assistant behavior analysts shall provide services, teach, or conduct research in new areas or involving new techniques only after first undertaking appropriate study, training, supervision, and/or consultation from persons who are competent in those areas or techniques.

(E) Accurate Representation. Behavior analysts and assistant behavior analysts shall accurately represent their areas of competence, education, training, experience, and professional affiliations to the committee, the board, the public, and colleagues.

(F) Professional Development. Behavior analysts and assistant behavior analysts who engage in assessment, therapy, teaching, research, organizational consulting, or other professional activities shall maintain a reasonable level of awareness of current scientific and professional information in their fields of activity, and undertake

ongoing efforts to maintain competence in the skills they use by reading the appropriate literature, attending conferences and conventions, participating in workshops, or maintaining Behavior Analyst Certification Board certification.

(G) Integrity. If behavior analysts' and assistant behavior analysts' ethical responsibilities conflict with law, behavior analysts and assistant behavior analysts shall make known their commitment to these rules and take steps to resolve the conflict in a responsible manner in accordance with law.

(H) Professional and Scientific Relationships.

1. Behavior analysts and assistant behavior analysts shall provide behavioral assessment, therapeutic, teaching, research, supervisory, consultative, or other behavior analytic services only in the context of a defined, professional, or scientific relationship or role.

2. When behavior analysts and assistant behavior analysts provide assessment, evaluation, treatment, supervision, teaching, consultation, research, or other behavior analytic services to an individual, a group, or an organization, they shall use language that is fully understandable to the recipient of those services. They shall provide appropriate information prior to service delivery about the nature of such services and appropriate information later about results and conclusions.

3. Where differences of age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status significantly affect behavior analysts' and assistant behavior analysts' work concerning particular individuals or groups, behavior analysts and assistant behavior analysts shall obtain the training, experience, consultation, or supervision necessary to ensure the competence of their services, or they make appropriate referrals.

4. In their work-related activities, behavior analysts and assistant behavior analysts shall not engage in discrimination against individuals or groups based on age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, socioeconomic status, or any basis proscribed by law.

5. Behavior analysts and assistant behavior analysts shall not knowingly engage in behavior that is harassing or demeaning to persons with whom they interact in their work based on factors such as those persons' age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status, in accordance with law.

6. Behavior analysts and assistant behavior analysts shall recognize that their personal problems and conflicts may interfere with their effectiveness. Behavior analysts and assistant behavior analysts shall refrain from providing services when their personal circumstances may compromise delivering services to the best of their abilities.

(4) Maintenance and Retention of Records.

(A) The behavior analyst and assistant behavior analyst rendering professional services to a client, or services billed to a third party payer, shall maintain professional records that include:

1. Name of the client and other identifying information such as address, telephone number, age, and sex;
2. The presenting problem(s) and diagnosis (if applicable);
3. Any assessment including test results or other evaluative results obtained and any basic test data from which they were derived;
4. The date and description of each contact or service provided or pertaining to the client;
5. The nature, type, and goals of any applied behavior analysis interventions;
6. The fee arrangement and documentation of discussion with the client(s) prior to initiation of services;
7. A copy of all tests or other evaluative reports prepared as part of the professional relationship;
8. Notation and results of formal consults with other providers;
9. Notation of referrals given or recommended to the client;
10. Any releases executed by the client;

11. Data relating to financial transactions between the behavior analyst and assistant behavior analyst and client, including fees assessed and collected;

12. Written informed consent must be obtained concerning all aspects of services including assessment and therapy;

13. An assistant behavior analyst must include on the informed consent the fact that the licensee is working under the supervision of a licensed behavior analyst. The informed consent form must identify the supervising behavior analyst; and

14. Entries in the records must be made within ten (10) days following each consultation or rendition of service. Entries that are made after the date of service must indicate the date entries are made, as well as the date of service.

(B) Behavior analysts shall create, maintain, disseminate, store, retain, and dispose of records and data relating to their research, practice, and other work in accordance with applicable laws or regulations.

(C) Behavior analysts and assistant behavior analysts shall assure that all data entries in the professional records are maintained for a period of not fewer than five (5) years after the last date of service rendered, or not less than the time required by other regulations, if that is longer.

1. The behavior analyst shall store and dispose of written, electronic, and other records in such a manner as to ensure their confidentiality. The behavior analyst shall maintain the confidentiality of all applied behavior analysis records in the behavior analyst's possession or under the behavior analyst's control except as otherwise provided by law or pursuant to authorization of a client specifically requesting or authorizing release or disclosure of the client's applied behavior analysis records; and

2. For each person professionally supervised, the behavior analyst shall maintain, for a period of not less than five (5) years after the last date of supervision, a record of the supervisory session that shall include the type, place, and general content of the session, as well as other information required by these rules, other law or good practice.

(5) Continuity of Care.

(A) The behavior analyst shall make prior arrangements for another appropriate professional(s) to be available for consultation during periods of his or her extended absences from professional availability. Behavior analysts and assistant behavior analysts shall inform the client of available emergency services for use during those times when he or she cannot be reached. These periods include, but are not limited to, after-office hours, weekends, holidays, or vacations.

(B) The behavior analyst shall make provisions for the transfer or disposal of all written or electronic records of the client in the event of the behavior analyst's or assistant behavior analyst's death or incapacitation. The arrangement for transfer or disposal shall be in writing and signed by all necessary parties.

(6) Multiple Relationships.

(A) Impaired Behavior Analyst or Assistant Behavior Analyst. Behavior analysts and assistant behavior analysts shall not undertake or continue a professional relationship with a client when the competency of the behavior analyst or assistant behavior analyst is, or could reasonably be expected to be, impaired due to mental, emotional, physiologic, pharmacologic or substance abuse conditions. If a condition develops after a professional relationship has been initiated, the behavior analyst or assistant behavior analyst shall terminate the relationship in an appropriate manner, shall notify the client in writing of the termination, and shall assist the client in obtaining services from another professional.

(B) Multiple Relationships Affecting Behavior Analyst's or Assistant Behavior Analyst's Judgment. Behavior analysts and assistant behavior analysts shall not undertake or continue a professional relationship with a client when the objectivity or competency of the behavior analyst or assistant behavior analyst is, or could reasonably

be expected to be impaired because of the behavior analyst's or assistant behavior analyst's present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative, or legal relationship with the client or a relevant person associated with or related to the client. If a dual relationship develops or is discovered after the professional relationship has been initiated, the behavior analyst or assistant behavior analyst shall terminate the professional relationship in an appropriate manner, shall notify the client in writing of this termination and shall assist the client in obtaining services from another professional.

(C) Prohibited Relationships.

1. Behavior analysts and assistant behavior analysts, in interacting with any client shall not enter into a financial or other potentially exploitive relationship with any such client.

2. The behavior analyst and assistant behavior analyst, in interacting with any client shall not engage in any harassing, exploitive, seductive, or repeated comments, gestures, or physical contact of a sexual nature.

3. Prohibited exploitation in professional relationships. Behavior analysts and assistant behavior analysts shall not exploit, sexually or otherwise, his or her professional relationship with clients, supervisees, students, employees, research participants or others.

(7) Client Welfare.

(A) Responsibility to Clients.

1. Behavior analysts and assistant behavior analysts have a responsibility to operate in the best interest of clients.

2. The behavior analyst's and assistant behavior analyst's responsibility is to all parties affected by behavioral services.

(B) Providing Explanation of Procedures.

1. The behavior analyst and assistant behavior analyst shall give a truthful, understandable, and reasonably complete account of the client's condition to the client or the parent of minor children or legal guardian. The behavior analyst or assistant behavior analyst shall keep the client fully informed as to the purpose and nature of any evaluation, treatment, or other procedures, and of the client's right to freedom of choice regarding services provided.

2. When a behavior analyst and assistant behavior analyst agree to provide services to a person or entity at the request of a third party, the behavior analyst or assistant behavior analyst shall explain and document the nature of the relationships with all individuals or organizations involved. This includes the role of the behavior analyst and assistant behavior analyst, who is the client, the probable uses of the services provided or the information obtained, and any known or probable limits to confidentiality.

(C) Interrupting or Terminating Services.

1. Behavior analysts and assistant behavior analysts shall make reasonable efforts to plan for facilitating care in the event that behavior analytic services are interrupted by factors such as the behavior analyst's or assistant behavior analyst's illness, impending death, unavailability, or relocation or by the client's relocation or financial limitations.

2. When entering into employment or contractual relationships, behavior analysts and assistant behavior analysts shall provide for orderly and appropriate resolution of responsibility for client care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the client.

3. Approving Interventions. Behavior analysts or assistant behavior analysts shall obtain the client's or legal guardian's approval in writing of the behavior intervention plan before implementing them.

4. Behavior analysts and assistant behavior analysts shall not abandon clients. Applied behavior analysis services can be terminated when it becomes reasonably clear that the client no longer needs the service, is not benefiting, or is being harmed by continued service and the behavior analyst establishes understandable and objective (i.e., measurable) criteria for the termination of the program and

describes them to the client or client-surrogate. The relationship shall be terminated when the established criteria for termination are attained, as in when a series of planned or revised intervention goals has been completed.

5. Prior to termination, except where precluded by the client's conduct, behavior analysts and assistant behavior analysts shall discuss the client's views and needs, provide appropriate pre-termination services, suggest alternative service providers as appropriate, and take other reasonable steps to facilitate transfer of responsibility to another provider if the client needs one immediately.

6. Applied behavior analysis services may be terminated by the behavior analyst or assistant behavior analyst when the behavior analyst or assistant behavior analyst identifies a physical or emotional harm or threat of physical or emotional harm to himself or herself or his or her staff. The behavior analyst or assistant behavior analyst shall provide notice to the client and shall make all reasonable attempts to provide for the client's continuity of care as described in section (5) above.

(D) Unnecessary Service. The behavior analyst and assistant behavior analyst shall not exploit clients by providing unnecessary applied behavior analysis.

(E) Stereotyping. Behavior analysts and assistant behavior analysts shall not impose on the client any stereotypes of behavior, values, or roles related to age, gender, religion, race, disability, nationality, or sexual preference which would interfere with the objective provision of services to the client. Behavior analysts and assistant behavior analysts shall obtain training and experience to assure competent service or research relating to these persons.

(F) Solicitation of Business by Clients. Behavior analysts and assistant behavior analysts providing services to an individual client shall not induce that client(s) to solicit business on behalf of the behavior analyst or assistant behavior analyst.

(G) Referrals on Request. Behavior analysts and assistant behavior analysts shall make an appropriate referral to another professional when requested to do so by the client.

(H) Offering Services to Clients of Others. In deciding whether to offer services to someone already receiving similar services elsewhere, behavior analysts and assistant behavior analysts shall carefully consider the treatment issues and the potential client's welfare. Behavior analysts and assistant behavior analysts shall discuss these issues with the potential client to minimize the probable risks of confusion and conflict, and proceed with caution and sensitivity to the therapeutic issues. Behavior analysts and assistant behavior analysts shall not initiate such discussions and may only go forward with such discussions where initiated by another.

(I) Rights and Prerogatives of Clients.

1. Behavior analysts and assistant behavior analysts shall support individual rights under the law.

2. The client must be provided on request an accurate, current set of the behavior analyst's and assistant behavior analyst's credentials.

3. Permission for electronic recording of interviews, service delivery sessions, and all other settings shall be secured from clients and relevant staff. Consent for different uses must be obtained specifically and separately.

4. Clients must be informed of their rights, and about procedures to complain about professional practices of the behavior analyst.

5. Behavior analysts and assistant behavior analysts shall comply with all requirements for criminal background checks.

(J) Clarifying expectations. Behavior analysts and assistant behavior analysts shall document that the client has been informed as to the purpose and nature of an evaluation, treatment, or educational procedure as well as reasonable alternatives in language commensurate with the individual's level of comprehension.

(K) Voluntary and mandatory procedures. Behavior analysts or assistant behavior analysts shall inform recipients as to the voluntary or mandatory nature of the assessment, treatment, educational, or

training procedure. When a procedure is voluntary, behavior analysts or assistant behavior analysts shall inform the clients or student of their freedom of choice and any alternatives to participation.

(8) Welfare of Supervisees and Students. The behavior analyst shall not harass or exploit a supervisee or student in any way—sexually, financially, or otherwise. The behavior analyst as a teacher shall recognize that the primary obligation is to help others acquire knowledge and skill. The behavior analyst shall maintain high standards of scholarship by presenting applied behavior analysis information objectively, fully, and accurately. The teaching duties of the behavior analyst shall be performed on the basis of careful preparation so that the instruction is accurate, current, and scholarly.

(9) Protecting Confidentiality of Clients.

(A) Maintaining Confidentiality.

1. Behavior analysts and assistant behavior analysts have a primary obligation and shall take reasonable precautions to respect the confidentiality of those with whom they work or consult, recognizing that confidentiality may be established by law, institutional rules, or professional or scientific relationships.

2. Clients have a right to confidentiality. Unless it is not feasible or is contraindicated, the discussion of confidentiality occurs at the outset of the relationship and thereafter as new circumstances may warrant.

3. In order to minimize intrusions on privacy, behavior analysts and assistant behavior analysts shall include only information germane to the purpose for which the communication is made in written and oral reports, consultations, and the like.

4. Behavior analysts and assistant behavior analysts shall discuss confidential information obtained in clinical or consulting relationships, or evaluative data concerning patients, individual or organizational clients, students, research participants, supervisees, and employees, only for appropriate scientific or professional purposes.

(B) Disclosure of Confidential Information. Behavior analysts and assistant behavior analysts also may disclose confidential information with the appropriate consent of the individual or organizational client (or of another legally authorized person on behalf of the client), unless prohibited by law.

(C) Disclosures Without Consent. Behavior analysts and assistant behavior analysts may disclose confidential information without the consent of the individual only as mandated by law, or where permitted by law for a valid purpose, such as 1) to provide needed professional services to the individual or organizational client, 2) to obtain appropriate professional consultations, 3) to protect the client or others from harm, 4) to obtain payment for services, or 5) to the board or the committee as requested or required by the board or the committee, in which instance disclosure is limited to the minimum that is necessary to achieve the purpose.

(D) Limited Access to Client Records. Behavior analysts and assistant behavior analysts shall limit access to client records and shall assure that all persons working under his or her authority comply with the requirements for confidentiality of client material.

(E) Disguising Confidential Information. For any confidential information used in teaching, research, or writing, behavior analysts and assistant behavior analysts shall insure that the reported material is appropriately disguised to prevent client identification.

(F) Confidentiality After Termination of Professional Relationship. Behavior analysts and assistant behavior analysts shall continue to treat client records as confidential information after the professional relationship between the behavior analyst and assistant behavior analyst and the client has ceased.

(10) Integrity and Representation of Title and Services.

(A) Display of License. Behavior analysts and assistant behavior analysts shall display prominently on the premises of the professional practice the behavior analyst's or assistant behavior analyst's current Missouri license to practice applied behavior analysis or carry

the current license on their person when providing behavior analytic services.

(B) Use of Appropriate Title. When representing himself or herself to the public through advertisements, including telephone listings, business cards, letterhead, and other public announcements, behavior analysts and assistant behavior analysts shall use a title which accurately reflects professional education, training, and experience. This title shall be clearly presented as to denote the actual status and training of the person. Initials of titles are not appropriate for use unless authorized by sections 337.300 to 337.345, RSMo or 20 CSR 2063.

(C) Accurate Representation of Qualifications. A behavior analyst and assistant behavior analyst shall not misrepresent directly or by implication his or her professional qualifications, such as, education, experience or areas of competence.

(D) Accurate Representation of Affiliations. A behavior analyst and assistant behavior analyst shall not misrepresent directly or by implication his or her affiliations, or the purposes or characteristics of institutions and organizations with which the behavior analyst or assistant behavior analyst is associated.

(E) False or Misleading Information. Behavior analysts and assistant behavior analysts shall not include false or misleading information in public statements concerning applied behavior analysis services offered. Public statements include, but are not limited to, communication by means of periodical, book, list, directory, television, radio or motion picture. They shall not contain:

1. A false, fraudulent, misleading, deceptive, or unfair statement;

2. A misrepresentation of fact or a statement likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;

3. A testimonial from a client regarding the quality of a behavior analyst's or assistant behavior analyst's services or products;

4. A statement intended or likely to create false or unjustified expectations of favorable results;

5. A statement implying unusual, unique or one-of-a-kind abilities;

6. A statement intended or likely to appeal to a client's fears, anxieties, or emotions concerning the possible results of failure to obtain the offered services;

7. A statement concerning the comparative desirability of offered services; or

8. A statement of direct solicitation of individual clients.

(F) Accurate Representation of Services or Products. A behavior analyst and assistant behavior analyst shall not associate with or permit his or her name to be used in connection with any services or products in such a way as to misrepresent—

1. The services or products;

2. The degree of his or her responsibility for the services or products; or

3. The nature of his or her association with the services or products.

(G) Correction of Misrepresentation by Others. A behavior analyst or assistant behavior analyst shall correct others who misrepresent his or her professional qualifications or affiliations.

(H) Accurate Claims. Behavior analysts and assistant behavior analysts shall take credit only for work actually done, including publication credit.

(I) Publication Credit. Publication credit shall accurately reflect the relative contribution of the individuals involved, regardless of professional status. A student generally is listed as the principal author of any multiple-authored article based primarily on the student's thesis or dissertation. Minor contributions to publications shall be acknowledged in footnotes or in an introductory statement.

(J) Acknowledging All Sources. Plagiarism in either written or oral form is unethical. Acknowledgment through specific citations shall be made for unpublished as well as published material that has directly influenced the research or writing.

(K) Fabrication or Falsification of Data. Behavior analysts and assistant behavior analysts shall not fabricate or falsify data. If a behavior analyst or assistant behavior analyst discovers significant errors in their data, they shall take reasonable steps to correct these errors in a correction, retraction, erratum, or other appropriate publication means.

(11) Remuneration.

(A) Fees, Financial Arrangements, and Terms of Consultation.

1. As early as is feasible in a professional or scientific relationship, behavior analysts and assistant behavior analysts and the client or other appropriate recipient of behavior analytic services shall reach an agreement specifying compensation and billing arrangements.

2. Behavior analysts' and assistant behavior analysts' fee practices shall be consistent with law and behavior analysts and assistant behavior analysts shall not misrepresent their fees. If limitations to services can be anticipated because of limitations in financing, this shall be discussed with the patient, client, or other appropriate recipient of services as early as is feasible.

3. Prior to the implementation of services, behavior analysts and assistant behavior analysts shall provide in writing the terms of consultation with regard to specific requirements for providing services and the responsibilities of all parties (a contract or Declaration of Professional Services).

(B) Accuracy in Reports to Those Who Pay for Services. In their reports to those who pay for services or sources of research, project, or program funding, behavior analysts and assistant behavior analysts shall accurately state the nature of the research or service provided, the fees or charges, and where applicable, the identity of the provider, the findings, and other required descriptive data.

(C) Referrals and Fees. When a behavior analyst pays, receives payment from, or divides fees with another professional other than in an employer-employee relationship, the referral shall be disclosed to the client.

(D) Improper Arrangements.

1. Behavior analysts and assistant behavior analysts shall neither derive nor solicit any form of monetary profit or personal gain as a result of his or her professional relationship with clients or immediate ex-clients as set forth in paragraph (6)(C)1. of this rule, beyond the payment of fees for applied behavior analysis services rendered. However, unsolicited token gifts from a client are permissible.

2. A behavior analyst and assistant behavior analyst shall not use his or her professional relationship with clients, or immediate ex-clients as set forth in paragraph (6)(C)1. of this rule, to derive personal gain, other than through fees for professional services, for himself or herself, or for any other person, or for any organization from the sale or promotion of a product or service.

3. Behavior analysts and assistant behavior analysts shall neither give nor receive any commission, rebate, or other form of remuneration for referral of a client for professional services.

4. Behavior analysts and assistant behavior analysts shall not bill for services that are not rendered. However, he or she may bill for missed appointments which the client did not cancel in advance, if this is part of the financial arrangements made in accordance with paragraph (11)(A)1. of this rule.

(E) Third-Party Requests for Services.

1. When behavior analysts and assistant behavior analysts agree to provide services to a person or entity at the request of a third party, the behavior analyst and assistant behavior analyst shall clarify to the extent feasible, at the outset of the service, the nature of the relationship with each party. This clarification includes the role of the behavior analyst and assistant behavior analyst (such as therapist, organizational consultant, or expert witness), the probable uses of the services provided or the information obtained, and the fact that there may be limits to confidentiality.

2. If there is a foreseeable risk of behavior analysts and assistant behavior analysts being called upon to perform conflicting roles

because of the involvement of a third party, the behavior analyst and assistant behavior analyst shall clarify the nature and direction of his or her responsibilities, keep all parties appropriately informed as matters develop, and resolve the situation in accordance with these rules.

(12) Assessment Procedures.

(A) Accepting Clients. Behavior analysts and assistant behavior analysts shall accept as clients only those individuals or legal entities whose behavior problems or requested service are commensurate with the behavior analyst's or assistant behavior analyst's education, training, and experience. In lieu of these conditions, behavior analysts and assistant behavior analysts must function under the supervision of or in consultation with a behavior analyst whose credentials permit working with such behavior problems or services.

(B) Consultation.

1. Behavior analysts and assistant behavior analysts shall arrange for appropriate consultations and referrals based principally on the best interests of their clients, with appropriate consent, and subject to other relevant considerations, including applicable law and contractual obligations.

2. When indicated and professionally appropriate, behavior analysts and assistant behavior analysts shall cooperate with other professionals in order to serve their clients effectively and appropriately. Behavior analysts and assistant behavior analysts shall recognize that other professions have ethical codes that may differ in their specific requirements from these rules.

(C) Competent Use of Assessment Techniques. The behavior analyst and assistant behavior analyst shall use, administer, and interpret applied behavior analysis assessment techniques competently and maintain current knowledge about research developments and revisions concerning the techniques that are used.

(D) Behavior Assessment.

1. Assessing Behaviors. Behavior analysts and assistant behavior analysts who use behavioral assessment techniques shall do so for purposes that are appropriate in light of research. Behavior analysts and assistant behavior analysts shall recommend seeking a medical consultation if there is any reasonable possibility that a referred behavior is a result of a medication side effect or some biological cause.

A. Behavior analysts' and assistant behavior analysts' assessments, recommendations, reports, and evaluative statements shall be based on information and techniques sufficient to provide appropriate substantiation for their findings.

B. Behavior analysts and assistant behavior analysts shall refrain from misuse of assessment techniques, interventions, results, and interpretations and take reasonable steps to prevent others from misusing the information these techniques provide.

C. Behavior analysts and assistant behavior analysts shall recognize limits to the certainty with which judgments or predictions can be made about individuals.

D. Behavior analysts and assistant behavior analysts shall not promote the use of behavioral assessment techniques by unqualified persons, i.e., those who are unsupervised by experienced professionals and have not demonstrated valid and reliable assessment skills.

E. Behavioral Assessment Approval. Behavior analysts or assistant behavior analysts shall obtain the client's or client-surrogate's approval in writing of the behavior assessment procedures before implementing them. As used here, client-surrogate refers to someone legally empowered to make decisions for the person(s) whose behavior the program is intended to change; examples of client-surrogates include parents of minors, guardians, and legally designated representatives.

F. Functional Assessment.

(I) Behavior analysts or assistant behavior analysts shall conduct a functional assessment, as defined below, to provide the necessary data to develop an effective behavior change program.

(II) Functional assessment includes a variety of systematic information-gathering activities regarding factors influencing the occurrence of a behavior (e.g., antecedents, consequences, setting events, or motivating operations) including interview, direct observation, and experimental analysis.

G. Explaining Assessment Results. Unless the nature of the relationship is clearly explained to the person being assessed in advance and precludes provision of an explanation of results (such as in some organizational consultation, some screenings, and forensic evaluations), behavior analysts and assistant behavior analysts shall ensure that an explanation of the results is provided using language that is reasonably understandable to the person assessed or to another legally authorized person on behalf of the client. Regardless of whether the interpretation is done by the behavior analyst, or assistant behavior analyst, or others, behavior analysts and assistant behavior analysts shall take reasonable steps to ensure that appropriate explanations of results are given.

H. Treatment Efficacy.

(I) The behavior analyst shall always have the responsibility to recommend scientifically supported most effective treatment procedures. Effective treatment procedures have been validated as having both long-term and short-term benefits to clients and society.

(II) Clients have a right to effective treatment (i.e., based on the research literature and adapted to the individual client).

(III) Behavior analysts and assistant behavior analysts shall be responsible for review and appraisal of likely effects on the behavioral intervention of all alternative treatments, including those provided by other disciplines and no intervention.

(IV) In those instances where more than one scientifically supported treatment has been established, additional factors may be considered in selecting interventions, including, but not limited to, efficiency and cost-effectiveness, risks and side-effects of the interventions, client preference, and practitioner experience and training.

I. Confidential Information. Behavior analysts and assistant behavior analysts shall treat an assessment result or interpretation regarding an individual as confidential information.

J. Communication of Results. Behavior analysts and assistant behavior analysts shall accompany communication of results of assessment procedures to the client, parents, legal guardians, or other agents of the client by adequate interpretive aids or explanations.

K. Reservations Concerning Results. Behavior analysts and assistant behavior analysts shall include in his or her report of the results of an assessment procedure any deficiencies of the assessment norms for the individual assessed and any relevant reservations or qualifications which affect the validity, reliability, or other interpretation of results.

L. Protection of Integrity of Assessment Procedures. Behavior analysts and assistant behavior analysts shall not reproduce or describe in popular publications, lectures or public presentations, tests or other assessment devices in ways that might invalidate them.

M. Information for Professional Users. Behavior analysts and assistant behavior analysts offering an assessment procedure or automated interpretation service to other professionals shall accompany this offering by a manual or other printed material which fully describes the development of the assessment procedure or service, the rationale, evidence of validity and reliability, and characteristics of the normative population. Behavior analysts and assistant behavior analysts shall explicitly state the purpose and application for which the procedure is recommended and identify special qualifications required to administer and interpret it properly. Behavior analysts and assistant behavior analysts shall ensure that the advertisements for the assessment procedure or interpretive services are factual and descriptive.

(13) Violations of Law.

(A) Violations of Applicable Statutes. Behavior analysts and assistant behavior analysts shall not violate any applicable statute or

administrative rule regarding the practice of behavior analysis.

(B) Use of Fraud, Misrepresentation or Deception. Behavior analysts and assistant behavior analysts shall not use fraud, misrepresentation, or deception in:

1. Obtaining a behavior analyst or assistant behavior analyst license;

2. Passing a behavior analyst or assistant behavior analyst licensing examination;

3. Assisting another to obtain a behavior analyst or assistant behavior analyst license or to pass a behavior analyst or assistant behavior analyst licensing examination;

4. Billing clients or third-party payors;

5. Providing behavior analysis service;

6. Reporting the results of applied behavior analysis evaluations or services; or

7. Conducting any other activity related to the practice of applied behavior analysis.

(14) Aiding Unauthorized Practice.

(A) Aiding Unauthorized Practice. Behavior analysts and assistant behavior analysts shall not aid or abet another person in misrepresenting his or her professional credentials or in illegally engaging in the practice of applied behavior analysis.

(B) Employing Other Licensed Professionals. A behavior analyst and assistant behavior analyst may employ or utilize the services of other licensed professionals in his or her practice so long as this professional is acting within the terms and scope of his or her respective license.

(C) Delegating Professional Responsibility. Behavior analysts and assistant behavior analysts shall not delegate professional responsibilities to a person not qualified or not appropriately credentialed to provide those services.

(D) Providing Supervision. Behavior analysts and assistant behavior analysts shall exercise appropriate supervision over supervisees.

1. In academic and supervisory relationships, behavior analysts and assistant behavior analysts shall establish timely and specific processes for providing feedback to students and supervisees. Information regarding the process shall be provided to the student and supervisees at the beginning of supervision.

2. Behavior analysts and assistant behavior analysts shall evaluate students and supervisees on the basis of their actual performance on relevant and established program requirements.

(15) Resolving Issues.

(A) Reporting of Violations to Board. Behavior analysts and assistant behavior analysts who have knowledge or believe in good faith that there has been a violation of the statutes or rules of the board shall inform the board in writing. When the information regarding that violation is obtained in a professional relationship with a client, behavior analysts and assistant behavior analysts shall report it only with the written permission of the client. Nothing in this rule shall relieve a behavior analyst or assistant behavior analyst of the duty to file any report required by applicable statutes. Failure to report a violation of the statutes or rules, is in itself, an ethics violation. No action will be taken by the board against a behavior analyst who has made a report pursuant to the provisions of this section unless malice is shown to be the motive for an untruthful report.

(B) Providing Information to Client. When behavior analysts or assistant behavior analysts learn from a client of a possible violation of the statutes or rules of the board, or when behavior analysts or assistant behavior analysts receive a request from a client for information on how to file a complaint with the board, behavior analysts and assistant behavior analysts have an obligation to inform the client of the standards of applied behavior analysis and how to file a complaint with the board.

(C) Cooperating with the Board. Behavior analysts and assistant behavior analysts shall cooperate with the Behavior Analyst Advisory

Board by promptly responding personally or through his or her attorney to inquiries.

(D) Circumventing Disciplinary Rules. Behavior analysts and assistant behavior analysts shall not circumvent a disciplinary rule of professional conduct through actions of another.

AUTHORITY: section 337.310.2., RSMo Supp. 2012. Original rule filed Sept. 5, 2013.

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 Committee of Psychologists, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-0661, or via email at scop@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 2085—Board of Cosmetology and Barber
Examiners
Chapter 12—Schools and Student Rules—Barber and
Cosmetology**

PROPOSED AMENDMENT

20 CSR 2085-12.010 General Rules and Application Requirements for All Schools. The board is proposing to amend subsections (4)(C), (G), and (H) and adding new subsection (4)(I).

PURPOSE: This amendment reduces the required number of work stations with hot and cold running water in barber schools.

(4) Barber School Floor Plans. The floor plan submitted with an application for licensure as a barber school shall include the following:

(C) A work station for each student for practical instruction which shall include a [shampoo bowl,] backbar, dust-tight cabinet or drawers, mirror not less than thirty inches (30") in diameter, and barber chair with headrest. Barber chairs shall be mechanically sound with a non-porous covering in good condition. Chairs shall be placed at least five feet (5') apart, and each chair shall occupy not less than thirty-five (35) square feet of floor space. There shall be electrical outlets between every two (2) chairs;

(G) A student break room; [and]

(H) A janitor's closet for cleaning supplies./.; and

(I) A shampoo bowl equipped with hot and cold running water plus chair for each student scheduled for practical instruction up to six (6) shampoo bowls.

AUTHORITY: sections 328.090, 328.120, 329.025[. 1], and 329.040, RSMo Supp. [2008] 2012. Original rule filed Aug. 10, 2007, effective Feb. 29, 2008. Amended: Filed April 8, 2009, effective Oct. 30, 2009. Amended: Filed Sept. 13, 2013.

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 Cosmetology and Barber Examiners, PO Box 1062, Jefferson City, MO 65102, by facsimile at (573) 751-8176, or via email at cosbar@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 2085—Board of Cosmetology and Barber
Examiners
Chapter 12—Schools and Student Rules—Barber and
Cosmetology**

PROPOSED AMENDMENT

20 CSR 2085-12.020 Specific Requirements for Barber Schools. The board is proposing to amend paragraph (2)(C)3.

PURPOSE: This amendment removes the requirement of hot and cold running water at each work station.

(2) Physical Facilities.

(C) A barber school shall have the following minimum equipment and supplies:

1. Instructional fixtures for instructor(s) and students, such as a chalkboard, anatomic chart, desks or tables, and chairs;
2. A reference library for students containing at least a dictionary, current textbook, current Missouri law and rules governing barbering;
3. A work station for each student scheduled for practical instruction [supplied with hot and cold running water];
4. A metal fire-resistant and locking filing cabinet for school and student records;
5. First aid dispensary;
6. Sanitary drinking facilities;
7. Chairs in reception area to accommodate patrons;
8. At least three (3) mannequins;
9. One (1) large closeable sanitary cabinet or container for clean towels;
10. One (1) large covered receptacle for soiled towels;
11. One (1) large covered receptacle for debris and hair;
12. Restroom facilities shall have hot and cold running water, soap (liquid or powder), and paper towels;
13. Each work station shall have at least one (1) liquid sanitizer;
14. A sufficient supply of tonics, lotions, shampoos, and chemical preparations used in processing hair and hair waving;
15. Ample supply of disposable gloves;
16. Ample supply of clean towels; and
17. At least one (1) electric latherizer for every ten (10) students.

AUTHORITY: sections 328.020, 328.090, 328.120, and 329.025[. 1], RSMo Supp. [2006] 2012. Original rule filed Aug. 10, 2007, effective Feb. 29, 2008. Amended: Filed Sept. 13, 2013.

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 Cosmetology and Barber Examiners, PO Box 1062, Jefferson City, MO 65102, by facsimile at (573) 751-8176, or via email at cosbar@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 2085—Board of Cosmetology and Barber
Examiners
Chapter 13—Crossover Licenses
PROPOSED AMENDMENT**

20 CSR 2085-13.070 Crossover schools. The board is proposing to amend subsections (3)(B) and (C) and renumber the subsequent subsections.

PURPOSE: This amendment adds common use of the janitor's closet and shampoo bowls.

(3) Upon licensure, crossover school licensees shall comply with all rules applicable to both barber schools and the applicable cosmetology school, including the following:

[(B)] Barber clinical areas of a school shall be kept physically separate and apart from cosmetology clinical areas. For purposes of this rule, the clinical area shall include any space where clinical instruction or training is provided, including any area where a student performs, practices or utilizes any barber or cosmetology service or technique on another person or a member of the public.]

[(C)](B) All barber work stations required by 20 CSR 2085-12.010(4)(C), shall be kept separated from the cosmetology clinical area at all times. However, barber work stations and cosmetology clinical areas may be located in the same room if the barber work stations are physically separated from the cosmetology clinical area at all times and can be easily and individually identified by the board or its designee. Barber work stations in a crossover licensed school shall contain all equipment required by, and comply with all provisions of 20 CSR 2085-12.010 and 20 CSR 2085-12.020 applicable to barber work stations.

[(D)](C) This rule does not prohibit the common use of locker rooms, reception areas, libraries, restrooms, drinking facilities, eating areas, a janitor's closet, shampoo bowls equipped with hot and cold running water plus chairs, or first-aid facilities for both barber and cosmetology students.

[(E)](D) Every crossover school shall employ, and have present during regular school hours, a minimum of one (1) Missouri licensed barber instructor for every fifteen (15) barber students in attendance for a given class period and a minimum of one (1) Missouri licensed cosmetology instructor for every twenty-five (25) cosmetology students in attendance for a given class period.

[(F)](E) A crossover school licensee shall maintain all barber student records separately from records for cosmetology students. Records for crossover students shall be adequately maintained and shall clearly and separately identify the hours or credits, whichever is applicable, earned by a student in barber training/instruction and the hours or credits earned in cosmetology training/instruction. Records shall be maintained by the crossover school licensee in a manner that will allow the board or its designee to easily and separately identify the individual hours or credits earned by a crossover student for barbering and cosmetology, respectively.

AUTHORITY: [Chapters 328 and 329, RSMo 2000 and Supp. 2007 and] sections 328.090, 328.120, 329.010.7, [and] 329.025[. 1], and 329.040, RSMo Supp. [2007] 2012. Original rule filed Aug. 10, 2007, effective Feb. 29, 2008. Amended: Filed Sept. 13, 2013.

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 Cosmetology and Barber Examiners, PO Box 1062, Jefferson City, MO 65102, by facsimile at (573) 751-8176, or via email at cosbar@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 2165—Board of Examiners for Hearing
Instrument Specialists
Chapter 1—General Rules
PROPOSED AMENDMENT**

20 CSR 2165-1.020 Fees. The board is proposing to amend subsection (1)(C).

PURPOSE: This amendment removes the written examination fee.

(1) The following fees are established by the Board of Examiners for Hearing Instrument Specialists and are payable in the form of a cashier's check, money order, or personal check:

(C) Practical Exam Fee	
1. <i>Written</i>	\$125
2. <i>Practical</i>	\$150

AUTHORITY: section[s] 346.115.1(7) and (8)] 346.125, RSMo [2000] Supp. 2012. This rule originally filed as 4 CSR 165-1.020. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 13, 2013.

PUBLIC COST: This proposed amendment will result in a loss of revenue for state agencies or political subdivisions of approximately two thousand five hundred dollars (\$2,500) annually for the life of the rule.

PRIVATE COST: This proposed amendment will save private entities approximately two thousand five hundred dollars (\$2,500) annually for the life of the rule.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Examiners for Hearing Instrument Specialists, PO Box 1335, Jefferson City, Missouri 65102, by facsimile transmission to (573) 526-3856, or via email at behis@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 FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2165 - Board of Examiners for Hearing Instrument Inspecialists

Chapter 1 - General Rules

Proposed Amendment - 20 CSR 2165-1.020 Fees

Prepared May 7, 2013 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Decrease in Revenue	
Board of Examiners for Hearing Instrument Inspecialists	\$2,500.00	
	Total Annual Decrease in Revenue for the Life of the Rule	\$2,500.00

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. Currently, hearing instrument specialist applicants pay fees for the Missouri State Board Examination directly to the Board of Examiners for Hearing Instrument Specialists. This is considered a pass through fee, as the board contracts with the International Hearing Society (IHS) for services relating to the administration of the written examination. The examination fees are set by IHS for the written examination. Examination fees will now be paid directly to IHS. Therefore, the board will receive less revenue.
2. It is anticipated that the total decrease in revenue 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.

PRIVATE FISCAL NOTE

I. RULE NUMBER**Title 20 - Department of Insurance, Financial Institutions and Professional Registration****Division 2165 - Board of Examiners for Hearing Instrument Inspecialists****Chapter 1 - General Rules****Proposed Amendment - 20 CSR 2165-1.020 Fees**

Prepared May 7, 2013 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	Classification by type of the business entities which would likely be affected:	Estimated cost savings of compliance with the amendment by affected entities:
20	Written Exam Fee (Decrease @ \$125.00)	\$2,500.00
	Estimated Annual Cost Savings for the Life of the Rule	\$2,500.00

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The figures reported above are based on FY12 actuals.
2. The Board of Examiners for Hearing Instrument Inspecialists contracts with the International Hearing Society (IHS) for services relating to the administration of the written examination. The testing agency sets the fee for the examination and the board has no statutory authority to determine the amount of this fee. However, the board has historically collected the fee from the applicant and then has been obligated to pay the testing agency.

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

**Division 2165—Board of Examiners for Hearing
Instrument Specialists
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

20 CSR 2165-2.030 Licensure by Examination. The board is proposing to amend sections (3)–(7).

PURPOSE: This amendment clarifies that the board may specify an approved vendor to administer the licensing examinations.

(3) Applicants with special needs addressed by the Americans with Disabilities Act must notify the board office **or its approved vendor** at least thirty (30) days prior to the examination to ensure that reasonable accommodations are made. Notification may be forwarded in writing and mailed to the Board of Examiners for Hearing Instrument Specialists, P[.JO/.] Box 1335, 3605 Missouri Boulevard, Jefferson City, MO 65102 or by calling (573) 751-0240. The text telephone number for the hearing impaired is (800) 735-2966.

(4) The examination may be administered by the board **or its approved vendor** in two (2) general parts, one (1) written and one (1) practical. The examination will be scheduled at least every six (6) months. The practical and written examinations may be administered on different days.

(5) The written portion of the examination may be administered by the board **or its approved vendor** utilizing a national testing service or other examination at the board's discretion. The applicant shall pass the written examination to be eligible for the practical portion of the examination.

(6) The practical portion of the examination shall be conducted by the board **or its approved vendor** or its designees. The following procedures and requirements shall apply:

(A) It shall be the responsibility of the applicant to furnish all equipment needed. In order to ensure the integrity of the practical portion of the examination and that it adequately tests the applicant's abilities, the board **or its approved vendor** may determine what equipment an applicant is permitted to use and may prohibit the use of any particular equipment containing memory storage, unless it can be demonstrated and verified that the memory can be erased. Equipment shall be in good working order as evidenced by a receipt of annual calibration of the audiometer. Failure to have the necessary equipment will be sufficient reason to disallow the applicant the opportunity to take the practical portion of the examination and cause forfeiture of the examination fee. If the applicant wishes to take the next scheduled practical portion of the examination, the applicant must reapply and pay the proper examination fee; and

(B) The practical portion of the examination may be conducted at the discretion of the board **or its approved vendor** either using simulators or live subjects for all or part of the examination, except that all persons taking the examination on a specific date shall be tested in the same manner. It shall be the responsibility of the applicant to provide live subjects for examinations if requested. Live subjects shall sign a waiver of liability relieving the state of responsibility of actions taken by the applicants during the examination. A time limit may be imposed for any part of the practical portion of the examination provided that: 1) this time limit is established by the board **or its approved vendor** prior to the examination; 2) that the time limit is reasonable; and 3) that it is applied uniformly.

(7) Requirements for Passing the Examination.

(B) The board **or its approved vendor** shall notify the applicant of the test results within thirty (30) days of the examination.

AUTHORITY: sections 346.060 [346.085], 346.115.1(7), and 346.125, RSMo Supp. 2012, and section[s] 346.085, SB 330, First Regular Session, Ninety-seventh General Assembly, 2013. This rule originally filed as 4 CSR 165-2.030. Emergency rule filed March 18, 1996, effective March 28, 1996, expired Sept. 23, 1996. Original rule filed Oct. 16, 1996, effective May 30, 1997. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 13, 2013.

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 Examiners for Hearing Instrument Specialists, PO Box 1335, Jefferson City, MO 65102, by facsimile transmission to (573) 526-3856, or via email at behis@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 1—Organization and Description of the Board**

PROPOSED AMENDMENT

20 CSR 2200-1.010 General Organization. The board is proposing to add section (4).

PURPOSE: This amendment adds language to close personnel records of board personnel pursuant to section 610.021(13), RSMo.

(4) With the exception of names, positions, salaries, and lengths of service of officers and employees of the board, all individually identifiable personnel records and performance ratings or records pertaining to employees or applicants for employment shall be closed records pursuant to section 610.021(3) and (13), RSMo.

AUTHORITY: Chapter 335], RSMo (1994)] and section 610.021(3) and (13), RSMo Supp. 2012. This rule originally filed as 4 CSR 200-1.010. Original rule filed April 5, 1976, effective Oct. 11, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 5, 2013.

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 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 2200—State Board of Nursing
Chapter 4—General Rules**

PROPOSED AMENDMENT

20 CSR 2200-4.020 Requirements for Licensure. The board is proposing to delete section (12), renumber the remaining sections accordingly, and amend the new section (12).

PURPOSE: This amendment deletes duplicate license requirements and sets a timeframe for licensees to notify the board of a name or address change.

[(12)](12) Duplicate Licenses. A duplicate license, marked duplicate, may be issued in the event the original becomes lost or destroyed, or if the licensee requests a duplicate license due to a name change. The licensee must notify the Missouri State Board of Nursing and a form will be forwarded for completion and notarization. A fee will be charged for the duplicate.

[(13)](12) Change of Name, Address, or Both.

(A) Original License. The original license may not be altered in any way; it must remain in the name under which it was issued.

(B) Current License.

1. *[If a change of name has occurred since the issuance of the current license, the licensee must notify the board of the name change in writing. If a duplicate license reflecting the name change is desired, the current license and required fee must be submitted to the board office.] Each Missouri licensed nurse shall notify the board within thirty (30) days of each name change.*

2. *[If a change of address has occurred since the issuance of the current license, the licensee must notify the board of the address change. No duplicate license will be issued solely to reflect an address change. Each licensee must notify the board of any change in the licensee's mailing address prior to the expiration date of the licensee's current license.] Each Missouri licensed nurse shall notify the board within thirty (30) days of each address change.*

[3. Requests for the current license to be sent to a place other than the regular mailing address shall be forwarded to the executive director.]

[(14)](13) Retired [L]icense [s]tatus.

(A) An applicant for renewal of a nurse license who is retired from the profession may apply for a retired license status by completing a form provided by the board.

(B) Retired from the profession means that the licensee does not intend to practice nursing for monetary compensation for at least two (2) years; such person may provide volunteer services.

(C) A licensee may qualify for retired license status provided the licensee:

1. Is retired from the profession;
2. Holds a current, unrestricted, and undisciplined nurse license; and
3. Submits the required form.

(D) Retired license renewal for a professional nurse shall be biennial; occurring on odd-numbered years and the license shall expire on April 30 of each odd-numbered year. Retired license renewal for a practical nurse shall be biennial; occurring on even-numbered years and the license shall expire on May 31 of each even-numbered year.

(E) Individuals wishing to reactivate licenses after being carried as retired shall request a Petition for Renewal from the board. Fees shall be accepted only if accompanied by a completed petition for renewal. The Petition for Renewal shall be accompanied by proof of sub-

mission of fingerprints to the Missouri State Highway Patrol's approved vendor for both a Missouri State Highway Patrol and Federal Bureau of Investigation fingerprint background check prior to the established deadline date set by the Missouri State Board of Nursing. Proof shall consist of any documentation acceptable to the board. Any fees due for fingerprint background checks shall be paid by the applicant directly to the Missouri State Highway Patrol or its approved vendor. All fees are nonrefundable. Back fees shall not be required for the years the licensee's records were carried as retired. The Petition for Renewal shall show, under oath or affirmation of the nurse, a statement—

1. That the nurse is not presently practicing nursing in Missouri for monetary compensation; and

2. As to whether the nurse did practice nursing for monetary compensation while the license was retired and, if so, how long and where. If the nurse was practicing nursing for monetary compensation in Missouri at the time his/her license was retired, he/she also must submit a notarized statement indicating employment dates, employer names and addresses, and an explanation of why the nurse practiced for compensation while the license was retired. In addition, the nurse must cause his/her employer to submit a statement on the employer's letterhead stationery or a notarized statement indicating that the nurse ceased working as soon as he/she realized that the license was retired.

(F) A nurse who petitions for renewal of a retired license, who answers yes to one (1) or more of the questions on the petition which relate to possible grounds for denial of renewal under section 335.066, RSMo, shall submit copies of appropriate documents related to that answer, as requested by the board, before his/her petition will be considered complete. The copies shall be certified if they are records of a court or administrative government agency. If a nurse requesting reinstatement of his/her retired license is denied by the State Board of Nursing based upon the fact that the nurse is subject to disciplinary action under any provisions of Chapter 335, RSMo, the nurse shall be notified of the statutory right to file a complaint with the Administrative Hearing Commission.

AUTHORITY: sections 335.036.1(2) and (7) and 335.066, RSMo Supp. [2008] 2012, and sections 335.046 and 335.051, RSMo 2000. This rule originally filed as 4 CSR 200-4.020. Original rule filed Oct. 14, 1981, effective Jan. 14, 1982. For intervening history, please consult the Code of State Regulations. Amended: Filed Sept. 5, 2013.

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 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 2231—Division of Professional Registration
Chapter 2—Designation of License Renewal Dates and
Related Renewal Information**

PROPOSED AMENDMENT

20 CSR 2231-2.010 Designation of License Renewal Dates and Related Renewal Information. The division is proposing to amend subsections (2)(EE) and (2)(HH).

PURPOSE: This amendment updates the renewal date for private fire investigators, private fire investigator agencies, agency private fire investigator employees and appraisal management companies.

(2) The license renewal dates designated for each agency assigned to the division are—

(EE) Board of Private Investigator and Private Fire Investigator Examiners—

1. Private investigators—May 1;
2. Private investigator agencies—June 1;
3. Agency private investigator employees—July 1;
4. Private fire investigators—[to be announced] **May 1**;
5. Private fire investigator agencies—[to be announced] **June 1**; and
6. Agency private fire investigator employees—[to be announced] **July 1**;

(HH) Missouri Real Estate Appraisers Commission—

1. Real estate appraisers—July 1; and
2. Appraisal management companies—[to be announced] **July 1**;

AUTHORITY: section 324.001, RSMo Supp. 2012. This rule originally filed as 4 CSR 231-2.010. Emergency rule filed Feb. 9, 1982, effective Feb. 19, 1982, expired May 12, 1982. Original rule filed Feb. 9, 1982, effective May 13, 1982. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Sept. 5, 2013.

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 Division of Professional Registration, Jane Rackers, Division Director, PO Box 1335, Jefferson City, MO 65102, or via email at profreg@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 2234—Board of Private Investigator and
Private Fire Investigator Examiners
Chapter 1—General Rules**

PROPOSED AMENDMENT

20 CSR 2234-1.010 Definitions. The board is proposing to amend the division title and sections (3), (6), and (7).

PURPOSE: This amendment adds private fire investigators to the definitions for this chapter.

(3) Employee—

(A) Agency non-investigator employee—An employee of an agency who is not a licensed private investigator or licensed private fire investigator and does not directly participate in private investigations or private fire investigations; or

(B) Agency investigator employee—An individual licensed and supervised through the licensed agency to conduct private investigations or private fire investigations.

(6) Primary office—The principle office of a licensed private investigator agency or licensed private fire investigator agency.

(7) [Private i]Investigator-in-charge—The licensed private investigator or licensed private fire investigator who is responsible for the activities of a private investigator agency or private fire investigator agency.

AUTHORITY: section 324.1100, RSMo Supp. [2008] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Sept. 13, 2013.

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 Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator and
Private Fire Investigator Examiners
Chapter 1—General Rules**

PROPOSED AMENDMENT

20 CSR 2234-1.020 General Organization. The board is proposing to amend the division title, the purpose and sections (1), (6), and (8).

PURPOSE: This amendment adds reference to private fire investigating and private fire investigators in order to make the rule applicable to them.

PURPOSE: This rule describes the organization, general methods of administration, and communication concerning the Board of Private Investigator and Private Fire Investigator Examiners.

(1) The purpose of the board is to regulate the practice of private investigating and private fire investigating concerning the health, safety, and welfare of the inhabitants of this state; to protect the property of the inhabitants of this state from damage or destruction through the dangerous, dishonest, incompetent, or unlawful practice of private investigating and private fire investigating; and to implement and sustain a system for the examination and regulation of licensed private investigators and private investigator agencies as well as private fire investigators and private fire investigator agencies in this state.

(6) Board meetings will generally consist of reviewing applications, interviewing applicants, reviewing complaints and inquiries, determining disciplinary actions regarding a licensed private investigator or a licensed private fire investigator, private investigator business[,]

or private fire investigator business, making recommendations to staff concerning the conduct and management of board affairs, and other board matters.

(8) Any person requiring information, an application, or complaint form involving the practice of private investigating or private fire investigating as regulated by the board may contact the board.

AUTHORITY: sections 324.1102 and 324.1138, RSMo Supp. [2008] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Sept. 13, 2013.

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 Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator and
Private Fire Investigator Examiners
Chapter 1—General Rules**

PROPOSED AMENDMENT

20 CSR 2234-1.030 Policy for Release of Public Records. The board is proposing to amend the division title and sections (1), (2), and (5).

PURPOSE: This amendment adds reference to private fire investigators in order to make the rule applicable to them.

(1) The Board of Private Investigator **and Private Fire Investigator Examiners** is a public governmental body as defined in Chapter 610, RSMo, and adopts the following as its policy for compliance with the provisions of that chapter. This policy is open to public inspection and implements Chapter 610, RSMo, provisions regarding the release of information of any meeting, record, or vote of the board that is not closed under this chapter.

(2) All public records of the Board of Private Investigator **and Private Fire Investigator Examiners** shall be open for inspection and copying by any member of the general public during normal business hours (8 a.m. to 5 p.m. Monday through Friday; holidays excepted) except for those records required or authorized to be closed under section 610.021 or 324.001.8, RSMo, or any other applicable law. All public meetings of the Board of Private Investigator **and Private Fire Investigator Examiners** will be open to the public except for those required or authorized to be closed under section 610.021 or 324.001.8, RSMo, or any other applicable law.

(5) All fees collected shall be remitted to the Director of Revenue for deposit to the credit of the Board of Private Investigator **and Private Fire Investigator Examiners Fund**.

AUTHORITY: section 324.1138, RSMo Supp. [2008] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Sept. 13, 2013.

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 Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator and
Private Fire Investigator Examiners
Chapter 1—General Rules**

PROPOSED AMENDMENT

20 CSR 2234-1.040 Complaint Handling and Disposition. The board is proposing to amend the division title, the purpose, and sections (1) and (2).

PURPOSE: This amendment adds private fire investigators to the board name.

PURPOSE: This rule establishes a procedure for the receipt, handling, and disposition of complaints involving private investigators and private fire investigators.

(1) The Division of Professional Registration, in coordination with the Board of Private Investigator **and Private Fire Investigator Examiners**, will receive and process each complaint made against any licensee, unlicensed individual, or entity, in which the complaint alleges certain acts or practices may constitute one (1) or more violations of provisions of sections 324.1100–324.1148, RSMo, or the administrative rules involving private investigators **or private fire investigators**. Any division staff member or board member may file a complaint pursuant to this rule in the same manner as any member of the public.

(2) Complaints may be mailed or delivered to the following address: Board of Private Investigator **and Private Fire Investigator Examiners**, 3605 Missouri Boulevard, PO Box 1335, Jefferson City, MO 65102. However, actual receipt of the complaint by the board at its administrative offices in any manner shall be sufficient. Complaints may be based upon personal knowledge, upon information and belief, or reciting information received from other sources.

AUTHORITY: sections 324.002 and 324.1138, RSMo Supp. [2008] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Sept. 13, 2013.

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 Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator and
Private Fire Investigator Examiners
Chapter 1—General Rules**

PROPOSED AMENDMENT

20 CSR 2234-1.050 Fees. The board is proposing to amend the division title, the purpose statement, and sections (1) and (3).

PURPOSE: This amendment adds inactive and reactivation fees for private investigators, removes trainer fees, and establishes fees for private fire investigators, private fire investigator agencies, and combination licenses.

PURPOSE: This rule establishes and fixes the various fees and charges for the Board of Private Investigator and Private Fire Investigator Examiners.

(1) All fees shall be paid by cashier’s check, personal check, business check, money order, or other method approved by the division and shall be made payable to the Board of Private Investigator and Private Fire Investigator Examiners.

(3) The following licensure fees are established as follows:

- (A) *[Private]* Investigator—
 - 1. Application fee \$500
 - 2. Renewal license fee \$300
 - 3. Renewal penalty fee \$100
 - 4. **Inactive fee \$100**
 - 5. **Reactivation fee \$200**

[4.]6. Fingerprinting Fee
Amount to be determined by the Missouri State Highway Patrol

- (B) *[Private Investigator]* Agency—
 - 1. Application fee \$400
 - 2. Renewal license fee \$200
 - 3. Renewal penalty fee \$100
 - 4. Additional agency license—
initial (one-half (½) of primary office) \$200
 - 5. Additional agency license—
renewal (one-half (½) of primary office) \$100
 - 6. Additional agency license—
renewal penalty fee \$100

- (C) Licensed Agency *[Investigator]* Employee—
 - 1. Application fee \$ 50
 - 2. Renewal license fee \$ 25
 - 3. Renewal penalty fee \$ 25
 - 4. Fingerprinting Fee

Amount to be determined by the Missouri State Highway Patrol

- [(D) Private Investigator Trainers—*
 - 1. Application fee \$200
 - 2. Renewal license fee \$100
 - 3. Renewal penalty fee \$100]

AUTHORITY: sections 324.1102 and 324.1132, RSMo Supp. [2010] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Oct. 8, 2010, effective May 30, 2011. Amended: Filed Sept. 13, 2013.

PUBLIC COST: This proposed amendment will increase revenue for state agencies or political subdivisions by approximately sixty-five thousand one hundred dollars (\$65,100) annually and thirty-five thousand seven hundred fifty dollars (\$35,750) biennially for the life of the rule. It is anticipated that the increase 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 amendment will cost private entities sixty-five thousand one hundred dollars (\$65,100) annually and thirty-five thousand seven hundred fifty dollars (\$35,750) biennially 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 amendment with the Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional Registration
Division 2234 - Board of Private Investigator and Private Fire Investigator Examiners
Chapter 1 - General Rules
Proposed Amendment to 20 CSR 2234-1.050 Fees
 Prepared May 31, 2013 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT**Estimated Annual Fiscal Impact**

Affected Agency or Political Subdivision	Estimated Revenue	
Board of Private Investigator and Private Fire Investigator Examiners		\$65,100
	Estimated Annual Revenue	\$65,100

Estimated Biennial Fiscal Impact

Affected Agency or Political Subdivision	Estimated Revenue	
Board of Private Investigator and Private Fire Investigator Examiners		\$35,750
	Estimated Biennial Revenue	\$35,750

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The estimated revenue is based on the costs reflected in the Private Entity Fiscal Note filed with this amendment.

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 FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2234 - Board of Private Investigator and Private Fire Investigator Examiners
Chapter 1 - General Rules
Proposed Amendment to 20 CSR 2234-1.050 Fees
 Prepared May 31, 2013 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Annual Costs

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the amendment by affected entities:
20	Private Investigator (Inactive Fee @ \$100)	\$2,000
5	Private Investigator (Reactivation Fee @ \$200)	\$1,000
1	Private Investigator Trainers (Eliminating Application Fee @ \$200)	(\$200)
75	Private Fire Investigator (Application Fee @ \$500)	\$37,500
1	Private Fire Investigator (Inactive Fee @ \$100)	\$100
1	Private Fire Investigator (Reactivation Fee @ \$200)	\$200
35	Private Fire Investigator Agency (Application Fee @ \$400)	\$14,000
1	Private Fire Investigator Agency (Additional fire investigator agency license - Initial (one-half (1/2) of primary office) @ \$200)	\$200
20	Private Investigator & Private Fire Investigator (combination license) (Application Fee @ \$500)	\$10,000
1	Private Investigator & Private Fire Investigator (combination license) (Inactive Fee @ \$100)	\$100
1	Private Investigator & Private Fire Investigator (combination license) (Reactivation Fee @ \$200)	\$200
Estimated Annual Cost of Compliance for the Life of the Rule		\$65,100

Biennial Costs

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated biennial cost of compliance with the amendment by affected entities:
1	Private Investigator Trainers (Eliminating Renewal Fee @ \$100)	(\$100)
1	Private Investigator Trainers (Eliminating Renewal Penalty Fee @ \$100)	(\$100)
75	Private Fire Investigator (Renewal Fee @ \$300)	\$22,500
1	Private Fire Investigator (Renewal Penalty Fee @ \$100)	\$100
35	Private Fire Investigator Agency (Renewal Fee @ \$200)	\$7,000
1	Private Fire Investigator Agency (Renewal Penalty Fee @ \$100)	\$100
1	Private Fire Investigator Agency (Additional fire investigator agency license - Renewal (one-half (1/2) of primary office) @ \$100)	\$100
1	Private Fire Investigator Agency (Additional fire investigator agency license - Renewal Penalty Fee @ \$50)	\$50
20	Private Investigator & Private Fire Investigator (combination license) (Renewal Fee @ \$300)	\$6,000
1	Private Investigator & Private Fire Investigator (combination license) (Renewal Penalty Fee @ \$100)	\$100
Estimated Biennial Cost of Compliance for the Life of the Rule		\$35,750

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The estimated number of inactive licenses is based on the number of board requests for
2. The private fire investigator numbers were provided by the International Association of Arson Investigators and the Professional Fire and Fraud Investigators Association. The associations estimated the number of applicants based on membership numbers.

Note: The board is statutorily obligated to enforce and administer the provisions of sections 324.1100 to 324.1148, RSMo. Pursuant to section 324.1114, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 324.1100 to 324.1148, RSMo at a level to produce revenue which will not substantially exceed the cost and expense of administering sections 324.1100 to 324.1148.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**
**Division 2234—Board of Private Investigator and Private
Fire Investigator Examiners**
**Chapter 2—Private Investigator and Private Fire
Investigator**

PROPOSED AMENDMENT

20 CSR 2234-2.010 Application for Licensure—Private Investigator. The board is proposing to amend the division title, the chapter title, and sections (1), (2), and (5).

PURPOSE: This amendment adds private fire investigators to the board title and clarifies the rule is applicable only to private investigators throughout.

(1) An application for licensure as a **private investigator** pursuant to section 324.1108, RSMo, shall be submitted on the form which may be obtained by contacting the Board of Private Investigator and **Private Fire Investigator** Examiners.

(2) A completed application for licensure as a **private investigator** must be typewritten or printed in black ink, signed, and notarized, including information pertaining to the private investigator, and shall include:

(5) Examination requirements may be waived by the board pursuant to section 324.1110, RSMo.

AUTHORITY: sections 324.1102, 324.1108, 324.1110, 324.1112, and 324.1114, RSMo Supp. [2008] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Sept. 13, 2013.

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 Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator and Private
Fire Investigator Examiners**
**Chapter 2—Private Investigator and Private Fire
Investigator**

PROPOSED RULE

20 CSR 2234-2.015 Application for Licensure—Private Fire Investigator

PURPOSE: This rule outlines the procedure to apply for licensure as a private fire investigator.

(1) An application for licensure as a private fire investigator pursuant to section 324.1108, RSMo, shall be submitted on the form which

may be obtained by contacting the Board of Private Investigator and Private Fire Investigator Examiners.

(2) A completed application for licensure as a private fire investigator must be typewritten or printed in black ink, signed, and notarized, including information pertaining to the private fire investigator, and shall include:

(A) The appropriate licensure fee pursuant to 20 CSR 2234-1.050;

(B) Two (2) copies of a recent photograph of the applicant's head and shoulders (commonly known as passport style) that fairly depict the applicant's appearance;

(C) Proof of submission of fingerprints to the Missouri State Highway Patrol's approved vendor for both a Missouri State Highway Patrol and Federal Bureau of Investigation (FBI) fingerprint background check. Any fees due for fingerprint background checks shall be paid by the applicant directly to the Missouri State Highway Patrol or its approved vendor;

(D) Proof of the liability insurance required by law in the form of a Certificate of Insurance issued by an insurance company licensed to do business in the state of Missouri; a Certificate of Insurance issued by an agent is not acceptable;

(E) Proof of workers' compensation insurance in the form of a Certificate of Insurance issued by an insurance company licensed to do business in the state of Missouri (a Certificate of Insurance issued by an agent is not acceptable), or written statement explaining how the applicant's business is not subject to the Workers' Compensation law;

(F) Evidence of active certification as a fire investigator issued by the Division of Fire Safety.

(3) An application will not be considered officially filed with the board unless it is typewritten or printed in black ink, signed, notarized, accompanied by all documents required by the board, and the application fee.

(4) The applicant shall be informed in writing of the decision regarding the application for licensure.

(5) The board may delegate the review of license applications to the executive director.

AUTHORITY: sections 324.1102, 324.1108, 324.1110, 324.1112, and 324.1114, RSMo Supp. 2012. Original rule filed Sept. 13, 2013.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately six hundred seventy-one dollars (\$671) to eight hundred thirty-six dollars (\$836) in the first year of implementation and approximately seventy-two dollars (\$72) to eighty-nine dollars (\$89) annually thereafter 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 four thousand seventy-six dollars (\$4,076) in the first year of implementation and approximately four hundred thirty-five dollars (\$435) annually thereafter 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 amendment with the Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2234 - Board of Private Investigator and Private Fire Investigator Examiners
Chapter 2 - Private Investigator and Private Fire Investigator
Proposed Rule 20 CSR 2234-2.015 Application for Licensure - Private Fire Investigator
 Prepared May 31, 2013 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

1st Year of Implementation of the Rule

Affected Agency or Political Subdivision	Estimated Costs
Board of Private Investigator and Private Fire Investigator Examiners	\$670.96
	to \$836.23
	Total Cost of Compliance for the 1st Year of Implementation
	\$670.96 to \$836.23

2nd Year of Implementation of the Rule and Annually Thereafter

Affected Agency or Political Subdivision	Estimated Costs
Board of Private Investigator and Private Fire Investigator Examiners	\$71.57
	to \$89.20
	Annual Cost of Compliance for the Life of the Rule
	\$71.57 to \$89.20

III. WORKSHEET

1st Year of Implementation of the Rule

The Processing Technician II provides technical support, processes applications for licensure, and responds to inquiries related to the licensure law and/or rules and regulations. The executive director reviews each application.

Personal Service

STAFF	ANNUAL SALARY RANGE	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPL	NUMBER OF ITEMS	TOTAL COST
Executive Director	\$51,156	\$77,455	\$37.24	\$0.62	5 minutes	\$3.10	75	\$232.74
	to \$62,832	to \$95,134	to \$45.74	to \$0.76				to \$285.86
Senior Office Support Assistant	\$24,579	\$37,215	\$17.89	\$0.30	15 minutes	\$4.47	75	\$335.47
	to \$32,796	to \$49,656	to \$23.87	to \$0.40				to \$447.62
								\$568.21
								to
Personal Service Costs								\$733.48

Expense and Equipment

Item	Cost	Quantity	Total Cost Per Item
Correspondence Mailing	\$0.65	75	\$48.75
License Printing and Postage	\$0.72	75	\$54.00
Expense and Equipment Costs			\$102.75

2nd Year of Implementation of the Rule and Annually Thereafter

The Processing Technician II provides technical support, processes applications for licensure, and responds to inquiries related to the licensure law and/or rules and regulations. The executive director reviews each application.

Personal Service

Personal Service

STAFF	ANNUAL SALARY RANGE	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPL.	NUMBER OF ITEMS	TOTAL COST
Executive Director	\$51,156	\$77,455	\$37.24	\$0.62	5 minutes	\$3.10	8	\$24.83
	to \$62,832	to \$95,134	to \$45.74	to \$0.76		to \$30.49		
Senior Office Support Assistant	\$24,579	\$37,215	\$17.89	\$0.30	15 minutes	\$4.47	8	\$35.78
	to \$32,796	to \$49,656	to \$23.87	to \$0.40		to \$47.75		
Personal Service Costs								\$60.61 to \$78.24

Expense and Equipment

Item	Cost	Quantity	Total Cost Per Item
Correspondence Mailing	\$0.65	8	\$5.20
License Printing and Postage	\$0.72	8	\$5.76
Expense and Equipment Costs			\$10.96

IV. ASSUMPTIONS

1. Employees' salaries were calculated using the annual salary multiplied by 51.41% 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.

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 costs incurred by the office, which includes personal service, expense and equipment, and transfers.

PRIVATE FISCAL NOTE

I. RULE NUMBER

**Title 20 -Department of Insurance, Financial Institutions and Professional Registration
Division 2234 - Board of Private Investigator and Private Fire Investigator Examiners
Chapter 2 - Private Investigator and Private Fire Investigator
Proposed Rule 20 CSR 2234-2.015 Application for Licensure-Private Fire Investigator
Prepared May 31, 2013 by the Division of Professional Registration**

II. SUMMARY OF FISCAL IMPACT

1st Year of Implementation of the Rule

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:
75	Private Investigator Applicants (Postage @ \$0.45)	\$33.75
75	Private Investigator Applicants (Notary @ \$2.00)	\$150.00
75	Private Investigator Applicants (Photo @ \$7.00)	\$525.00
75	Private Investigator Applicants (Highway Patrol Fingerprinting Fees @ \$44.80)	\$3,360.00
75	Private Investigator Applicants (Proof of Liability Insurance Copy @ \$0.05/copy)	\$3.75
75	Private Investigator Applicants (Proof of Workers Compensation Insurance Copy @ \$0.05/copy)	\$3.75
Estimated Cost of Compliance During the First Year of Implementation of the Rule		\$4,076.25

2nd Year of Implementation of the Rule and Annually Thereafter

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:
8	Private Investigator Applicants (Postage @ \$0.45)	\$3.60
8	Private Investigator Applicants (Notary @ \$2.00)	\$16.00
8	Private Investigator Applicants (Photo @ \$7.00)	\$56.00
8	Private Investigator Applicants (Fingerprinting Fees @ \$44.80)	\$358.40
8	Private Investigator Applicants (Proof of Liability Insurance @ \$0.05/copy)	\$0.40
8	Private Investigator Applicants (Proof of Workers Compensation Insurance @ \$0.05/copy)	\$0.40
Total Cost of Compliance Beginning the Second Year of Implementation and Continuing Annually Thereafter		\$434.80

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The board used numbers provided by the International Association of Arson Investigators and the Professional Fire and Fraud Investigators Association. The associations estimated the number of applicants based on membership numbers.
2. It is anticipated that the total cost will recur annually 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 2234—Board of Private Investigator and Private
Fire Investigator Examiners**
**Chapter 2—Private Investigator and Private Fire
Investigator**

PROPOSED AMENDMENT

20 CSR 2234-2.020 Name and Address Changes[—*Private Investigator*]. The board is proposing to amend the division title, chapter title, and the title.

PURPOSE: This amendment removes private investigator from the title in order to make the rule applicable to the private fire investigator licensees.

AUTHORITY: section 324.1100, RSMo Supp. [2008] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Sept. 13, 2013.

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 Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator and Private
Fire Investigator Examiners**
**Chapter 2—Private Investigator and Private Fire
Investigator**

PROPOSED AMENDMENT

20 CSR 2234-2.030 Replacement of Renewal License[—*Private Investigator*]. The board is proposing to amend the division title, the chapter title, and the title.

PURPOSE: This amendment removes private investigator from the title in order to make the rule applicable to private fire investigators.

AUTHORITY: section 324.1100, RSMo Supp. [2008] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Sept. 13, 2013.

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 Board of Private Investigator and Private Fire Investigator

Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator and Private
Fire Investigator Examiners**
**Chapter 2—Private Investigator and Private Fire
Investigator**

PROPOSED AMENDMENT

20 CSR 2234-2.040 Licensure Renewal[—*Private Investigator*]. The board is proposing to amend the division title, the chapter title, the title, purpose statement, section (1), and to add sections (2) and (3).

PURPOSE: This amendment adds requirements for renewal of inactive licenses.

PURPOSE: This rule establishes licensure renewal requirements for private investigators and private fire investigators.

(1) A license shall be renewed prior to the expiration of the license. Failure to receive a license renewal notice shall not relieve the licensee of the obligation to renew the license and pay the required fee prior to the expiration date of the license. Renewals shall be post-marked no later than the expiration date of the license to avoid the late penalty fee as defined in 20 CSR 2234-1.050. Private investigators must maintain compliance with continuing education according to 20 CSR 2234-6.010. Private fire investigators must maintain and provide proof of active certification as a fire investigator issued by the Missouri Division of Fire Safety, which shall also constitute proof of compliance with continuing education requirements.

(2) Private investigators who request to be classified as inactive may maintain their inactive status and receive a license indicating their inactive status by paying the inactive license renewal fee as provided in 20 CSR 2234-1.050. Holders of an inactive license need not complete the continuing education requirement. However, a holder of an inactive license shall not have his or her license reactivated until he or she pays the required reactivation fee, and in addition, submits proof of having completed the required continuing education hours within the two (2) years immediately prior to the date of reactivation. If the holder of an inactive license reactivates at the time of renewal, the licensee shall only be required to pay the renewal fee, and in addition, submit proof of the required continuing education hours.

(3) Private fire investigators who request to be classified as inactive may maintain their inactive status and receive a license indicating their inactive status by paying the inactive license renewal fee as provided in 20 CSR 2234-1.050. Holders of an inactive license need not complete the continuing education requirement. However, a holder of an inactive license shall not have his or her license reactivated until he or she pays the required reactivation fee, and in addition, submits proof of an active certification as a fire investigator issued by the Missouri Division of Fire Safety, which shall also constitute proof of continuing education. If a holder of an inactive private fire investigator license reactivates at the time of renewal, the licensee shall only be required to pay the renewal fee, and in addition, submit proof of an active certification as a fire investigator issued by the Missouri Division of Fire Safety.

AUTHORITY: sections 324.039, 324.1102, and 324.1126, RSMo Supp. [2008] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Sept. 13, 2013.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately two hundred forty-two dollars (\$242) to three hundred one dollars (\$301) biennially 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 amendment will cost private entities approximately twelve dollars (\$12) biennially 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 amendment with the Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional Registration
Division 2234 - Board of Private Investigator and Private Fire Investigator Examiners
Chapter 2 - Private Investigator and Private Fire Investigator
Proposed Rule 20 CSR 2234-2.040 Licensure Renewal - Private Investigator and Private Fire Investigator
 Prepared May 31, 2013 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Costs
Board of Private Investigator and Private Fire Investigator Examiners	\$241.55
	to \$301.04
	Total Cost of Compliance for the Life of the Rule
	\$241.55 to \$301.04

III. WORKSHEET

The Processing Technician II provides technical support, processes applications for licensure, and responds to inquiries related to the licensure law and/or rules and regulations. The executive director reviews each application for inactive status or reactivation.

Personal Service

STAFF	ANNUAL SALARY RANGE	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPL	NUMBER OF ITEMS	TOTAL COST
Executive Director	\$51,156	\$77,455	\$37.24	\$0.62	5 minutes	\$3.10	27	\$83.79
	to \$62,832	to \$95,134	to \$45.74	to \$0.76		to \$3.81		to \$102.91
Senior Office Support Assistant	\$24,579	\$37,215	\$17.89	\$0.30	15 minutes	\$4.47	27	\$120.77
	to \$32,796	to \$49,656	to \$23.87	to \$0.40		to \$5.97		to \$161.14
								\$204.56 to \$264.05
Personal Service Costs								\$264.05

Expense and Equipment

Item	Cost	Quantity	Total Cost Per Item
Correspondence Mailing	\$0.65	27	\$17.55
License Printing and Postage	\$0.72	27	\$19.44
Expense and Equipment Costs			\$36.99

IV. ASSUMPTIONS

1. Employees' salaries were calculated using the annual salary multiplied by 51.41% 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.

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 costs incurred by the office, which includes personal service, expense and equipment, and transfers.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2234 - Board of Private Investigator and Private Fire Investigator Examiners
Chapter 2 - Private Investigator and Private Fire Investigator
Proposed Rule 20 CSR 2234-2.040 Licensure Renewal - Private Investigator and Private Fire Inves
 Prepared May 31, 2013 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:
21	Applicants for Inactive License (Postage @ \$0.45)	\$9.45
6	Applicants for Reactivation of License (Postage @ \$0.45)	\$2.70
Estimated Biennial Cost of Compliance for the Life of the Rule		\$12.15

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The board anticipates that approximately 20 private investigators and 1 private fire investigator will apply for inactive status biennially. The board estimates that approximately 5 private investigators and 1 private fire investigator will apply for reactivation biennially.
2. It is anticipated that the total cost will recur annually 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 2234—Board of Private Investigator and Private
Fire Investigator Examiners**
**Chapter 3—Private Investigator Agency and Private Fire
Investigator Agency**

PROPOSED AMENDMENT

20 CSR 2234-3.010 Application for Licensure—[Private Investigator] Agency. The board is proposing to amend the division title, the chapter title, the rule title, the purpose statement, and sections (1)–(5), and (7).

PURPOSE: This amendment adds reference to private fire investigators, removes the proof of insurance requirement, clarifies where an agency can conduct business, and clarifies that the board may delegate review of license applications to the executive director.

PURPOSE: This rule outlines requirements for [a private investigator] an agency license.

(1) An application for **agency** licensure pursuant to section 324.1108, RSMo, shall be submitted on the form which may be obtained by contacting the [B/board of Private Investigator Examiners].

(2) A completed application for **agency** licensure must be typewritten or printed in black ink, signed, and notarized, and shall include:

(B) The name of the Missouri licensed private investigator-in-charge or the **private fire investigator-in-charge** and designate a primary office [in Missouri];

(C) Proof of registration [of a fictitious name] with the Missouri secretary of state as required by law;

(3) An agency shall not conduct business from any location [in Missouri] other than that shown on the board's records.

(4) If a private investigator agency or **private fire investigator agency** maintains a branch office(s), each shall be operated under the same name and license as the primary office and every such place of business shall comply with the provisions of 20 CSR 2234-3.010.

(5) A branch office shall be under the direct supervision of the licensed private investigator-in-charge or **private fire investigator-in-charge**.

(7) The board may delegate the [preliminary] review of license applications to the executive director.

AUTHORITY: sections 324.1102, 324.1108, 324.1110, 324.1112, 324.1114, and 324.1132, RSMo Supp. [2008] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Sept. 13, 2013.

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 Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator and Private
Fire Investigator Examiners**
**Chapter 3—Private Investigator Agency and Private Fire
Investigator Agency**

PROPOSED AMENDMENT

20 CSR 2234-3.020 Change of Name, Ownership, Location, or [Private] Investigator-In-Charge—[Private Investigator Agency]. The board is proposing to amend the division title, the chapter title, the rule title, the purpose statement, and sections (1)–(4).

PURPOSE: This amendment adds private fire investigator agencies and clarifies that primary offices must notify the board upon closure.

PURPOSE: This rule outlines the requirements and procedures for notifying the board of a change of name, ownership, or location of a private investigator or private fire investigator agency.

(1) Change of Private Investigator Agency or **Private Fire Investigator Agency** Name.

(A) A written notification of the change of name prior to the effective date of the proposed change shall be submitted to the board along with a copy of any fictitious registration with the Missouri secretary of state.

(B) The private investigator agency or **private fire investigator agency** shall not release any printed materials or advertisements in the new name to the public before notifying the board of the name change.

(D) The private investigator agency or **private fire investigator agency** shall return the license for the former name to the board immediately.

(2) Change of Private Investigator Agency or **Private Fire Investigator Agency** Location.

(A) A private investigator agency or **private fire investigator agency** shall notify the board in writing within ten (10) days after closing or changing the location of a **primary** or a branch office.

(B) The private investigator agency or **private fire investigator agency** shall return the license for the former location to the board immediately.

(3) Change of Ownership.

(A) A private investigator agency or **private fire investigator agency** shall promptly notify the board of his or her intention to cease operations and shall supply the board with the name and mailing address of the new operator, if any. A private investigator agency or **private fire investigator agency** license is not transferable. A new agency shall submit a completed application as required in 20 CSR 2234-3.010 and obtain a new license before operating the business.

(B) The private investigator agency or **private fire investigator agency** shall return the license for the former location to the board immediately.

(4) Change of Private Investigator-In-Charge.

(A) A private investigator agency or **private fire investigator agency** shall notify the board in writing within ten (10) days after a change of the private investigator-in-charge or **private fire investigator-in-charge**.

(B) The private investigator agency or **private fire investigator agency** shall return the license for the former private investigator-in-charge or **private fire investigator-in-charge** to the board immediately.

AUTHORITY: sections 324.1100 and 324.1132, RSMo Supp. [2008] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Sept. 13, 2013.

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 Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator and Private
Fire Investigator Examiners
Chapter 3—Private Investigator Agency and Private Fire
Investigator Agency**

PROPOSED AMENDMENT

20 CSR 2234-3.030 Licensure Renewal—*Private Investigator Agency*. The board is proposing to amend the division title, the chapter title, the title and the purpose statement.

PURPOSE: This amendment removes private investigator agency from the title and purpose statement in order to make the rule applicable to private investigator and private fire investigator agencies.

PURPOSE: This rule establishes licensure renewal requirements [for private investigator agencies].

AUTHORITY: sections 324.1102 and 324.1126, RSMo Supp. [2008] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Sept. 13, 2013.

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 Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator and Private
Fire Investigator Examiners
Chapter 3—Private Investigator Agency and Private Fire
Investigator Agency**

PROPOSED AMENDMENT

20 CSR 2234-3.040 Application for Licensure—*[Licensed] Agency [Investigator] Employee*. The board is proposing to amend the division title, the chapter title, the title, purpose statement, and sections (1)–(2).

PURPOSE: This amendment adds private fire investigators throughout.

PURPOSE: This rule outlines the requirements for private investigator agency and private fire investigator agency employees.

(1) An application for licensure pursuant to section 324.1108, RSMo, shall be submitted on the form which may be obtained by contacting the Board of Private Investigator and Private Fire Investigator Examiners.

(2) A completed application for licensure must be typewritten or printed in black ink, signed, and notarized, including information pertaining to the private investigator or private fire investigator agency employee, and must include:

AUTHORITY: sections 324.1102, 324.1116, and 324.1118, RSMo Supp. [2008] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Sept. 13, 2013.

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 Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator and Private
Fire Investigator Examiners
Chapter 3—Private Investigator Agency and Private Fire
Investigator Agency**

PROPOSED AMENDMENT

20 CSR 2234-3.070 Licensure Renewal—*Licensed Agency Investigator Employees and Agency Fire Investigator Employees*. The board is proposing to amend the division title, the chapter title, the title and the purpose statement.

PURPOSE: This amendment adds agency fire investigator employees in order to make the rule applicable to them.

PURPOSE: This rule establishes licensure renewal requirements for licensed agency investigator employees and agency fire investigator employees.

AUTHORITY: sections 324.1102 and 324.1126, RSMo Supp. [2008] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Sept. 13, 2013.

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 Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator Examiners
Chapter 4—Private Investigator Trainers**

PROPOSED RESCISSION

20 CSR 2234-4.010 Application for License—Private Investigator Trainer. This rule outlined the procedure and requirements to apply for licensure as a private investigator trainer.

PURPOSE: This rule is being rescinded because the board no longer regulates trainers.

AUTHORITY: section 324.1140, RSMo Supp. 2008. Original rule filed June 26, 2009, effective Jan. 30, 2010. Rescinded: Filed Sept. 13, 2013.

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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator Examiners
Chapter 4—Private Investigator Trainers**

PROPOSED RESCISSION

20 CSR 2234-4.020 Trainer Responsibilities—Private Investigator Trainer. This rule outlined continuing education trainers' responsibilities.

PURPOSE: This rule is being rescinded because the board no longer regulates trainers.

AUTHORITY: sections 324.1138 and 324.1140, RSMo Supp. 2008. Original rule filed June 26, 2009, effective Jan. 30, 2010. Rescinded: Filed Sept. 13, 2013.

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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator Examiners
Chapter 4—Private Investigator Trainers**

PROPOSED RESCISSION

20 CSR 2234-4.030 Name and Address Changes—Private Investigator Trainer. This rule outlined procedures to be followed for name, address, and telephone number changes.

PURPOSE: This rule is being rescinded because the board no longer regulates trainers.

AUTHORITY: section 324.1100, RSMo Supp. 2008. Original rule filed June 26, 2009, effective Jan. 30, 2010. Rescinded: Filed Sept. 13, 2013.

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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator Examiners
Chapter 4—Private Investigator Trainers**

PROPOSED RESCISSION

20 CSR 2234-4.040 Replacement of Renewal License—Private Investigator Trainer. This rule established the procedures for replacing registration certificates.

PURPOSE: This rule is being rescinded because the board no longer regulates trainers.

AUTHORITY: section 324.1100, RSMo Supp. 2008. Original rule filed June 26, 2009, effective Jan. 30, 2010. Rescinded: Filed Sept. 13, 2013.

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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator Examiners
Chapter 4—Private Investigator Trainers**

PROPOSED RESCISSION

20 CSR 2234-4.050 Licensure Renewal—Private Investigator Trainer. This rule established licensure renewal requirements for trainers.

PURPOSE: This rule is being rescinded because the board no longer regulates trainers.

AUTHORITY: sections 324.1102 and 324.1126, RSMo Supp. 2008. Original rule filed June 26, 2009, effective Jan. 30, 2010. Rescinded: Filed Sept. 13, 2013.

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 TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 2234—Board of Private Investigator and Private
Fire Investigator Examiners
Chapter 6—Continuing Education Requirements—Private
Investigators**

PROPOSED AMENDMENT

20 CSR 2234-6.010 Continuing Education. The board is proposing to amend the division title, the chapter title, purpose statement, remove section (3), renumber section (4) accordingly, and add a new section (4).

PURPOSE: This amendment clarifies that it pertains only to private investigators and agency investigator employees, removes references to private investigator trainers as the board no longer regulates trainers, and outlines reporting periods for the submission of the required continuing education hours.

PURPOSE: This rule outlines the requirements for continuing education courses recognized by the board for private investigator and agency investigator employees.

[(3) Course Providers.

(A) Any responsible person may offer continuing education courses.

1. A responsible person is a person who has not violated this board's rules regarding continuing education, or has offered satisfactory assurances to the board that they will not again violate this board's rules regarding continuing education.

2. A responsible person does not claim, advertise, or otherwise make known that he or she is offering a course to private investigators for continuing education until the board has, in fact, approved the course.

3. A responsible person does not discriminate against any person in an illegal manner, and provides reasonable accommodations to those who are legally entitled to accommodations.

4. A person whose license status with this board is denied, revoked, or suspended is not a responsible person for the purposes of this rule; a person whose license status with this board is probationary is not a responsible person under this rule unless the probation order or agreement specifically allows the person to offer continuing education courses.

(B) Private investigator trainers are presumed to be responsible persons and are subject to professional discipline for any violations of the continuing education rules.

1. Private investigator trainers are not required to submit lesson plans to the board except as set out in Chapter 4.

A. Private investigator trainers' course approval numbers are their license number, followed by a dash and a unique identifier selected by the trainer for each course of no more than four characters, i.e., 2008012345-XXXX, where 2008012345 is the license number and XXXX is the unique identifier.

2. Private investigator trainers are not required to submit attendance records to the board except as set out in Chapter 4.]

[(4)](3) Special Approval of Courses.

(A) Any licensed private investigator may petition the board to approve a particular course that he or she has attended or may attend that is offered by a person who has not complied with this board's continuing education rules.

1. The application shall be accompanied by the individual course review fee.

2. The materials set out in subsection (1)(B) of this rule should accompany the application. If any of the materials set out in subsection (1)(B) of this rule are not available, the applicant may provide supplemental material. The board may decline to approve the course for lack of sufficient information.

3. Proof of attendance, or a proposal for establishing proof of attendance, shall be included with the application.

(4) Continuing Education Reporting Period.

(A) Every private investigator licensed in Missouri shall, on or before February 28, 2014, and every two (2) years thereafter, obtain and report to the board proof of completion of sixteen (16) continuing education hours.

(B) Every agency investigator employee licensed in Missouri shall, on or before April 30, 2014, and every two (2) years thereafter, obtain and report to the board proof of completion of eight (8) continuing education hours.

(C) A reporting cycle for private investigators is March 1 to February 28 with the first reporting period being March 1, 2012 to February 28, 2014, and every two (2) years thereafter.

(D) A reporting cycle for agency investigator employees is May 1 to April 30 with the first reporting period being May 1, 2012 to April 30, 2014, and every two (2) years thereafter.

(E) If in any of the two- (2-) year reporting cycles the number of continuing education credits earned exceeds sixteen (16) for private investigators and eight (8) for agency investigator employees the excess credits over sixteen (16) for private investigators and eight (8) for agency investigator employees may be carried over to the next two- (2-) year reporting cycle up to a maximum of sixteen (16) for private investigators and eight (8) for agency investigator employees.

AUTHORITY: sections 324.1122, 324.1126, and 324.1138, RSMo Supp. [2008] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Sept. 13, 2013.

PUBLIC COST: This proposed amendment will save state agencies or political subdivisions approximately nine dollars (\$9) to eleven (\$11) annually for the life of the rule. It is anticipated that the savings 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 amendment will save private entities approximately one hundred one dollars (\$101) annually for the life of the rule. It is anticipated that the savings 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 amendment with the Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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 FISCAL NOTE

I. RULE NUMBER

**Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2234 - Board of Private Investigator and Private Fire Investigator Examiners
Chapter 6 - Continuing Education Requirements-Private Investigators
Proposed Amendment - 20 CSR 2234-6.010 Continuing Education
Prepared May 31, 2013 by the Division of Professional Registration**

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Savings
Board of Private Investigator and Private Fire Investigator Examiners	\$8.95
	to
	\$11.15
Total Savings of Compliance for the Life of the Rule	\$8.95
	to
	\$11.15

III. WORKSHEET

The Processing Technician II provides technical support, processes applications for licensure, and responds to inquiries related to the licensure law and/or rules and regulations. The executive director reviews each application.

Personal Service

STAFF	ANNUAL SALARY RANGE	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPL	NUMBER OF ITEMS	TOTAL COST
Executive Director	\$51,156	\$77,455	\$37.24	\$0.62	5 minutes	\$3.10	1	\$3.10
	to	to	to	to		to		to
	\$62,832	\$95,134	\$45.74	\$0.76		\$3.81		\$3.81
Senior Office Support Assistant	\$24,579	\$37,215	\$17.89	\$0.30	15 minutes	\$4.47	1	\$4.47
	to	to	to	to		to		to
	\$32,796	\$49,656	\$23.87	\$0.40		\$5.97		\$5.97
								\$7.58
								to
Personal Service Costs								\$9.78

Expense and Equipment

Item	Cost	Quantity	Total Cost Per Item
Correspondence Mailing	\$0.65	1	\$0.65
License Printing and Postage	\$0.72	1	\$0.72
Expense and Equipment Costs			\$1.37

IV. ASSUMPTIONS

1. Employees' salaries were calculated using the annual salary multiplied by 51.41% 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.
2. The board expects that they will process less applications due to the loss of the licensure of private investigator trainers. Therefore, the cost savings are shown here.

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 costs incurred by the office, which includes personal service, expense and equipment, and transfers.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
 Division 2234 - Board of Private Investigator and Private Fire Investigator Examiners
 Chapter 6 - Continuing Education Requirements - Private Investigators
 Proposed Amendment - 20 CSR 2234-6.010 Continuing Education
 Prepared May 31, 2013 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 amendment:	Classification by type of the business entities which would likely be affected:	Estimated savings of compliance with the amendment by affected entities:
1	Continuing Education Course Providers (Continuing Education Course Review Fee @ \$100.00)	\$100.00
1	Continuing Education Course Providers (Postage to Mail Course Review Request @ 0.45)	\$0.45
1	Continuing Education Course Providers (Postage to Mail Attendance Record @ 0.45)	\$0.45
Estimated Annual Savings of Compliance for the Life of the Rule		\$100.90

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The numbers reported above are based on FY12 actuals.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**
**Division 2234—Board of Private Investigator and Private
Fire Investigator Examiners**
Chapter 7—Code of Conduct

PROPOSED AMENDMENT

20 CSR 2234-7.010 Code of Conduct. The board is proposing to amend the division title, the purpose statement, and sections (1) and (2).

PURPOSE: This amendment adds reference to private fire investigators throughout.

PURPOSE: This rule establishes the code of conduct for private investigators and private fire investigators.

(1) Responsibilities to the Profession.

(A) Cooperation with the board.

1. Private investigators and private fire investigators shall timely and truthfully answer all inquires from the board or its staff.

2. A timely response is made without undue delay and in accord with reasonable business practices.

A. A phone call is timely if returned before the end of the tenth day.

B. A response to written correspondence is timely if the response arrives at the board's office by the close of business the tenth day after the date of the correspondence.

3. An initial response to a complaint is timely if received in the board's office before the close of business on the thirtieth day after it is sent to the private investigator, private fire investigator, private investigator agency, and/or private fire investigator agency.

4. A response is not timely if any material matter known, or which would have been known upon reasonable inquiry, is omitted from the response.

5. A response is truthful if all of the information provided in the response is accurate.

A. A response based on information and belief, made after reasonable inquiry, is truthful.

6. A response setting forth a proper objection to answering the inquiry shall be deemed timely and truthful so long as:/—

A. There is a reasonable, lawful basis for the objection stated in the response;

B. The response is otherwise timely; and

C. Information not the subject of the objection is included in the response.

(B) Protection of the Profession.

1. Private investigators and private fire investigators who are aware of circumstances, or who become aware of circumstances, that would lead a reasonable person to believe another private investigator or private fire investigator has or is violating the profession's code of conduct, shall promptly inform the board of the circumstances.

A. Private investigators and private fire investigators may consult with the other private investigators and private fire investigators regarding the circumstances, and if reasonably satisfied that no violation has occurred, choose not to notify the board.

B. Private investigators and private fire investigators need not investigate the conduct of the other private investigators or private fire investigators in such circumstances. Reporting the conduct to the board discharges the private investigator's or private fire investigator's duty under this section.

C. An anonymous complaint to the board does not comply with the provisions of this section.

D. No action will be taken by the board against a private investigator or private fire investigator who has made a report pursuant to the provisions of this section unless malice is shown to be

the motive for an untruthful report.

(C) Aiding Unlicensed Practice.

1. Private investigators and private fire investigators shall neither permit nor suffer any person with whom they are associated to practice the profession without being properly licensed.

2. Private investigators and private fire investigators shall promptly report to the board any person who appears to be unlawfully practicing the profession without a license.

A. Private investigators and private fire investigators may consult with the person who appears to be unlawfully practicing the profession without a license regarding the circumstances, and if reasonably satisfied that no violation has occurred, choose not to notify the board.

B. Private investigators and private fire investigators need not investigate the conduct of the person who appears to be unlawfully practicing the profession without a license in such circumstances. Reporting the conduct to the board discharges the private investigator's or private fire investigator's duty under this section.

C. An anonymous complaint to the board does not comply with the provisions of this section.

D. No action will be taken by the board against a private investigator or private fire investigator who has made a report pursuant to the provisions of this section unless malice is shown to be the motive for an untruthful report.

(D) Responsibility for Subordinates.

1. Private investigators and private fire investigators are responsible for supervising their subordinates, including unlicensed individuals in their employ or with whom they have contracted for services.

2. The private investigator-in-charge or private fire investigator-in-charge of an agency is responsible for supervising subordinates, including unlicensed individuals in the employ of the agency or with whom the agency has contracted for services.

(E) Posting Licenses.

1. Private investigators and private fire investigators shall post their license in a place clearly visible at every office from which they regularly do business.

(2) Responsibilities to the Public.

(A) Honesty and Best Efforts.

1. Private investigators and private fire investigators shall, to the extent of their abilities, diligently and honestly perform the work for which they have been retained.

2. Private investigators and private fire investigators shall not make any material false statement to a client.

3. Private investigators and private fire investigators shall not withhold material information from a client.

4. Private investigators and private fire investigators shall do business only under the name with which they are licensed by the board.

A. Private investigators and private fire investigators may use pseudonyms when professionally appropriate; however, any such pseudonym shall be registered with the board prior to use.

B. Private investigators and private fire investigators shall not use a fictitious business name unless it has been registered with the secretary of state pursuant to Chapter 417, RSMo, and a copy of the registration has been delivered to the board.

(B) Business Records.

1. Private investigators and private fire investigators shall maintain complete and accurate records of the professional services that they render unless prohibited by written contract, court order, or state or federal statute. A copy of the aforementioned document shall be placed in the file in the place of the original documents. Section 324.1136, RSMo, requires that private investigators and private fire investigators maintain records for seven (7) years. The board will deem records containing the following information satisfactory, unless such records are plainly insufficient in the circumstances:

A. Any final report prepared by the private investigator or

private fire investigator;

B. Field notes, interim reports, correspondence, or other records prepared during an assignment;

C. Any video or audio recordings made during the course of an assignment;

D. Correspondence to and from the client, including billing records; and

E. Accounting records related to an assignment, including vouchers or receipts for expenses billed to the client.

F. Copy shall be maintained in lieu of such documents as prescribed in paragraph 20 CSR 2234-7.010(2)(B)1.

2. Records shall be preserved in such a way that they are reasonably safe from intentional or accidental destruction and degradation.

3. Records of a particular matter need not be stored in a single form or at a single place. All of the components of a record of a particular matter shall be readily accessible, however, for the seven- (7-)/-/ year period.

A. "Readily accessible" means in a form such that they can be produced within ten (10) days of demand, under ordinary business conditions.

4. Records may be retained for more than seven (7) years, pursuant to agreement with a client or at the private investigator's or private fire investigator's pleasure.

5. Private investigators and private fire investigators who destroy records shall ensure that it is impossible to reconstruct such records.

(C) Financial Integrity.

1. Private investigators and private fire investigators shall maintain truthful records of the financial affairs of their business.

2. Private investigators and private fire investigators shall not accept anything of pecuniary value, tangible or intangible, without offering a written receipt containing the following information to the person offering the valuable thing:

A. The private investigator's or private fire investigator's name, license number, and address of record; and

B. A reasonable description of the thing of pecuniary value.

3. Private investigators and private fire investigators shall safeguard property of value that comes into their possession, regardless of whether it belongs to a client or a third person.

A. Private investigators and private fire investigators shall give written notification to any person whose valuable property has come into their possession, whose name and address are known or reasonably discoverable;

(I) Such notice may be postponed for sound investigative reasons; however, such reasons shall be memorialized in the records of the matter.

B. A private investigator or private fire investigator shall turn over the valuable property of another person to the person upon demand, unless there is legal justification to withhold the property.

(I) A private investigator or private fire investigator who lawfully withholds property pending payment of a debt or the reasonable costs of obtaining and protecting the property shall not be deemed to have violated this section.

(II) A private investigator or private fire investigator may withhold valuable property if there is reasonable doubt as to the owner or who is entitled to possession.

(III) A private investigator and private fire investigator may withhold valuable property for which the owner or person entitled to possession is not willing to provide a written receipt.

C. A private investigator or private fire investigator shall strictly abide by the unclaimed property law of Missouri, or other state that has jurisdiction over the property.

(D) Insurance.

1. Private investigators and private fire investigators shall maintain insurance of the same type and quantity required to obtain a license in full force and effect during the license period.

2. Private investigators and private fire investigators may, at

their will and pleasure, change insurance providers; however, they shall not have a gap in coverage.

3. Private investigators and private fire investigators who were not required to have workers' compensation insurance at the time that they were licensed shall obtain such insurance if they subsequently become subject to the Workers' Compensation law, and maintain such insurance in full force and effect during the license period.

(E) Compliance with the Law.

1. Private investigators and private fire investigators shall obey all criminal laws—federal, state, and local.

A. "Criminal laws" include the penal ordinances and regulations of political subdivisions of a state or the agencies of the federal government.

2. Private investigators and private fire investigators shall conform their conduct to the expectations of an ordered society:

A. Private investigators and private fire investigators shall not commit intentional torts.

B. Private investigators and private fire investigators shall not cause injury to others through negligence or reckless behavior.

3. The burden of proving justification or excuse for any violation of this section shall be upon the private investigators or private fire investigators.

AUTHORITY: section 324.1138, RSMo Supp. [2008] 2012. Original rule filed June 26, 2009, effective Jan. 30, 2010. Amended: Filed Sept. 13, 2013.

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 Board of Private Investigator and Private Fire Investigator Examiners, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by fax at (573) 526-0661, or via email at pi@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.