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SALUS POPULI SUPREMA LEX ESTO

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



JASON KANDER  
SECRETARY OF STATE

MISSOURI  
REGISTER

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**SECRETARY OF STATE**

**JASON KANDER**

Administrative Rules Division

James C. Kirkpatrick State Information Center

600 W. Main

Jefferson City, MO 65101

(573) 751-4015

DIRECTOR

WAYLENE W. HILES

•

MANAGING EDITOR

CURTIS W. TREAT

•

EDITOR

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•

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•

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•

PUBLICATION TECHNICIAN

JACQUELINE D. WHITE

•

ADMINISTRATIVE ASSISTANT

ALISHA DUDENHOEFFER

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May 1, 2014 May 15, 2014	<b>June 2, 2014</b> <b>June 16, 2014</b>	June 30, 2014 June 30, 2014	July 30, 2014 July 30, 2014

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

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## HOW TO CITE RULES AND RSMo

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

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

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

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

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

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

**U**nder 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."

**E**ntirely 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.

**A**n 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.

**I**f 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*.

**A**n 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.

**I**f 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.

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

## Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION Division 20—Division of Learning Services Chapter 400—Office of Educator Quality

### PROPOSED RECISSION

**5 CSR 20-400.120 Administrative Appeal Procedure for Applicants Denied Certification.** The State Board of Education is authorized to grant certificates of license to teach in any of the public schools of the state and to establish requirements and qualifications for those certificates. This rule established a formal procedure of appeal for applicants denied certification.

*PURPOSE: This rule is being rescinded due to the adoption of 5 CSR 20-400.125, Actions of the State Board of Education Relating to Applications for Educator Certificates.*

*AUTHORITY: sections 161.092 and 168.011, RSMo 1986 and*

*168.021, RSMo Supp. 1993. This rule previously filed as 5 CSR 80-800.020. Original rule filed June 3, 1976, effective Oct. 1, 1976. Amended: Filed Sept. 23, 1992, effective May 5, 1993. Moved to 5 CSR 20-400.120, effective Aug. 16, 2011. Rescinded: Filed Dec. 12, 2013.*

*PUBLIC COST: This proposed rescission will not cost the 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 Department of Elementary and Secondary Education, General Counsel, PO Box 480, Jefferson City, MO 65102-0480 or by email at [counsel@dese.mo.gov](mailto:counsel@dese.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 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION Division 20—Division of Learning Services Chapter 400—Office of Educator Quality

### PROPOSED RECISSION

**5 CSR 20-400.130 Administrative Procedures for Recertifying Teachers Whose Certificates Have Been Revoked by the State Board of Education.** The State Board of Education is authorized to grant certificates of license to teach in any of the public schools of the state and to establish requirements and qualifications for those certificates under the provisions of section 168.021.1, RSMo and cause the certificates to be revoked in a manner provided in section 168.071, RSMo. This rule established a procedure where teachers whose certificates have been revoked by the State Board of Education, in some instances, may be allowed at a later time to make application to the State Board of Education to be recertified.

*PURPOSE: This rule is being rescinded due to the adoption of 5 CSR 20-400.125, Actions of the State Board of Education Relating to Applications for Educator Certificates.*

*AUTHORITY: sections 161.092, 168.011, 168.031, RSMo 1986, 168.021, RSMo Supp. 1990 and 168.071, RSMo Supp. 1993. This rule previously filed as 5 CSR 80-800.060. Original rule filed April 24, 1985, effective Sept. 3, 1985. Moved to 5 CSR 20-400.130, effective Aug. 16, 2011. Amended: Filed Dec. 12, 2013.*

*PUBLIC COST: This proposed rescission will not cost the 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 Department of Elementary and Secondary Education, General Counsel, PO Box 480, Jefferson City, MO 65102-0480 or by email at [counsel@dese.mo.gov](mailto:counsel@dese.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 5—DEPARTMENT OF ELEMENTARY AND  
SECONDARY EDUCATION  
Division 20—Division of Learning Services  
Chapter 400—Office of Educator Quality**

**PROPOSED RECISSION**

**5 CSR 20-400.140 Administrative Procedures for Applicants Whose Certificates Have Been Revoked by a Certifying Authority Other Than the State Board of Education.** The State Board of Education is authorized to grant certificates of license to teach in any of the public schools of the state and to establish requirements and qualifications for those certificates under the provisions of section 168.021.1, RSMo and cause the certificates to be revoked in a manner provided in section 168.071, RSMo. This rule established a procedure for processing applications for a Missouri teaching certificate from applicants having had teaching certificates revoked by a certifying authority other than the State Board of Education or the certifying authority in another state or political subdivision.

*PURPOSE:* This rule is being rescinded due to the adoption of 5 CSR 20-400.125, *Actions of the State Board of Education Relating to Applications for Educator Certificates.*

*AUTHORITY:* sections 161.092, 168.011, 168.031, RSMo 1986, 168.021, RSMo Supp. 1990 and 168.071, RSMo Supp. 1993. This rule previously filed as 5 CSR 80-800.070. Original rule filed April 24, 1985, effective Sept. 3, 1985. Moved to 5 CSR 20-400.140, effective Aug. 16, 2011. Amended: Filed Dec. 12, 2013.

*PUBLIC COST:* This proposed rescission will not cost the 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 Department of Elementary and Secondary Education, General Counsel, PO Box 480, Jefferson City, MO 65102-0480 or by email at [counsel@dese.mo.gov](mailto:counsel@dese.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 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 4—Licenses**

**PROPOSED AMENDMENT**

**11 CSR 45-4.010 Types of Licenses.** The commission is amending section (1).

*PURPOSE:* This amendment updates the types of licenses issued by the commission.

- (1) The types of licenses shall include:
- (A) Class A;
  - (B) Class B;
  - (C) **Supplier and temporary supplier;**  
*[(C)](D) Key [person/key person] business entity;*
  - (E) **Key person; and**  
*[(D)](F) Occupational:*
    - 1. Level I;
    - 2. Level II; *[and]*
    - 3. **Restricted Level II.**

*[(E) Supplier, temporary supplier and affiliate supplier.]*

*AUTHORITY:* section[s] 313.004, RSMo 2000, and section 313.807, RSMo Supp. 2013. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Dec. 3, 2007, effective May 30, 2008. Amended: Filed Dec. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 4—Licenses**

**PROPOSED AMENDMENT**

**11 CSR 45-4.020 Licenses, Restrictions on Licenses, Licensing Authority of the Executive Director, and Other Definitions.** The commission is amending sections (3) and (4), adding new sections (5)–(7) and (10), deleting sections (5), (6), and (9), and renumbering sections (7), (8), and (10).

*PURPOSE:* This amendment updates the list of Level I and Level II examples to more broadly reflect position titles for licenses issued by the commission, updates the terminology for “key business entity,” deletes “person” from key person business entity, and eliminates affiliate supplier license.

(3) A key person/key *[person]* business entity license shall include:

- (A) An officer, director, trustee, proprietor, managing agent, or general manager of an applicant or licensee, or of a key business entity *[key person]* of an applicant or licensee;

- (B) A holder of any direct or indirect legal or beneficial publicly traded or privately held interest whose combined direct, indirect, or attributed publicly traded interest is five percent (5%) or more or privately held interest is one percent (1%) or more in an applicant or licensee or in a key business entity *[key person]* of an applicant or licensee—

- 1. A holder of five percent (5%) or more publicly traded interest or one percent (1%) or more privately held interest, but not more than ten percent (10%) publicly traded or privately held interest, who holds such interest only for passive (“Not involving active participation; esp., of or relating to a business enterprise in which an investor does not have immediate control over the activity that produces income.” *Black’s Law Dictionary* Seventh Edition) investment purposes (including economic purposes) may be exempted from licensure by the executive director;

- 2. The commission by majority vote may grant exemption from licensure for holdings of up to twenty percent (20%);

- 3. Exemptions may be granted to institutional investors in

advance to hold interest in multiple licensees;

4. Exemptions shall be for two (2) years unless renewed;

5. Requests for exemption from licensure must be submitted on a Request of Waiver for Licensure of Institutional Investor form, which is available for public inspection at the offices of the commission and online at the commission's website ([www.mgc.dps.mo.gov](http://www.mgc.dps.mo.gov)). Request forms shall be submitted in advance of acquiring such interest or within ten (10) days thereafter certifying under oath—

A. The interest is being acquired for passive investment purposes;

B. The holder does not nor will it have any involvement in the management activities of the entity;

C. The holder does not have any intention of controlling the entity regardless of additional stock that may be acquired;

D. The holder will within ten (10) days notify the commission of any purchase of stock in the entity which causes the total holding of the entity's outstanding stock to exceed the threshold for which the waiver is granted;

E. In the event the holder subsequently develops an intention of controlling or participating in the management of said entity, said holder shall notify the commission of said change and refrain from participating in management or exercising such control until approved for licensure by the commission;

F. The home and business address, occupation, employer, and title if the applicant is an individual; and

G. The type of entity (corporation, partnership, limited partnership, LLC, LLP, etc.), state of charter, and the names and both home and business address of the following personnel if the applicant is a business entity—

- (I) Chief executive officer (CEO);
- (II) Chief financial officer (CFO);
- (III) Chief operating officer (COO);
- (IV) Managing partner(s);
- (V) General partner(s);
- (VI) Members of the Board of Directors; and
- (VII) The registered agent;

6. The executive director shall keep a record of all such exemptions granted and the positions held by each entity and shall present a written report on the same to the commission on a monthly basis; and

7. Nothing in this section including the granting of an exemption shall prohibit the commission, at a future date, in its sole discretion, with or without cause from requiring any owner of any interest in a licensee from becoming licensed by the commission or to divest itself of stock ownership;

(C) A holder of any direct or indirect legal or beneficial interest in an applicant or licensee or in a key business entity [key person] of an applicant or licensee if the interest was required to be issued under agreement with or authority of a government entity;

(4) Occupational license Level I is a person other than a key person/key [person] business entity who has management control or decision-making authority over the gaming operation, a key function of the gaming operation, or the development or oversight of the testing of gaming equipment or systems, including but not limited to:

[(A) Internal audit manager;]

[(B)](A) Director of casino operations;

[(C) Table games manager;]

[(D) Director of security;]

[(E) Controller;]

[(F) IT manager;]

[(G) Surveillance manager;]

(B) Highest ranking table games department employee;

(C) Highest ranking security department employee;

(D) Highest ranking Management Information Systems (MIS) department employee;

(E) Highest ranking surveillance department employee;

[(H)](F) Assistant general manager;

[(I) Slot department manager;]

(G) Highest ranking slot department employee;

[(J)](H) Managers responsible for ensuring the integrity of all testing standards and certifications; [or]

(I) Highest ranking finance department employee; or

[(K)](J) Any other person directed by the commission to file a Level I application.

[(15) Occupational license Level II is any person not a key or Level I who has access to the gaming floor, or secured areas, as an employee of any Class A, Class B, or Supplier licensee, and any other person directed by the commission or the executive director to file a Level II application.

(6) Secured areas shall include any area or location where gaming functions may take place, be controlled, or affected. Secured areas shall also include any area so designated by the licensee's Internal Control System (ICS) or by the commission, including but not limited to:

(A) Security;

(B) Surveillance;

(C) Audit;

(D) Accounting;

(E) Management Information Systems (MIS);

(F) Cage;

(G) Ticketing;

(H) Hard and soft count;

(I) Marine operations; and

(J) Any other area designated by the commission; and also

(K) Licensees may in their ICS request authorization for certain Level I licensees, key person licensees and others escorted by security or the area supervisor, to have access to secured areas other than the surveillance area.]

(5) Each Class B licensee at a minimum shall individually staff the following Level I positions with employees of the Class B licensee, which shall not be combined with any other required position:

(A) General manager;

(B) Casino operations manager/director, or a table games department manager/director and a slot department manager/director;

(C) Security department manager/director;

(D) Finance department manager/director;

(E) MIS department manager/director; and

(F) Surveillance department manager/director.

(6) In the event that one of the positions required by section (5) becomes vacant, an interim replacement licensee shall be immediately appointed to serve. The interim appointee may be one of the current Level I licensees required by section (5). The permanent position shall be staffed within one hundred eighty (180) days, unless otherwise approved by the commission.

(7) Occupational License Level II includes any of the following positions that are not required to hold an Occupational License Level I:

(A) Any position within a Missouri riverboat gaming operation that would require the holder to have access to the excursion gambling boat or secured area to perform his or her function or duties; provided that agents and nongaming vendors are not considered within Occupational License Level I or II unless otherwise notified by the commission;

(B) Any position related to a Missouri riverboat gaming operation in one (1) of the following areas: security, surveillance, audit, accounting, MIS, cage, ticketing, hard and soft count, and marine operations;

(C) Any position with a licensed gaming supplier company that would require the holder to have access to the excursion gambling

boat to perform his or her function or duties if such function or duties involve installation, servicing, maintenance, repair or accessing secured or locked components of any gambling equipment or supplies, or involve verification or payment of patron awards; and

(D) Any other person or entity directed by the commission or the director to file a Level II application as an occupational licensee applicant.

[(7)](8) Supplier license is a license issued to a person or entity that—

(A) Manufactures, sells, or leases gaming equipment, gaming supplies, or both;

(B) Provides gaming equipment maintenance or repair; or

(C) Provides testing services on gaming related equipment, components, peripherals, systems, or other items directed by the commission to a Class A or Class B licensee, or the commission.

[(8)](9) Temporary supplier license is a license authorized by the commission until the appropriate license can be obtained.

[(9) *Affiliate supplier license is required of any person who is an affiliate of a Class A or Class B licensee or a key person/key person business entity of a Class A licensee and sells or leases gambling equipment, gambling supplies, or both to its Class B licensee affiliate. For purposes of 11 CSR 45-4.205, an "affiliate" of, or a person "affiliated" with, a specific person is a person that directly or indirectly, through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. The term "control" (including the terms "controlling," "controlled by," and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.*]

(10) Restricted Level II license is issued to an occupational license Level II licensee under the age of twenty-one (21).

[(10)](11) [Upon the effective date of this rule,] After May 30, 2008, all existing Class A licenses shall be divided into a Class A license, which shall be the operating company and one (1) or more Class B license(s), which shall be the licensed riverboat gaming operation. Rules adopted prior to the adoption of this rule which previously referred to a Class A licensee shall refer to both Class A licensee and Class B licensee unless specifically identified otherwise.

*AUTHORITY: section[s] 313.004, RSMo 2000, and section 313.807, RSMo Supp. 2013. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 cost one (1) Level I licensee a one thousand one hundred-dollar (\$1,100) application and license fee the first year and a one hundred-dollar (\$100) renewal fee each following year.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, com-*

*ments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*



**PRIVATE ENTITY  
FISCAL NOTE**

**I. Department Title: 11—DEPARTMENT OF PUBLIC SAFETY  
Division Title: 45—Missouri Gaming Commission  
Chapter Title: 4—Licenses**

**Rule Number and Title: 11 CSR 45-4.020 Licenses, Restrictions on Licenses, Licensing  
Authority of the Executive Director, and Other Definitions**

**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 rule:	Classification by type 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:
One (1) Level I licensee	Occupational Level I licensees	\$1,100 one (1)-time fee + \$100 annually

**III. WORKSHEET**

Application fee for one Level I license is \$1,000 plus \$100 for a new license with an annual renewal fee of \$100.

One Level I application and license fee = \$1,100 first year + \$100 each subsequent year

**IV. ASSUMPTIONS**

It is anticipated that one Class B licensee would have to submit a Level I license application for one employee. The cost for the application and license is \$1,100 for the first year, followed by an annual renewal cost of \$100.

The anticipated cost of the \$100 renewal fee will recur annually for the life of the rule.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 4—Licenses**

**PROPOSED AMENDMENT**

**11 CSR 45-4.030 Application for Class A or Class B License.** The commission is amending sections (1) and (2).

*PURPOSE:* This amendment updates the terminology for “key business entity” and updates a form name.

(1) License application shall be made on a form obtained from the commission. Each Class A or Class B license applicant must submit the Riverboat Gaming Application Form for itself, a [key person/key person business entity] **Key Person** and **License Level I** [a] Application for each individual key person associated with the application and a [Riverboat Gaming] **Key Business Entity Riverboat** Application Form for each key business entity [key person] associated with the applicant. The applicant must also submit Personal Disclosure Form II for any other person or entity (other than occupational licensees) associated with the applicant in any way, who is required by the commission or the director to execute such forms, which forms shall become part of the Class A or Class B application along with the key person/key [person] business entity forms. A copy of all necessary forms is available for public inspection at the offices of the commission and online at the commission’s web site.

(2) For a Class A or Class B license an applicant must disclose on an application form obtained from the commission at a minimum—

(A) The applicant’s full name, telephone number and the type of organizational structure under which the organization operates, including, without limitation, whether the applicant is an operating company or a holding company, identification of key persons/key [person] business entities, including identification of chief administrative officers, the background and skills of applicant and key persons;

(D) Information on the ability of applicant and key persons/key [person] business entities to conduct gaming operations;

(K) Whether applicant or parent company, if applicant is a subsidiary, or any key person/key [person] business entity currently holds or has ever held a license or permit issued by a governmental authority to own or operate a gaming facility or conduct any aspect of gambling. If the applicant, parent company or key person/key [person] business entity has held or holds a license or permit, the following must be disclosed:

1. The identity of the license or permit holder;
2. The jurisdiction issuing the license or permit;
3. The nature of the license or permit; and
4. The dates of issuance and termination, if any;

*AUTHORITY:* sections 313.004 and 313.807, RSMo 2000, and section 313.805, RSMo Supp. [2010] 2013. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission’s Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 4—Licenses**

**PROPOSED AMENDMENT**

**11 CSR 45-4.055 Application Period and Fees for Class A and Class B Licenses.** The commission is amending section (1).

*PURPOSE:* This amendment updates the terminology for “key business entity.”

(1) The one (1)-time nonrefundable application fee for a Class A license shall be the greater of a) fifty thousand dollars (\$50,000) or b) fifteen thousand dollars (\$15,000) per key person/key [person] business entity not licensed as a key person/key [person] business entity or under investigation for a license as a key person/key [person] business entity at the time of application, or a greater amount as determined by the commission. The applicant or licensee shall be assessed fees, if any, to cover the additional costs of the investigation.

*AUTHORITY:* sections 313.004 and 313.812, RSMo 2000, and section 313.807, RSMo Supp. [2012] 2013. This rule originally filed as 11 CSR 45-4.050, renumbered as 11 CSR 45-4.055, effective May 30, 2008. Original rule filed Dec. 3, 2007, effective May 30, 2008. Amended: Filed Aug. 30, 2012, effective March 30, 2013. Amended: Filed Dec. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission’s Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY**  
**Division 45—Missouri Gaming Commission**  
**Chapter 4—Licenses**

**PROPOSED AMENDMENT**

**11 CSR 45-4.190 License Renewal and Continuing Suitability Requirement.** The commission is amending the title and section (2).

*PURPOSE: This amendment removes affiliate supplier from the list of licensees, and updates the terminology for “key business entity.”*

(2) Class A, Class B, and supplier[, and affiliate supplier] licensees and the key person, key [person] business entity, and occupational licensees thereof shall have a continuing obligation to demonstrate suitability to hold a license by complying with all gaming laws and regulations. The commission may reopen the investigation of a licensee at any time. The licensee shall be assessed fees, if any, to cover the additional costs of the investigation.

*AUTHORITY: section 313.004, RSMo 2000, and sections 313.800–313.850, RSMo 2000 and Supp. [2012] 2013. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission’s Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 4—Licenses**

**PROPOSED AMENDMENT**

**11 CSR 45-4.200 Supplier’s License.** The commission is amending sections (2), (3), and (4).

*PURPOSE: This amendment updates the terminology for “key business entity.”*

(2) An application for a supplier’s license shall be made on a form obtained from the commission. Each supplier license applicant must submit the Supplier’s License Application Form for itself, a key person/key [person] business entity and Level I application for each individual key person associated with the application and a Supplier’s License Application Form for each key business entity [key person] associated with the applicant. The applicant must also submit Personal Disclosure Form II for any other person or entity (other than occupational licensees) associated with the applicant in any way, who is required by the commission or the director to execute such forms, which forms shall become part of the supplier application along with the key person/key [person] business entity forms. A copy of all necessary forms is available for public inspection at the offices of the commission and online at the commission’s web site.

(3) Applications shall include:

(E) A key person/key [person] business entity and Level I application for each key person;

(K) If the applicant is an organization other than a corporation, the following information must be disclosed:

1. The applicant’s full name including any trade names or fictitious names currently in use by the applicant in Missouri or any other jurisdiction;

2. The jurisdiction in which the applicant is organized;

3. Copies of any written agreement, constitution, or other document creating or governing the applicant’s organization or powers of organization;

4. The date the applicant commenced doing business in Missouri.

A. If the applicant is organized under laws other than Missouri laws, a copy of the authorization of Missouri to do business in Missouri;

B. If no authorization to do business in Missouri has been obtained, the applicant must state the reason the authorization has not been obtained;

5. The applicant’s federal and state tax returns for the past five (5) years;

6. The general nature of the applicant’s business;

7. The names and addresses of each partner, officer, or other person having or sharing policy-making authority who is a key person. As to each such person, the applicant must disclose—the nature and extent of any ownership interest—

A. Ownership interest shall include any beneficial owner. Beneficial ownership includes, but is not limited to, record ownership and: 1) Stock or other ownership in one (1) or more entities in a chain of parent and subsidiary or affiliated entities, any one (1) of which participates in the capital or profits of a licensee, regardless of the percentage of ownership involved; or 2) Any interest which entitles a person to benefits substantially equivalent to ownership by reason of any contract, understanding, relationship, agreement, or other arrangement even though the person is not the record owner. Unless there are special circumstances, securities held by an individual’s spouse or relatives, including children, living in the home, who are beneficially owned by the individual; and

B. Any voting interest, whether absolute or contingent, and the terms upon which the interest may be voted; and

8. The names, in alphabetical order, and addresses of any individual or other entity [who holds] holding a record or beneficial ownership in the application. Beneficial ownership includes, but is not limited to, record ownership and: 1) Stock or other ownership in one (1) or more entities in a chain of parent and subsidiary or affiliated entities, any one (1) of which participates in the capital or profits of a licensee, regardless of the percentage of ownership involved; or 2) Any interest which entitles a person to benefits substantially equivalent to ownership by reason of any contract, understanding, relationship, agreement or other arrangement even though the person is not the record owner. Unless there are special circumstances, securities held by an individual’s spouse or relatives, including children, living in the home, who are beneficially owned by the individual. The following information shall be given concerning each individual:

A. The nature of the ownership interest;

B. Whether the ownership interest carries a vote and the terms upon which the interest may be voted; and

C. The percentage of ownership;

(M) Whether applicant or any key person/key [person] business entity currently holds, has ever held or applied for, a license or permit issued by a governmental authority to own or supply gaming equipment or operate a gaming facility or conduct any aspect of gambling. If the applicant has held or holds a license or permit, the applicant must disclose—

1. The identity of the license or permit holder;

2. The jurisdiction issuing the license or permit;

3. The nature of the license or permit; and

4. The dates of issuance and termination, if any;

(4) The applicant must disclose with respect to the applicant and all key persons/key [person] business entities—

*AUTHORITY:* section 313.004, RSMo 2000, and sections 313.805 and 313.810, RSMo Supp. [2010] 2013. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 4—Licenses**

**PROPOSED RESCISSION**

**11 CSR 45-4.205 Affiliate Supplier's License.** This rule established an affiliate supplier's license, which might have been issued to affiliates of riverboat licensees.

*PURPOSE:* The commission is rescinding this rule because there has not been a need for an affiliate supplier's license.

*AUTHORITY:* sections 313.004 and 313.812, RSMo 2000, and sections 313.800, 313.805, and 313.807, RSMo Supp. 2012. Original rule filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Oct. 29, 2001, effective May 30, 2002. Amended: Filed Dec. 3, 2007, effective May 30, 2008. Amended: Filed Aug. 30, 2012, effective March 30, 2013. Rescinded: Filed Dec. 5, 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 4—Licenses**

**PROPOSED AMENDMENT**

**11 CSR 45-4.260 Occupational Licenses for Class A, Class B, and Suppliers [and Affiliate Suppliers].** The commission is amending the title, sections (1), (2), and (6), adding a new section (6), and renumbering the original section (6).

*PURPOSE:* This amendment sets the time limit for rescission of an occupational license upon termination of employment, removes affiliate supplier, and updates the terminology for "key business entity."

(1) Every person in a position classified as Occupational License Level I or Occupational License Level II or otherwise participating in gaming operations in any capacity shall, prior to performing or practicing his/her business profession or skills, be a current employee of the Class A, Class B, or supplier[, or affiliate supplier] licensee, and have obtained the appropriate occupational license from the commission, except for public officers and public employees engaged in the performance of their official duties and other individuals exempted by the commission. The commission may authorize the director to license or make the initial determination of unsuitability on the application of any Level II occupational license applicant, and the commission may further authorize the director to make the initial determination to revoke or suspend the Level I or Level II occupational license of any person; provided, however, that this section shall not limit any other authorization of the director. The authorization provided hereunder shall not include the authority to review findings of a hearing officer under the provisions of 11 CSR 45-13.

(2) As a condition of licensure, all applicants for occupational licenses are required to be fingerprinted, photographed and to execute such waivers as may be provided by forms approved by the commission, provided that applicants for a key business entity [key person] license need not be fingerprinted or photographed.

**(6) If the employment of a Level I or Level II occupational licensee with a Class A, Class B, or supplier licensee is terminated for any reason, and if the occupational licensee does not obtain employment with a Class A, Class B, or supplier licensee within sixty (60) days of said termination date, then the occupational license will be rescinded at the end of said sixty (60)-day time period.**

[(6)](7) The key person/key [person] business entity employed by suppliers will be required to be licensed by the Missouri Gaming Commission. The supplier key person/key [person] business entity application shall require a one (1)-time nonrefundable fee of one thousand dollars (\$1,000) plus the annual licensing fee of one hundred dollars (\$100). The applicant or licensee shall be assessed fees, if any, to cover the additional costs of the investigation. The licensing and renewal fees for Level I and Level II occupational licenses shall be the same as set forth for Class A and Class B occupational licensees. Additionally, the executive director may waive or modify licensing fees.

*AUTHORITY:* section 313.004, RSMo 2000, and section 313.805, RSMo Supp. [2012] 2013. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 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 cost sixty-three (63) Level II licensees seven thousand eight hundred and seventy-five dollars (\$7,875), and one (1) Level I licensee one thousand one hundred

*dollars (\$1,100) for unused and replacement license fees annually in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

**FISCAL NOTE  
PRIVATE COST**

- I. Department Title: 11—DEPARTMENT OF PUBLIC SAFETY  
Division Title: 45—Missouri Gaming Commission  
Chapter Title: 4—Licenses**

<b>Rule Number and Title:</b>	11 CSR 45-4.260 Occupational Licenses for Class A, Class B, and Suppliers
<b>Type of Rulemaking:</b>	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 rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
63 Level II Licensees	Occupational Level II licensees	\$7,875 annually
One Occupational Level I licensee	Occupational Level I licensees	\$1,100 annually

**III. WORKSHEET**

63 Level II × \$125 = \$7,875 (application fee is \$75, licensee fee is \$50)

1 Level I × \$1,100 = \$1,100 (application fee is \$1000, licensee fee is \$100)

**IV. ASSUMPTIONS**

On a yearly average 63 Level II Licensees and 1 Level I Licensee will transfer or be rehired after separating employment with a casino after 60 days have lapsed. This revision to the rule will require them to pay a new licensing and application fee.

The anticipated total cost for this rule will recur annually for the life of the rule.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 4—Licenses**

**PROPOSED AMENDMENT**

**11 CSR 45-4.380 Occupational and Key Person/Key [Person] Business Entity License Application and Annual Fees.** The commission is amending the title, the purpose, sections (1), (2), and (7), deleting section (3), and renumbering sections (4)–(9).

*PURPOSE: This amendment changes provisions for license renewal, updates the terminology for “key business entity,” and eliminates the option to self-renew a license.*

*PURPOSE: This rule establishes license fees for occupational and key person/key [person] business entity licensees of Class A and Class B licensees.*

(1) The [one (1)-time] nonrefundable application filing fee shall be—

- (A) Key person/key [person] business entity—
  - 1. Class A and B \$15,000
  - 2. Supplier/s \$ 1,000

(2) The annual licensing fee shall be—

- (A) Key person/key [person] business entity—
  - 1. Class A and B \$ 250
  - 2. Suppliers \$ 100

*[(3)] A key person/key person business entity or Level I licensee may renew their license only once following each termination of their association with a Class A, Class B or supplier licensee.]*

*[(4)](3) The applicant or licensee shall be assessed fees, if any, to cover the additional costs of the investigation.*

*[(5)](4) The initial annual fee for occupational licenses shall be due upon the earlier of—*

- (A) The date that a temporary identification badge is issued to the applicant;
- (B) The date that a permanent identification badge is issued to the applicant; or
- (C) The date that the commission passes a resolution granting the license to the applicant.

*[(6)](5) The initial annual fee for occupational licenses shall be paid in full to cover the first year of licensure. The license expires biennially on the last day of the month of issue. The annual occupational license renewal fee will be billed to the Class A, Class B, or supplier licensee.*

*[(7)](6) Each occupational license shall expire biennially on the last day of the month of issue, or may be rescinded by operation of 11 CSR 45-4.260(6), but the licensing hearing shall be subject to being reopened at any time.*

*[(8)](7) The annual fee for an occupational license is nonrefundable and is due regardless of whether the renewal applicant obtains a renewed license.*

*[(9)](8) The executive director may waive or modify licensing fees. Exemption shall not be applicable for testing laboratories.*

*AUTHORITY: sections 313.004 and 313.800–313.850, RSMo 2000 and Supp. [2012] 2013. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original*

*rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission’s Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 4—Licenses**

**PROPOSED AMENDMENT**

**11 CSR 45-4.390 Occupational License Renewal.** The commission is adding a section (2) and renumbering the remaining section.

*PURPOSE: This amendment eliminates the option to self-renew a license.*

**(2) A Level I or Level II licensee may only renew his/her license if the licensee is a current employee of a Class A, Class B, or supplier licensee. A key person may only renew his/her license if the licensee is associated with a Class A or supplier licensee.**

*[(2)](3) The director shall have the power to renew any occupational license, provided that if the director intends not to renew an occupational license which the licensee has appropriately requested to have renewed, the director shall notify the commission in writing of his/her intention not to renew and the reasons for his/her decision at least ten (10) days before the license expires.*

*AUTHORITY: section 313.004, RSMo 2000, and sections 313.800, 313.805, and 313.822, RSMo Supp. [2012] 2013. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 5, 2013.*

*PUBLIC COST: The elimination of the self-renew option will result in a five thousand seven hundred dollar (\$5,700) reduction in revenue for the Missouri Gaming Commission annually in the aggregate.*

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

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission’s Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

**FISCAL NOTE  
PUBLIC COST**

- I. Department Title: 11—DEPARTMENT OF PUBLIC SAFETY  
Division Title: 45—Missouri Gaming Commission  
Chapter Title: 4—Licenses**

<b>Rule Number and Title:</b>	11 CSR 45-4.390 Occupational License Renewal
<b>Type of Rulemaking:</b>	Proposed Amendment

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Gaming Commission	\$5,700 per fiscal year

**II. WORKSHEET**

Self-Pay Licensing Fees by Fiscal Year

FY 11 \$6,700

FY 12 \$5,500

FY 13 \$4,900

$\$17,100 \div 3 \text{ years} = \$5,700 \text{ per fiscal year}$

**IV. ASSUMPTIONS**

The Missouri Gaming Commission would no longer accept licensing fees from Level I and Level II occupational licensees who self-pay and are not currently employed by a Class A, Class B or Supplier licensee. The estimated cost is the loss of renewal fees received by the Missouri Gaming Commission from these individuals each fiscal year. The estimated cost is the average of licensing renewal fees received over the last three completed fiscal years.

The anticipated revenue reduction estimate will recur annually for the life of the rule.



**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 4—Licenses**

**PROPOSED AMENDMENT**

**11 CSR 45-4.400 [Occupational Licensure Levels] Licensee Performance of Duties.** The commission is amending the title and deleting sections (2) and (3).

*PURPOSE:* This amendment removes definitions for occupational licenses which may be found in other rules in Chapter 4.

[(2) Occupational License Level I includes the following positions or their equivalent:

- (A) Internal Audit Manager;
- (B) Director of Casino Operations;
- (C) Director of Security;
- (D) Controller;
- (E) IT Manager;
- (F) Slot Department Manager;
- (G) Surveillance Manager;
- (H) Assistant General Manager;
- (I) Table Games Manager;

(J) Managers responsible for ensuring the integrity of all testing standards and certifications; or

(K) Any other person or entity who engages in an occupation associated in activities regulated under the riverboat gaming act or a riverboat gaming operation and is directed by the commission or its director to file a Level I application.

(3) Occupational License Level Two (II) includes any of the following positions that are not required to hold an Occupational License Level One (I):

(A) Any position within a Missouri riverboat gaming operation that would require the holder to have access to the excursion gambling boat to perform his or her function or duties; provided that agents and nongaming vendors are not considered within occupational license level I or II unless otherwise notified by the commission;

(B) Any position related to a Missouri riverboat gaming operation in one (1) of the following areas: security, surveillance, audit, accounting, MIS, cage, ticketing, hard and soft count and marine operations;

(C) Any position with a licensed gaming supplier company that would require the holder to have access to the excursion gambling boat to perform his or her function or duties if such function or duties involve installation, servicing, maintenance, repair or accessing secured or locked components of any gambling equipment or supplies or involve verification or payment of patron awards; and

(D) Any other person or entity directed by the commission or the director to file a Level II application as an occupational licensee applicant.]

*AUTHORITY:* section[s] 313.004, RSMo 2000, and section 313.805, RSMo Supp. 2013. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Dec. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 4—Licenses**

**PROPOSED AMENDMENT**

**11 CSR 45-4.410 Identification Badge Requirements.** The commission is amending sections (1) and (3).

*PURPOSE:* This amendment clarifies the requirement for the identification badge to be surrendered to the property that issued the identification badge, updates the classification designation in section (3), and updates terminology for Class B licensees.

(1) All employees and occupational licensees [other than key person/key person business entity licensees] shall at all times while performing the functions of their positions display on their person in a clearly visible manner a valid, riverboat-issued, casino access badge, unless a waiver has been granted in writing for a particular job function. No casino access badge granting access to any riverboat gaming operation may be held by any person unless that person is an employee of the Class B licensee and has been authorized for such access by the [Class A or] Class B applicant or licensee of the riverboat gaming operation for which the badge is to be issued. Each [Class A or] Class B applicant or licensee must notify the commission that such authorization has been granted before any identification badge may be issued to the person. Each [Class A or] Class B applicant or licensee must notify the commission within ten (10) days if any such authorization has been revoked. **General managers, other key person licensees, and internal auditors who are employees of the Class A licensee may also be granted casino access badges. All other employees of the Class A licensee must obtain and display a visitor badge while performing the functions of their positions at the riverboat gaming operation.**

(3) Casino access badges are not transferable and upon resignation or termination of employment, [an identification] the access badge must be returned by the occupational licensee to the holder of a Class [A] B license [or to the commission. If returned to the holder of a Class A license, the holder must then return the badge to the commission].

*AUTHORITY:* sections 313.004 and 313.850, RSMo 2000, and section 313.800, RSMo Supp. [2007] 2013. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Dec. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 4—Licenses**

**PROPOSED AMENDMENT**

**11 CSR 45-4.420 Occupational License.** The commission is amending section (1).

*PURPOSE: This amendment removes "key person business entity" from the requirement to display a badge.*

(1) Occupational licensees other than key persons/[*key person business entity licensees*] shall at all times while performing the functions of their positions display in a clearly visible manner, a valid, commission-issued occupational license badge.

*AUTHORITY: sections 313.004 and 313.850, RSMo 2000, and section 313.800, RSMo Supp. [2007] 2013. Original rule filed May 13, 1998, effective Oct. 30, 1998. Amended: Filed Dec. 7, 2001, effective June 30, 2002. Amended: Filed Dec. 3, 2007, effective May 30, 2008. Amended: Filed Dec. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 7—Security and Surveillance**

**PROPOSED RULE**

**11 CSR 45-7.170 Access to Areas of Class B Licensee Facilities**

*PURPOSE: This rule establishes procedures for controlling access to areas of Class B licensee facilities.*

(1) Secured areas shall include any area or location so designated by the licensee's Internal Control System (ICS) or by the commission, including but not limited to:

- (A) Surveillance;
- (B) Areas housing critical information technology systems;
- (C) Cage;
- (D) Main bank/vault;
- (E) Slot maintenance rooms;
- (F) Electronic gaming devices (EGD) storage rooms;
- (G) Count room and cart storage room;
- (H) Pit;
- (I) Card and dice storage and inspection rooms; and
- (J) Any other area designated by the commission.

(2) A security or area supervisor escort is required for any individual accessing a secured area, except for occupational licensees who work in that secured area at that property. Vendors, visitors, and other personnel who need access to the Management Information Systems (MIS) secured areas may be escorted by MIS personnel instead of the area supervisor or security.

(3) Employees of non-gaming vendors that provide goods and services directly to Class B licensees and who require periodic access to public areas of the casino floor, or areas off the gaming floor open to all employees, may access these areas without an escort.

(A) The Class B licensee shall be responsible for the conduct and actions of the vendor while unescorted on the licensed premises.

(B) Vendors shall be required to report to security to obtain a vendor badge and sign the Visitor/Vendor Log indicating time in, time out, and the reason for their visit.

*AUTHORITY: section 313.004, RSMo 2000, and section 313.805, RSMo Supp. 2013. Original rule filed Dec. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 9—Internal Control System**

**PROPOSED AMENDMENT**

**11 CSR 45-9.113 Minimum Internal Control Standards (MICS)—Chapter M.** The commission is amending the title and section (1).

*PURPOSE: This amendment removes a sentence in Chapter M § 1.02 pertaining to the surveillance department's organizational structure, updates Chapter M § 3.01 to require access to be logged on a Surveillance Ingress/Egress Log, and removes Chapter M § 4.04 restrictions for reviewing surveillance recordings.*

(1) The commission shall adopt and publish minimum standards for internal control procedures that in the commission's opinion satisfy 11 CSR 45-9.020, as set forth in *Minimum Internal Control Standards (MICS)* Chapter M—Surveillance, which has been incorporated by reference herein, as published by the Missouri Gaming Commission, 3417 Knipp Dr., PO Box 1847, Jefferson City, MO 65102. Chapter M does not incorporate any subsequent amendments or additions as adopted by the commission on [September 29, 2010] **December 4, 2013**.

*AUTHORITY:* section 313.004, RSMo 2000, and sections 313.800 and 313.805, RSMo Supp. [2010] **2013**. Original rule filed June 30, 2010, effective Jan. 30, 2011. Amended: Filed Dec. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 9—Internal Control System**

**PROPOSED AMENDMENT**

**11 CSR 45-9.118 Minimum Internal Control Standards (MICS)—Chapter R.** The commission is amending section (1).

*PURPOSE:* This amendment updates minimum internal control standards regarding the use of commission forms by revising the *Casino/Cage Multiple Transaction Log*, and *Surveillance Release Log*, and adding a *Surveillance Ingress/Egress Log*.

(1) The commission shall adopt and publish minimum standards for internal control procedures that in the commission's opinion satisfy 11 CSR 45-9.020, as set forth in *Minimum Internal Control Standards (MICS)* Chapter R—Forms, which has been incorporated by reference herein, as published by the Missouri Gaming Commission, 3417 Knipp Dr., PO Box 1847, Jefferson City, MO 65102. Chapter R does not incorporate any subsequent amendments or additions as adopted by the commission on [August 21, 2013] **December 4, 2013**.

*AUTHORITY:* section 313.004, RSMo 2000, and sections 313.800 and 313.805, RSMo Supp. [2012] **2013**. Original rule filed June 30, 2010, effective Jan. 30, 2011. Amended: Filed Dec. 8, 2011, effective July 30, 2012. Amended: Filed Sept. 27, 2012, effective May 30, 2013. Amended: Filed May 1, 2013, effective Dec. 30, 2013. Amended: Filed Dec. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 10—Licensee's Responsibilities**

**PROPOSED AMENDMENT**

**11 CSR 45-10.020 Licensee's and Applicant's Duty to Disclose Changes in Information.** The commission is amending section (1).

*PURPOSE:* This amendment updates the terminology for "key business entity."

(1) All licensees and applicants for Class A, Class B, supplier, key person/key [person] business entity, or Level I occupational licenses issued by the commission shall have a continuing duty to disclose in writing, within ten (10) calendar days for an applicant and thirty (30) calendar days for a licensee, any material change in the information provided in the application forms and requested materials submitted to the commission. Any change in information that is not material must be disclosed to the commission during the licensee's next subsequent application for license renewal.

*AUTHORITY:* section[s] 313.004, RSMo 2000, and sections 313.800, 313.805, and 313.807, RSMo Supp. [2010] **2013**. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.

**Title 11—DEPARTMENT OF PUBLIC SAFETY  
Division 45—Missouri Gaming Commission  
Chapter 13—Hearings**

**PROPOSED AMENDMENT**

**11 CSR 45-13.030 Requests for Hearings.** The commission is adding new subsections (2)(E) and (F).

*PURPOSE:* This amendment changes the procedure for requesting a hearing.

(2) A request for hearing must be submitted within thirty (30) days from the date of mailing by the commission of the decision or issue about which the petitioner requests a hearing.

(E) Other than disciplinary actions recommending the revocation of an occupational license, no Preliminary Order of Discipline shall be issued for an occupational licensee whose license has been rescinded, terminated, or has expired prior to the entry of said order.

(F) Other than disciplinary actions recommending the revocation of an occupational license, if the petitioner's occupational license has been rescinded, terminated, or has expired prior to the entry by the commission of a Final Order of Discipline, then the Preliminary Order of Discipline shall be rescinded, and the petitioner's request for hearing shall be denied and stricken.

*AUTHORITY: sections 313.004, 313.052, 313.065, and 313.560, RSMo 2000, and sections 313.800 and 313.805, RSMo Supp. 2013. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for Wednesday, March 12, 2014, at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 35—Children's Division  
Chapter 71—Licensing Rules for Residential [Child Care  
Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.010 Definitions.** The division is amending the title of the chapter, sections (3), (4), (8), (9), (12), (13), (14), (16), and (18), adding sections (5), (9), (13), (14), and (20), and renumbering as needed.

*PURPOSE: The Children's Division is amending the name of residential child care agencies to residential treatment agencies for children and youth, adding a definition of critical incident, adding a definition of good standing, using operating site instead of facility, adding a definition of medical examination, expanding on the definition of social services, and adding a definition of variance.*

*PURPOSE: This rule clarifies the terms used in the licensing rules for residential [care agencies] treatment agencies for children and youth.*

(3) Child abuse/neglect background check is, at a minimum, a search of the [F/family [C]care [S/safety [R]registry for residential [child care agency] treatment agencies for children and youth staff child abuse/neglect history pursuant to sections 210.903 through 210.936, RSMo.

(4) Criminal background check is, at a minimum, a search of the [F/family [C]care [S/safety [R]registry for residential [child care agency] treatment agencies for children and youth staff criminal history pursuant to sections 210.903 through 210.936, RSMo.

(5) A "critical incident" is an incident involving a child in the care of the agency, in which the child or another person directly involved with the child is placed at significant risk of death, serious physical, mental, or sexual harm. A critical incident may involve conduct of the child, other children, and/or acts or omissions of staff of the agency. Examples of critical incidents include, but are not limited to: injury of a child during physical restraint; serious physical or sexual aggression by or toward the child; significant physical injuries requiring medical attention; allegations of sexual abuse; criminal conduct involving the child; elopement; attempted suicide; fire setting; child death; and information which must be reported to the child abuse and neglect hotline pursuant to 210.115 RSMo. A "critical incident report" is a report documenting a critical incident.

[(5)](6) Director is the director of the Children's Division.

[(6)](7) Division is the Children's Division of the Department of Social Services of Missouri as defined in section 210.481(3), RSMo.

[(7) Facility is any building of a licensed agency in which children reside.]

(8) Family [C]care [S/safety [R]registry pursuant to sections 210.903 through 210.936, RSMo, is established to protect children, the elderly, and disabled individuals in the state and to promote community safety by providing information concerning family caregivers as established within the Department of Health and Senior Services. The registry contains information on child-care workers' and personal-care workers' background and child-care, elder-care, and personal-care providers as specified in section 210.903.2(1)-(8), RSMo.

(9) Good standing refers to a licensed residential treatment agency for children and youth in substantial compliance with Chapter 71 of the Children's Division residential treatment agencies for children and youth rules and is not under involuntary intake suspension, license denial, license suspension, and/or license revocation.

[(9)](10) Intensive residential treatment for children and youth is provided in a living unit of an agency for gravely, emotionally disturbed youth that has the capability of providing a highly structured and secure environment to prevent runaway behavior, address the likelihood of rage and physical aggression, and minimize/s the likelihood of youth injuring themselves or others. Intensive residential treatment for children and youth may be achieved through a combination of staffing patterns, architectural design of the [facility] operating site, electronic monitoring of the [facility] operating site and its exits, or other means necessary to assure safety.

[(10)](11) License is the legal document issued to an agency by the division for a period not to exceed two (2) years which authorizes the agency to provide twenty-four (24)-hour care for children, subject to compliance with sections 210.481-210.536, RSMo, and the applicable rules promulgated by the division (section 210.481(6), RSMo).

[(11)](12) Mechanical restraints are any device, instrument, or physical object used to confine or limit a child's freedom of movement, except when necessary for orthopedic, surgical, and other medical purposes, or when necessary, to transport a child that may abscond or cause injury during transportation. Support devices used in normal situations to achieve proper body position and balance are not mechanical restraints.

**(13) Medical examination is a thorough physical examination conducted by a licensed physician, certified nurse practitioner, advanced practice nurse in a collaborative practice agreement with a licensed physician, or a registered nurse who is under the supervision of a licensed physician. It may include a variety of tests, depending on the age, sex, and health of the person being examined, that includes tests for communicable diseases including, but not limited to tuberculosis and hepatitis, when recommended by a licensed physician. It should also include a statement of the patient's mental state as determined by a licensed physician.**

**(14) Operating Site is any building of a licensed agency in which children reside.**

*[(12)](15) Physical restraint is physical holding involving restriction of a child's voluntary movement to temporarily restrain an agitated, violent, or aggressive child who presents a likelihood of serious physical harm to him/herself or others [or of doing serious property damage].*

*[(13)](16) Residential [care] treatment agency for children and youth is an agency providing twenty-four (24)-hour care and treatment to children who are unrelated to the person operating the agency and who are unattended by a parent or guardian (as defined in section 210.481(10), RSMo, as residential care facility).*

*[(14)](17) Social services [is the provision of direct services, by plan, to the child and family to identify and resolve problems which negatively have affected his/her development, behavior, and social functioning.] are planned psycho-social interventions that are intended to lead to increased individual and family self sufficiency and empowerment, and will support the child's transition from the placement into the family or community. Social services shall include, but shall not necessarily be limited to, individual, family or group therapy provided in conjunction with other expressive, experiential, and adjunct activities.*

*[(15)](18) Staff are persons employed by an agency.*

*[(16)](19) Transitional living services are services provided to older adolescents that combine life skills training with opportunities to practice same. The goal of such services is to prepare the youth for successful adult living in the community upon their discharge from residential [care] treatment for children and youth.*

**(20) Variance is a minor, time limited, deviation from a rule that may be requested by a licensed residential treatment for children and youth agency on a form prescribed by the division and approved or denied by the division. Approval may be granted by the division when a variance does not negatively impact child health and safety and is not under the purview of another regulatory entity. Examples include, but are not limited to time limited deviations in licensed capacity and age range.**

*[(17)](21) Volunteer is any person who provides direct services to children within an agency, either on or off the premises, without financial compensation.*

*[(18)](22) Well-known religious order, church, and religious organization are defined as follows:*

(A) A church, synagogue, or mosque;

(B) An entity that would qualify for federal tax exempt status as a not-for-profit religious organization under section 501(c) of the *Internal Revenue Code* of 1954; or

(C) An entity where the real property on which the [child care facility] residential treatment for children and youth operating

site is located is exempt from local taxation because it is used for religious purposes.

*AUTHORITY: section 210.506, RSMo 2000. This rule originally filed as 13 CSR 40-71.010. Original rule filed May 9, 1956, effective May 19, 1956. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division  
Chapter 71—Licensing Rules for Residential [Child Care Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.020 Basic Residential [Child Care] Treatment for Children and Youth Core Requirements (Applicable To All Agencies)—Basis for Licensure and Licensing Procedures.** The division is amending the title of the chapter, the title of the rule, sections (1)–(6), and adding section (7).

*PURPOSE: The Children's Division is clarifying the application of licensure process, medical (formally physical) examination documentation for staff, using interns instead of students, clarification that a licensure may be denied if an applicant is not in compliance within a six (6) month period, requiring a new application if such an agency desires to pursue licensure, discussion of the variance request process, information necessary for a license amendment, verification of a medical examination documentation required for a license renewal, and clarification of license supervision.*

(1) Licensing Authority.

(A) Any person who desires to develop, establish, maintain or operate, or both, a residential [care agency] treatment agency for children and youth, except for those persons exempt from licensing pursuant to section 210.516, RSMo, must file an [A]application for [L]licensure form with the division and must receive a license prior to accepting any child for care.

(2) Application for Licensure.

(A) An agency shall submit the following documents in duplicate to the division—

1. Application for [L]licensure signed and dated by the applicant;
2. Evidence of compliance with local building and zoning requirements;
3. A floor plan of the proposed site in which the specific use of each room is identified;
4. A signed and dated copy of the [C]ivil [R]ights [A]greement;
5. A chart depicting the agency's organizational structure and lines of supervision;
6. Written policies and procedures established by the board of

directors which clearly set forth the authority and the responsibilities delegated to the executive director;

7. A copy of the *[A/articles of [I]incorporation, bylaws, and board roster, including the mailing address[es of all officers] and place of employment of each member[;], and a list of board officers;*

8. A proposed budget for a period of not less than one (1) year[;], **including sources of income and/or fund raising methods;**

9. Verification of **availability of** not less than three (3) months' operating capital;

10. A written intake policy;

11. Written identification of specific program models or designs which shall include the methods of care and treatment to be provided;

12. Job title, job description, and minimum qualifications for all staff;

13. A projected staffing plan for the anticipated capacity;

14. Written child abuse and neglect reporting policy;

15. Written personnel practices, including staff training and orientation;

16. Written discipline policy;

17. Written visitation policy;

18. Written health care policy;

19. Written restraint policy *[which shall include a description of all methods to be used;]* **utilizing a recognized and approved physical restraint program;**

20. A needs assessment conducted and submitted as evidence of need for the type and scope of program proposed. This **written** assessment shall include, *[at a minimum,]* **but is not limited to:**

A. *[a]*An identification and survey of potential referral sources, existing resources, and unmet community needs;

B. **A business plan that details the agency's proposed venture explaining the vision, mission, current status, expected needs, defined markets, and projected results;**

C. **A description of how treatment will be provided and documented and how the proposed operating site meets therapeutic needs;**

D. **A description of how the agency will be financed and how fiscal viability will be maintained; and**

E. **A description of the results of a meeting planned and hosted by the agency with key community participants with the intent of enhancing communication, gathering information for the needs assessment, addressing interaction with community resources, and addressing community questions and comments regarding the proposed residential treatment agency for children and youth.**

21. Evidence of compliance with fire safety requirements of the State Fire Marshal;

22. Documentation that the agency's water supply and sewage disposal system is currently in compliance with the requirements of the Department of Health and Senior Services if not an approved public source;

23. Verification of a *[physical]* **medical examination that includes tests for communicable diseases including, but not limited to, tuberculosis and hepatitis when recommended by a licensed physician** for all staff *[working directly with children]*, completed by a licensed physician, certified nurse practitioner, advanced practice nurse in a collaborative practice agreement with a licensed physician, or a registered nurse who is under the supervision of a licensed physician, shall be submitted within thirty (30) days of initial licensure using the form prescribed by the division;

24. Results of a check of the *[F]family [C]care [S]safety [R]registry [(FCSR)]* for all staff, as well as *[students,]* interns, volunteers, and contractors *[who have direct contact with children]*. Any employee who resides in another state and works in the state of Missouri, or who has relocated to the state of Missouri within the last five (5) years, shall provide documentation of child abuse/neglect and criminal background screening check(s) from

those states. When an employee who lived in another state or states within the last five (5) years now resides in the state of Missouri, the documentation of child abuse/neglect and criminal background screening check(s) from the previous state(s) only needs to be completed upon initial employment. If the employee continues to reside in another state, the out-of-state check shall be done annually. Results of employee medical examinations and background screenings, **along with [(FCSR) family care safety registry documentation]** may be viewed by division licensing staff on site during routine record reviews;

25. Verification of the education, **licensing credentials** and experience for all professional staff; *[and]*

26. **A copy of the resume for all professional and administrative staff;**

*[26.]*27. Written description of the recreational program, and the manner in which staff are qualified and prepared to create, organize, and supervise them[.];

28. **A copy of the annual written staff training plan;**

29. **A copy of the personnel manual for the agency;**

30. **A copy of the program manual for the agency;**

31. **For any agency operating a swimming pool on grounds, documentation that the pool is operated and maintained in accordance with all applicable ordinances and/or state guidelines;**

32. **Documentation that each operating site's food service is in compliance with the requirements of the Department of Health and Senior Services and/or any local applicable ordinances;**

33. **Written volunteer policies;**

34. **Written policy for the use of visiting resources;**

35. **Written confidentiality policy;**

36. **Written policy for the use of locked isolation;**

37. **Written instructions for fire, severe weather, and other emergency evacuations;**

38. **Written description of the agency's religious requirements and practices;**

39. **Written policy governing the use of medications, including psychotropic medications;**

40. **A copy of any newsletter, brochure, or flyer used by the agency for fundraising or marketing purposes;**

41. **Documentation of insurance for the agency for professional and commercial liability, worker's compensation insurance, fire, and disaster insurance and agency vehicle insurance; and**

42. **A completed, signed, and dated copy of the agency self study on a form prescribed by the division.**

(3) Licensing Assessment.

(B) If an applicant for licensure is determined not to be in compliance with the licensing law and applicable rules, and/or if compliance is not achieved within a six (6)-month period, *[a new Application for Licensure must be filed if the agency desires to pursue licensure.]* **the application may be denied. A new application for licensure must be filed if the agency desires to pursue licensure.**

(4) The License.

(C) The license shall be posted in a conspicuous place on the premises of the *[facility]* operating site.

(F) **A licensed residential treatment agency for children and youth may request a temporary variance from one (1) or more of the licensing requirements for a specified period of time on a form prescribed by the division that is approved or denied by the division. Approval may be granted by the division only in unusual situations when the division determines that the variance will not negatively impact child health and safety and is not under the purview of another regulatory entity. Examples may include, but are not limited to time limited deviations in licensed capacity and age range. No variance will be granted for any licensing requirements which involve the health, safety, and welfare of children.**

Examples include, but are not limited to compliance with fire and sanitary codes, food safety, building occupancy requirements, and other requirements imposed by law. In the event the licensed residential treatment agency for children and youth does not agree with the decision of the division, it may request administrative review pursuant to 13 CSR 35-71.030.

(5) License Amendment.

(A) An agency shall file an [A]application for [A]amendment with the division [at least thirty (30) days prior to relocation, change in the name of the agency, change in the capacity, and/or age range of children or any major change in the program. These changes shall be approved by the division before implementation.] on a form prescribed by the division at least sixty (60) days prior to—

1. Relocation and/or address change;
2. Change in the name of the agency;
3. Change in the capacity, gender served, and/or age range of children; or
4. Any major change in the program.

(B) These changes shall be approved by the division prior to implementation.

(6) Licensing Renewal.

(A) An [A]application for [L]licensure shall be mailed by the division to the agency.

(B) The agency shall complete and return the application to the division [within thirty (30) days from the date of receipt] at least ninety (90) days prior to the expiration of the current license.

(C) The division shall initiate action on the completed application packet prior to the expiration of the existing licensure period.

(D) In addition to the completed application, the following documents shall be submitted:

1. Verification of a [physical] medical examination that includes tests for communicable diseases including, but not limited to, tuberculosis and hepatitis when recommended by a licensed physician, completed by a licensed physician, certified nurse practitioner, advanced practice nurse in a collaborative practice agreement with a licensed physician, or a registered nurse who is under the supervision of a licensed physician, for all staff working directly with children shall be submitted utilizing the form prescribed by the division;

2. A current board roster, including the mailing address/es of all officers] and place of employment of each member and a list of board officers;

3. A summary of any significant changes to programs and copies of any resulting policies or policy changes;

4. A copy of a current organizational chart;

5. Annual results of a check of the [F]family [C]care [S]safety [R]registry [(FCSR)] for all staff, as well as [students] interns, volunteers, and contractors [who have direct contact with children]. Any employee who resides in another state and works in the state of Missouri, or who has relocated to the state of Missouri within the last five (5) years, shall provide documentation of child abuse/neglect and criminal background screening check(s) from those states. When an employee who lived in another state or states within the last five (5) years now resides in the state of Missouri, the documentation of child abuse/neglect and criminal background screening check(s) from the previous state(s) only needs to be completed upon initial employment. If the employee continues to reside in another state, the out-of-state check shall be done annually. Results of employee medical examinations and background screenings, along with [(FCSR) family care safety registry documentation/] may be viewed by division licensing staff on site during routine record reviews;

6. Evidence of current compliance with the fire and safety requirements of the State Fire Marshal;

7. A record of monthly drills for fire and emergency evacuations which are held at different times of the day and night;

8. Documentation that each [facility's] operating site's water supply and sewage disposal system is currently in compliance with the requirements of the Department of Health and Senior Services if not an approved public source; and

9. A copy of [a] the most recent financial audit [conducted by a certified public accountant not employed by the agency.] and/or financial review pursuant to 13 CSR 35-71.040(3)(B);

10. A copy of the annual written staff training plan;

11. Documentation that each operating site food service is currently in compliance with requirements of the Department of Health and Senior Services or any local applicable ordinance;

12. A copy of the current personnel and/or program manual for the agency if there have been changes since last submitted to the licensing unit;

13. For any agency operating a swimming pool on grounds, documentation that the pool is operated and maintained in accordance with all applicable local ordinances and/or state guidelines;

14. A copy of the resume of all administrative and professional staff, if not previously submitted to the licensing unit;

15. Documentation of insurance for the agency for professional liability and commercial liability, worker's compensation insurance, fire, and disaster insurance and agency vehicle insurance;

16. Documentation of form 990 for all non-profit agencies and Internal Revenue Service return for for-profit agencies and self-disclosure of tax liabilities, including but not limited to all employee withholding taxes.

(7) License Supervision.

(A) Division licensing consultants may make supervisory on site contacts which may or may not be scheduled to determine compliance with the licensing rules.

(B) Division licensing consultants may review personnel files including, but not limited to criminal/child abuse/neglect background screening documentation during on-site reviews.

*AUTHORITY: section 210.516, RSMo 2000. This rule originally filed as 13 CSR 40-71.020. Original rule filed Nov. 9, 1978, effective Feb. 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division  
Chapter 71—Licensing Rules for Residential [Child Care Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.025 Exemption of Religious [Child Care Facilities] Residential Treatment for Children and Youth Operating Sites.** The division is amending the title of the chapter, the title of the rule, the purpose, and the section of text.

**PURPOSE:** *The Children's Division is amending residential child care to residential treatment for children and youth and facilities to operating sites.*

**PURPOSE:** *This rule sets forth the requirement that [child care facilities] residential treatment for children and youth operating sites must be under the exclusive control of a religious organization in order to qualify for exemption under sections 210.211(5) or 210.516.1(5), RSMo.*

When a nonreligious organization, having as its principal purpose the provision of [child care] residential treatment for children and youth services, enters into an arrangement with a religious organization to provide continuing assistance in the maintenance or operation of a [child care facility] residential treatment for children and youth operating site, the [facility] operating site is not under the exclusive control of the religious organization and does not qualify for exemption from licensure under sections 210.211(5) or 210.516.1(5), RSMo.

**AUTHORITY:** *sections 210.481, [and] 210.516, [RSMo (1986) and] 210.486, and 210.506, RSMo [(Cum. Supp. 1993)] 2000. This rule originally filed as 13 CSR 40-71.025. Original rule filed Oct. 7, 1987, effective March 25, 1988. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division**  
**Chapter 71—Licensing Rules for Residential [Child Care Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.030 Hearings and Judicial Review.** The division is amending the title of the chapter, sections (1) and (2), and adding sections (3), (4), and (5).

**PURPOSE:** *The Children's Division is amending exclusionary employment criteria to include felony possession, delivery, manufacturing or production of controlled substance crimes as specified in Chapter 195 RSMo, the inclusion of limited exceptions to exclusionary employment criteria and the inclusion of due process procedures in the event of disagreement with exclusionary employment criteria in certain cases, and disagreement with the denial, suspension, and/or revocation of a license.*

(1) License Denial or License Revocation.

(A) The division may refuse to issue a license to an applicant, or may deny or revoke the license of a licensee, who—

1. Fails consistently to comply with the applicable provisions of sections 210.481–210.536, RSMo, and the applicable corresponding rules;

2. Violates any of the provisions of its license;

3. Violates state laws or rules relating to the protection of children;

4. Abuses or neglects children, or is the subject of multiple or serious reports of child abuse or neglect which upon investigation results in a court adjudicated, probable cause, and/or preponderance of evidence finding, or [after (effective the date of this amendment)] (effective August 4, 2008) are found guilty, plead guilty, or plead no contest to felony crimes against persons as specified in Chapters 565, 566, 567, 568, and 573 RSMo, and (effective the date of this amendment) felony possession, delivery, distribution, manufacturing, or production of controlled substance crimes as specified in Chapter 195 RSMo, or the same serious crimes against persons regardless of the state or country in which the crime was committed and/or court adjudicated, probable cause, and/or preponderance of evidence child sexual abuse and/or serious child physical abuse and/or serious child neglect. An agency shall also exclude from employment persons who are on the respective Department of Health and Senior Services and/or the Department of Mental Health lists that exclude child or adult care employment and/or licensure and the agency fails to take corrective action acceptable to the division. **The division may make limited exceptions to the above exclusionary employment criteria in extraordinary circumstances where the agency and the employee establish that the potential employee is essential to the success of the licensed residential treatment agency for children and youth, the employee poses no risk to the welfare, health, and safety of the children in placement, the employee is not listed on the sexual offender registry and has no history of court adjudicated, probable cause, and/or preponderance of evidence sexual abuse. The division may require that the prospective employee and the agency submit proof that the employee or prospective employee has successfully completed any and all sentences imposed and any reasonably necessary or required medical, psychiatric, and/or mental health treatment necessary to assure that the employee or prospective employee poses no danger to the health, safety, and welfare of children. The agency shall file a written application for an exception to the requirements of this section. The application shall contain detailed information and documentation supporting the request. In the event that the division denies the request the employee or prospective employee and the agency may file a written request for an informal meeting pursuant to paragraph (1)(A)11. of this section;**

5. Employs persons who abuse or neglect children, persons who are the subjects of multiple or serious reports of child abuse or child neglect which upon investigation results in a court adjudicated, probable cause, and/or preponderance of evidence finding or [after (effective the date of this amendment)] (effective August 4, 2008) are found guilty, plead guilty, or plead no contest to felony crimes against persons as specified in Chapters 565, 566, 567, 568, and 573, RSMo, and (effective the date of this amendment) felony possession, delivery, distribution, manufacturing, or production of controlled substance crimes as specified in Chapter 195 RSMo, or the same serious crimes against persons regardless of the state or country in which the crime was committed and/or court adjudicated, probable cause, and/or preponderance of evidence child sexual abuse and/or serious child physical abuse and/or serious child neglect. An agency shall also exclude from employment persons who are on the respective Department of Health and Senior Services and/or the Department of Mental Health lists that exclude child or adult care employment and/or licensure and the agency fails to take corrective action acceptable to the division. **The division may make limited exceptions to the above exclusionary employment criteria in extraordinary circumstances where the agency and the employee establish that the potential employee is essential to the success of the licensed residential treatment agency for children and youth, the employee poses no risk to the welfare, health, and safety of the children in placement, the employee is not listed on**



the sexual offender registry and has no history of court adjudicated, probable cause, and/or preponderance of evidence sexual abuse. The division may require that the prospective employee and the agency submit proof that the employee or prospective employee has successfully completed any and all sentences imposed and any reasonably necessary or required medical, psychiatric, and/or mental health treatment necessary to assure that the employee or prospective employee poses no danger to the health, safety, and welfare of children. The agency shall file a written application for an exception to the requirements of this section. The application shall contain detailed information and documentation supporting the request. In the event that the division denies the request the employee or prospective employee and the agency may file a written request for an informal meeting pursuant to paragraph (1)(A)11. of this section;

6. Furnishes or makes any misleading or false statements or reports to the division;

7. Refuses to submit any reports or refuses to make available to the division any records required in making an investigation;

8. Fails or refuses to submit to an investigation by an authorized and identified representative of the division at any reasonable time;

9. Fails to provide, maintain, equip, and keep in safe and sanitary condition the premises established or used for the care of children as required by law, rule, or ordinance applicable to the location of a facility; or

10. Fails to provide adequate financial resources for the satisfactory care of children being served, or the upkeep of the premises, or both.

11. When a potential employee of a licensed residential treatment agency for children and youth is excluded from employment pursuant to paragraphs 13 CSR 35-71.030(1)4. and 5. above, the Children's Division may grant an informal meeting only if the potential employee and the licensed residential treatment agency for children and youth request the informal meeting in writing and explain, based on the specified criteria, the reason the employee would be hired and how children in residence at the operating site would be protected. When the written request is received, the division shall schedule an informal meeting as soon as practicable. The meeting shall take place before the division director/designee. The division shall notify the agency of the date and time of the meeting. The meeting may be continued at the request of the agency, but the employment exclusion shall remain in effect pending the meeting. The meeting shall be informal, the rules of evidence shall not apply and both the agency and the division may submit any information relevant to the employment issues. The purpose of the meeting will be to determine the potential employee's suitability for employment based on the criteria listed in paragraphs 13 CSR 35-71.030(1)(A)4. and 5. above. Upon receipt of the final decision of the division, the agency may decide to accept the final decision or file petition for a hearing on administrative review pursuant to section (5) of this rule.

(B) The division shall provide written notice of denial or revocation of licensure to the agency, which shall include the reason(s) for the denial or revocation. Upon receipt of the notice of denial or revocation, the agency shall cease operation within *[five (5)] ten (10) business days* unless stayed by an appropriate administrative or judicial order, or a request for an administrative hearing is made before the expiration of the ten (10) business days from the date of the notice.

(D) Any person aggrieved by a decision of the division *[with regard to the denial or revocation of licensure]* to deny or revoke a license shall be entitled to a hearing *[and]* on administrative review *[by the director or his/her designee as provided by section 210.526, RSMo]* under section (5) of this rule.

(2) License Suspension *[and Suspension of Intake]*.

(A) The division shall have the authority to suspend the license of an agency when *[necessary to protect the health, safety and welfare of children:]*—

1. The division determines that the suspension of the license is necessary to protect the health, safety, and welfare of children who are or may be placed at the operating site; and

2. The division determines that one (1) or more of the criteria set out in section 210.496, RSMo and/or subsection (1)(A) of this rule may exist; and

3. The division has reasonable cause to believe that the agency will be able to develop and effectively implement a corrective action plan to resolve the concerns which gave rise to the suspension of the license.

(B) *[The division shall have the authority to suspend the intake of children into placement during prescribed time periods in order to assure the health, safety and welfare of children.]* The agency shall cease operations within ten (10) business days of the date the division issues an order suspending the license of the agency unless—

1. The agency files a written request for administrative review within ten (10) business days of the date of the order; or

2. The order is stayed by an appropriate administrative or judicial order.

*[(C) The division shall provide written notice of the suspension and the reason(s) for the suspension to the agency. Upon receipt of notice of suspension, the agency shall immediately cease operation pending review. In the event that intake only is suspended, the division shall provide written notice and the reasons for the suspension, including time frames and limitations on intake.]*

*(D) When the division suspends the license of an agency, the suspension shall be for a period not to exceed thirty (30) working days, or until there is an administrative review and decision by the director, whichever is first.]*

(C) The order for suspension of the license shall be in writing. The order shall include:

1. The factual and legal basis for the order; and

2. Notification of the right of the agency to administrative review. The division may extend the order if there has been no substantial change in the circumstances since the entry of the original order or if there are new grounds for extension of the order.

(D) The division may reinstate a suspended license on its own motion or upon written application by the agency. The division may reinstate that license if the division determines that—

1. The agency has developed and successfully implemented a corrective action plan approved by the division to remedy the concerns which resulted in the license suspension; and

2. The agency meets all of the criteria for licensing; and

3. The division determines that suspension of the license is no longer necessary to protect the health, safety, and welfare of the children involved.

(3) Suspension of Intake.

(A) The division shall have the authority to suspend the authorization of the agency to admit additional children into placement during time periods proscribed by the division when the division determines that the agency is not in compliance with the requirements of section 210.496, RSMo and/or subsection (1)(A) of this rule and:

1. The addition of additional children to the agency is not in the best interests of the children already placed within the agency or who may be placed with the agency; and

2. Allowing the placement of additional children with the agency may pose a risk to the health, safety, and welfare of children already placed with the agency or who may be placed with the agency.

(B) The order for suspension of intake shall be in writing. The

order shall include:

1. The factual and legal basis for the order; and
2. Notification of the right of the agency to administrative review. The division may extend the order if there has been no substantial change in the circumstances since the entry of the original order or if there are new grounds for extension of the order. A suspension of intake shall proscribe the number of additional children which the agency is authorized to accept for placement, if any, but it shall not include a requirement that children currently placed with the agency shall be removed.

(C) If the division finds that suspension of intake prior to the opportunity for a hearing on administrative review is necessary to protect the health, safety, and welfare of children then the division has the option to make the order to suspend intake effective immediately upon delivery to the agency; otherwise the order shall be effective ten (10) business days from the date of the entry of the order unless—

1. The agency files a written request for administrative review within ten (10) business days of the date of the order; or
2. The order is stayed by an appropriate administrative or judicial order.

(D) If the division issues an order to immediately suspend intake the division shall schedule an informal meeting to review the decision with the agency as soon as practicable. The meeting shall take place before the director or his/her designee. The division shall notify the agency of the date and time for the meeting. The meeting may be continued at the request of the agency, but the order shall remain in effect pending the meeting. The meeting shall be informal, the rules of evidence shall not apply and both the agency and the division may submit any information relevant to the issues in the case. The purpose of the meeting will be—

1. For the division to determine whether there is probable cause to find that a suspension of intake is necessary to protect the best interests of the children placed with the agency or who may be placed with the agency pending a fair hearing on administrative review pursuant to section (4), below; and
2. To afford the agency an opportunity to informally provide information relevant to the division's decision and to request relief from the entry of the order.

(E) If the division finds after the meeting that there is probable cause to continue the suspension of intake pending hearing on administrative review the division shall expedite the hearing on administrative review; otherwise the suspension of intake shall be stayed pending hearing on administrative review.

(F) The division may rescind the order suspending intake on its own motion or upon written application by the agency. The division may reinstate the intake if the division determines that—

1. The agency has developed and successfully implemented a corrective action plan approved by the division to remedy the concerns which resulted in the suspension of intake; and
2. The agency meets all of the criteria for licensing; and
3. The division determines that the suspension of intake is no longer necessary to protect the health, safety, and welfare of the children.

#### (4) Emergency Order Against an Existing License.

(A) The division may issue an order immediately suspending a license prior to a hearing on administrative review when the division finds that there is probable cause to believe that—

1. There is an imminent risk of immediate and significant harm to the health, safety, or welfare of children who are placed or who may be placed with the agency; and
2. The risk is such that the health, safety, or welfare of the children may be at risk if the division's emergency action does not become effective before the agency is afforded an opportunity for a hearing.

(B) The division's findings under this section must be made in

writing and set out in the order. The order shall notify the agency of its right to request administrative review and of its right to an informal meeting.

(C) If the division issues an emergency order against a license under this section the division shall schedule an informal meeting to review the decision with the agency as soon as practicable. The meeting shall take place before the director or his/her designee. The division shall notify the agency of the date and time for the meeting. The meeting may be continued at the request of the agency, but the order shall remain in effect pending the meeting. The meeting shall be informal, the rules of evidence shall not apply and both the agency and the division may submit any information relevant to the issues in the case. The purpose of the meeting will be—

1. For the division to determine whether there is probable cause to find that an emergency exists which requires continuation of the division's action pending a hearing on administrative review pursuant to section (5) below; and
2. To afford the agency an opportunity to informally provide information relevant to the division's decision and to request relief from the entry of the order.

(D) If the division finds after the meeting that there is probable cause for the emergency action and continues the suspension in effect the division shall refer the matter for a hearing on administrative review, otherwise the suspension of the license shall be stayed pending hearing on administrative review.

#### (5) Hearing on Administrative Review.

(A) The agency which is aggrieved by the decision of the division, (including, but not limited to a decision to deny a variance, to suspend intake, suspend a license, deny a license application, or revoke an existing license) shall have the right to a hearing on administrative review of the division's decision.

(B) The division shall provide written notice to the agency of its adverse action against the license of an agency. The notice shall—

1. Inform the agency of the nature of the decision;
2. State the factual and legal basis for the division's action;
3. State the effective date of the action, if applicable; and
4. Notify the agency of its right to seek administrative review.

(C) To request a hearing the agency shall submit a written request for administrative review within ten (10) business days of the decision of the division. The request for administrative review shall set forth the basis of the agency's objection to the division's decision.

(D) Unless otherwise provided in this rule, the division's action shall be stayed pending the entry of an order after hearing on administrative review if the agency request administrative review of the division's decision within ten (10) business days of the date of the notice of the division's action.

(E) If the agency requests a hearing the division shall hold an administrative hearing. The hearing shall be held by the director or the director's designee.

(F) Upon receipt of the final decision of the division, the agency can decide to accept the final decision or file petition for judicial review pursuant to sections 210.526 and 536.100 through 536.140, RSMo.

*AUTHORITY: sections 210.506 and 210.526, RSMo 2000. This rule originally filed as 13 CSR 40-71.030. Original rule filed Nov. 9, 1978, effective Feb. 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 Children's Division, Tim Decker, Acting Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division**  
**Chapter 71—Licensing Rules for Residential [Child Care Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.035 Court Review and Dispositional Hearing.** The division is amending the title of the chapter.

*PURPOSE:* This amendment changes the title of the chapter.

*AUTHORITY:* sections 210.481, [RSMo (1986) and] 210.486, and 210.506, RSMo [(Cum. Supp. 1993)] 2000. This rule originally filed as 13 CSR 40-71.035. Emergency rule filed Nov. 1, 1993, effective Nov. 12, 1993, expired March 11, 1994. Emergency rule filed March 2, 1994, effective March 12, 1994, expired July 9, 1994. Original rule filed Nov. 1, 1993, effective June 6, 1994. Moved to 13 CSR 35-71.035, effective Oct. 30, 2008. Amended: Filed Dec. 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division**  
**Chapter 71—Licensing Rules for Residential [Child Care Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.040 Organization and Administration.** The division is amending the title of the chapter, sections (1)–(3), and adding new section (3), renumbering current parts of section (2) to section (4), and renumbering section (3) as section (5).

*PURPOSE:* The Children's Division is amending board criteria related to names, addresses, place of employment, clarification of voting board member being not employed by the agency, at least one (1) quarterly board meeting is to be held at the operating site, ensuring that no unrelated business is established at the operating site without providing the division with a written request and receiving permission from the division, financial management when an agency makes five hundred thousand dollars (\$500,000) or more or less than five hundred thousand dollars (\$500,000), bonding of certain staff, required

insurance, and the governing body being responsible for maintaining adequate funds for the operation of the agency.

(1) Each agency shall be incorporated and shall submit to the division its [A/articles of ]/[incorporation and ]/[certificate of ]/[incorporation.

(2) An agency shall have a governing body responsible for establishing its policies, determining its programs, guiding its development, and providing its leadership. [Voting members of the board of directors shall not be employed by the agency. The governing body shall be responsible for—] A list of the names, addresses, and place of employment of the current members of the governing board shall be kept on file at the agency and available for review.

(3) Voting members of the board of directors shall not be employed by and/or do not receive financial compensation from the agency. Any employee who serves as a member of the board of directors shall sign a statement acknowledging his/her understanding of and agreement with this rule. Such statement shall be part of the personnel file.

(4) The governing body shall be responsible for—

(A) Developing and maintaining a program of orientation and training for all new members of the governing body;

(B) Determining the size, selection, function, and organization of the governing body;

(C) Keeping minutes of each meeting of the governing body, which shall reflect its actions pertaining to and affecting the care and safety of children;

(D) Meeting as often as necessary, but at least four (4) times a year, to conduct the business of the agency, at least one (1) of which shall be held at an operating site;

(E) Conducting an on-site visit to each [facility] operating site annually by at least a committee of the governing body;

(F) Ensuring an agency's continuous compliance with Missouri law and applicable licensing rules;

(G) Ensuring the agency's continuous compliance with all applicable federal, state, or local laws or regulations governing the operation of the agency;

(H) Ensuring that an agency's standards of practice shall be professional, ethical, and responsive to client needs;

(I) Appointing the executive director and delegating responsibility to the director to administer the agency in all of its activities, functions, and services;

(J) Performing and retaining a written evaluation of the executive director on an annual basis;

(K) Providing the division a written statement which sets forth the kind and extent of authority delegated to the executive director;

(L) Ensuring that all [facilities] operating sites are maintained, staffed, and equipped to implement the agency's program effectively;

(M) Making available for review by the division the written policies and procedures of the agency, and evaluating the policies and procedures biennially to determine that the interests of children and families are being served;

(N) Meeting with division staff when requested;

(O) Providing written notification to the division within five (5) working days when there is a change of executive directors, board president, or the organizational structure of the agency; [and]

(P) Reporting a criminal act of an employee in the performance of employment duties to law enforcement and/or the prosecuting attorney and providing immediate oral report followed by a written report to the division five (5) working days after the occurrence of the criminal act that specifies the agency's corrective action plan./.; and

(Q) Ensuring that no unrelated business is established at the licensed agency operating site without providing the division with a written request and receiving written permission from the division.

*[(3)](5)* Financial Management.

(A) The governing body shall approve an annual budget which shall be on file at the agency and submitted to the licensing unit./.;

(B) **If an agency has annual gross revenues of five hundred thousand dollars (\$500,000) or more, [T]the agency shall be audited annually by an independent certified public accountant and a copy shall be submitted to the division. Agencies with an annual gross income of less than five hundred thousand dollars (\$500,000) shall provide documentation of an annual financial review;**

(C) The treasurer, administrator, and any other persons handling funds shall be bonded, as determined by the governing body;

(D) **The governing body shall ensure that insurance for public liability, workers compensation, fire and disaster insurance on the property, and agency vehicles is maintained; and**

(E) **The governing body shall be responsible for providing and maintaining adequate funds for the operation of the agency.**

*AUTHORITY: section 210.506, RSMo 2000. This rule originally filed as 13 CSR 40-71.040. Original rule filed Nov. 9, 1978, effective Feb. 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division  
Chapter 71—Licensing Rules for Residential [Child Care  
Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.045 Personnel.** The division is amending the title of the chapter and sections (1)–(6).

*PURPOSE: The Children's Division is amending the background check process, medical examination criteria, signature, and date on certain personnel documents, documentation of certain staff training, timing of staff orientation, additional staff training topics, and the documentation of staff training.*

(1) General Requirements.

(C) The agency shall require that each employee, *[student,] intern, volunteer, and any contracted personnel [who have direct contact with children to]* secure and provide to the agency *[an annual] upon initial employment and annually thereafter, a child abuse/neglect and criminal background screening utilizing the [F]family [C]care [S]afety [R]registry from the Department of Health and Senior Services.*

(D) Any employee who resides in another state and works in the state of Missouri, or who has relocated to the state of Missouri within the last five (5) years, shall provide documentation of background screening(s) from those states to include, but not limited to, child abuse/neglect and criminal background screening check(s). When an employee who lived in another state or states within the last five (5) years now resides in the state of Missouri, the documentation of child

abuse/neglect and criminal background screenings check(s) from the previous state(s) only needs to be completed upon initial employment. If the employee continues to reside in another state, the out-of-state check shall be done annually. An agency shall exclude from employment *[(effective the date this rule is filed)] (effective August 4, 2008)* staff who are found guilty, plead guilty, or plead no contest to felony crimes against persons as specified in Chapters 565, 566, 567, 568, and 573, **and (effective the date of this amendment) felony possession, delivery, distribution, manufacturing, or production of controlled substance crimes as specified in Chapter 195 RSMo, or the same serious crimes against persons regardless of the state or country in which the crime was committed and/or court adjudicated, probable cause, and/or preponderance of evidence child sexual abuse and/or serious child physical abuse and/or serious child neglect.** An agency shall also exclude from employment persons who are on the respective Department of Health and Senior Services and/or the Department of Mental Health lists that exclude child or adult care employment and/or licensure.

(F) Prior to the employment of any person for a position requiring credit hours, a degree, or both from an accredited college or university, a resume and an official college transcript, or a copy of the diploma, shall be on file at the agency. Any person employed in a position requiring general educational development *[(GED)]* certificate or high school diploma shall provide documentation of such within thirty (30) days of employment.

(I) All references shall be **contacted and** documented by the agency with letters or verification in the record of verbal contacts, providing the date, person making the contact, and the content of the contact.

(2) Medical Examinations.

(A) *[All persons employed by an agency who work directly with children]* **All employees, interns, volunteers, and contracted personnel** shall be free of signs of highly communicable disease or other evidence of ill health which poses a threat to children. This shall be verified by a *[physical]* **medical examination** by a licensed physician, certified nurse practitioner, advanced practice nurse in a collaborative practice agreement with a licensed physician, or a registered nurse who is under the supervision of a licensed physician before employment, or within ten (10) days following employment, and biennially thereafter.

(B) Medical examinations *[reports]* shall include *[a tuberculin skin test, a chest X ray, or appropriate follow-up of a previous examination that indicates the individual is free of contagion.] tests and/or procedures that indicate they are free from communicable disease including, but not limited to, tuberculosis and hepatitis when recommended by a licensed physician.*

(C) Staff shall be free of any conditions which would adversely affect their ability to care for, **or pose a threat [children or pose a threat]** to children.

(3) Personnel Records. Personnel records shall be maintained for each *[staff member,] employee, intern, volunteer, and contracted employee* as indicated below.

(A) For an employee, the personnel record shall include—

1. Verification of education and experience, and a copy of professional license, if applicable;

2. Verification of the names of three (3) persons, unrelated to the staff member, who can provide character references;

3. Verification of employer references for the past five (5) years and a history of any previous employment in child care settings;

4. A copy of the job description signed **and dated** by the employee;

5. Reports of initial and biennial medical examinations that indicate that they *[are] appear to be free from communicable disease[, including, but not limited to, tuberculosis and hepatitis];*

6. Results of annual checks of the *[F]family [C]care [S]afety [R]registry;*

7. Results of background screenings from other states in which employees have resided and/or have lived or worked within the past five (5) years, including an annual out-of-state check if the person resides in another state;

8. The date of employment, date of separation, reason(s) for separation;

9. Copies of an initial six (6) months' performance evaluation and each subsequent annual evaluation;

10. Results of an annual driver record check for any employee, *[student] intern*, volunteer, and any contracted personnel who transport/*s*] residents;

11. A **signed and dated** copy of the *[signed]* confidentiality statement;

12. A **signed and dated** copy of the *[signed]* discipline policy;

13. A **signed and dated** copy of the *[signed]* mandated child abuse/neglect reporting policy;

14. A **signed and dated** copy of an *[signed]* acknowledgement of receipt of program and personnel policies;

15. A signed and dated copy of the *[signed]* acknowledgment of completed agency orientation; *[and]*

16. Documentation of staff training*[/]*;

17. **Documentation of current first aid/cardio pulmonary resuscitation training and certification; and**

18. **Documentation of current medical aid certification, when applicable.**

(B) *[Students] Interns*, *[V]*volunteers, and *[C]*contracted *[E]*employees who have direct contact with children shall include—

1. Copy of professional credentials (if applicable);

2. Documentation of initial and biennial medical examinations that indicates that they are free from communicable disease including, but not limited to, tuberculosis and hepatitis;

3. Results of annual checks of the *[F]*family *[C]*care *[S]*safety *[R]*registry;

4. Results of background screenings from other states in which *[students] interns*/volunteers who have direct contact with children have resided and/or have lived or worked within the past five (5) years, including an annual out-of-state check if the person resides in another state;

5. A **signed and dated** copy of the contract or any agreement outlining purpose of presence on site;

6. A **signed and dated** copy of the *[signed]* confidentiality policy;

7. A **signed and dated** copy of the *[signed]* discipline policy;

8. A **signed and dated** copy of the mandated child abuse/neglect reporting policies;

9. A **signed and dated** copy of the acknowledgement of receipt of policies related to their agreement/contract; and

10. Documentation of staff orientation participation.

(4) Job Descriptions. An agency shall establish a written job description for each position, which shall be made available to staff at the time of employment. Each description shall describe the duties and responsibilities of the position; address supervision, required knowledge, skills and abilities, minimum experience, educational requirements; and shall include examples of work performed. **Each employee shall be given a copy of the job description for his/her position. A copy of the job description shall be signed and dated by the employee and placed in his/her file.**

(5) Staff Orientation. Immediately before or **within one (1) week** following appointment, an *[staff member] employee, intern, volunteer, and any contracted personnel* shall be oriented to the agency's programs, practices, and the duties and expectations of his/her position. The orientation program shall include, but not be limited to:

(N) The procedure for identifying and reporting child abuse or neglect, or both, in accordance with sections 210.110–210.165, RSMo; *[and]*

(O) Agency recreation program philosophy, policy, procedures, rules, and expectations*[/]*;

(P) **Legal rights of children and their families, including basic information on the constitutional rights of children and their families while children are in care and basic information on the Missouri juvenile justice system; and**

(Q) **Procedures to follow in an emergency.**

(6) Staff Training.

(A) An agency shall establish and submit to the licensing unit an annual written plan *[for at least forty (40) hours]* of training each year for *[the executive director, child care staff, professional staff, and recreation and activity staff. All training must be documented with the dates, location, the subject, and the name of the person(s) who conducted the training. The training may include, but not be limited to, short-term courses, seminars, institutes, workshops, and in-service training provided on-site by qualified professionals.]* **all employees and contracted personnel.**

1. **Employees and contracted personnel shall have forty (40) hours of training during the first year of employment and forty (40) hours annually each subsequent year; and**

2. **Direct care staff and immediate supervisors must maintain certification in a certified medication training program, crisis management, a current recognized and approved physical restraint program (where applicable), first aid, and cardio pulmonary resuscitation.**

(B) *[The training plan shall include, but not be limited to:*

1. *Developmental needs of children;*

2. *Child management techniques;*

3. *Basic group dynamics;*

4. *Appropriate discipline, crisis intervention, de-escalation techniques, and behavior management techniques;*

5. *The direct care and professional staff roles in the facility;*

6. *Interpersonal communication;*

7. *Proper, safe methods and techniques of restraint;*

8. *First aid and cardiopulmonary resuscitation (CPR) training; and*

9. *Suicide prevention.] All training must be documented on a training database/training log with the dates, location, subject, number of hours earned and person(s) who conducted the training.*

(C) **The training may include, but not be limited to, short-term courses, seminars, institutes, workshops, and in-service training provided on-site by qualified professionals. Activities related to supervision of the staff member's routine tasks shall not be considered training activities for the purpose of this rule.**

(D) **The training plan shall include, but not be limited to:**

1. **Developmental needs of children;**

2. **Child management techniques;**

3. **Basic group dynamics;**

4. **Appropriate discipline, crisis intervention, de-escalation techniques, and behavior management techniques;**

5. **The direct care and professional staff roles in the operating site;**

6. **Interpersonal communication;**

7. **Proper, safe methods, and techniques of physical restraint;**

8. **First aid and cardio pulmonary resuscitation training;**

9. **Medication training and/or certification;**

10. **Suicide prevention;**

11. **Legal rights of children and their families, including basic information on the constitutional rights of children and their families while children are in care and basic information on the Missouri juvenile justice system; and**

12. **Water safety for those agencies allowing water activities.**

*AUTHORITY: section 210.506, RSMo 2000. This rule originally filed as 13 CSR 40-71.045. Emergency rule filed Nov. 1, 1993, effective Nov. 12, 1993, expired March 11, 1994. Emergency rule filed March 2, 1994, effective March 12, 1994, expired July 9, 1994. Original rule filed Nov. 1, 1993, effective June 6, 1994. Emergency amendment filed July 25, 2008, effective Aug. 4, 2008, expired Jan. 30, 2009. Moved to 13 CSR 35-71.045 and amended: Filed July 25, 2008, effective Jan. 30, 2009. Amended: Filed Dec. 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division**  
**Chapter 71—Licensing Rules for Residential [Child Care Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.050 Staff Qualifications and Requirements.** The division is amending the title of the chapter and sections (1)–(4), (6)–(8), (11), and (12).

*PURPOSE: The Children's Division is amending qualifications for an executive director of an agency, qualifications for professional staff, the need for a nurse in the event an agency serves certain populations, the need for direct care staff to demonstrate competence in five (5) key areas, staff/child ratios that enhance child safety, criteria for a direct care staff supervisor, enhancement of educational staff requirements, clarification of the need for a supervisor when a volunteer is counted toward staff/child ratio, and criteria for the approval of a visiting resource.*

(1) Employee Qualifications.

(A) The agency shall employ staff who are qualified by education, training, and experience for their assigned responsibilities. A current employee who has qualified for a position under the previous rule and is serving in that position shall be exempt from meeting any increased requirements defined by these rules.

(2) Administrative and Supervisory Personnel.

(B) When *[non]*indirect care functions have been approved by the division and are combined, the staff member shall meet the requirements for each function.

(C) The administrator shall be at least twenty-five (25) years of age and shall have one (1) of the following:

1. A master's degree in social work, counseling, social work administration, or a related human service degree, from an accredited school and two (2) years' experience in the management or supervision of child care personnel and programs;

2. A bachelor's degree in social work or a human service area of study from an accredited school and four (4) years' experience in the management or supervision of *[child care] residential treatment for children and youth* personnel and programs; or

3. If the administrator/**executive director** is responsible only for personnel, fiscal management and physical *[facilities]* plants,

and is not responsible for the programs and services of the *[institution,] agency*, the *[institution] agency* may employ an administrator who has a bachelor's degree from an accredited school and two (2) years' experience in *[child care services] residential treatment for children and youth services*. However, in this case, the agency shall employ a program director who meets the qualifications set forth in *[13 CSR 40-71.070(2)(C)1] 13 CSR 35-71.130(1)(A)1. and 2.*

(D) When the position of administrator/**executive director** is vacated, the governing body immediately shall designate a qualified person to act as administrator/**executive director** and the **board president/designee** shall notify the licensing unit **in writing within five (5) working days**.

(E) The administrator/**executive director** shall designate in writing a qualified staff to be in charge when s/he is absent.

(F) The program director shall have one (1) of the following:

1. A master's degree in social work or a human service area of study from an accredited school; or

2. A bachelor's degree in social work or a human service area or study from an accredited school plus two (2) years' experience in *[child care] residential treatment for children and youth services*.

(3) Professional Personnel.

(B) Professional staff who perform casework, *[or] group work tasks, [counseling with children and their families, therapeutic services,]* or planning of services for children and their families, *[shall]* will have *[a master's degree] at least a bachelor's degree* in social work, psychology, counseling or a *[closely]* related *[clinical field]* from an accredited college. *[Staff may have a bachelor's degree in social work, psychology, counseling or a related area of study from an accredited school if s/he is under the direct supervision of a person with a master's degree in social work, psychology, recreation and expressive therapies, counseling or a closely related clinical field.]* **Professional staff performing individual and/or family therapy shall have a master degree in social work, psychology, counseling, or closely related field of study from an accredited college.**

(E) The agency shall designate a supervisor for professional staff when six (6) or more staff are employed. The supervisor shall **have a master's degree in social work, psychology, counseling, or closely related field of study and at least two (2) years' clinical experience.**

(F) **Agencies, who by mission, serve a medically fragile and/or drug and alcohol affected population shall employ or contract with and schedule a licensed nurse for not less than twenty (20) hours per week. At least one (1) staff shall be present at all times who is trained in infant/child cardio pulmonary resuscitation.**

(4) Direct Care Staff-Staff/Child Ratios.

(A) Direct care staff shall be responsible, mature individuals of reputable character who exercise sound judgment, *[and]* display the capacity to provide good care *[for] and supervision of children and must demonstrate competence in their duties in the following areas/.]:*

1. **Protecting and nurturing children;**
2. **Meeting child developmental needs and addressing child developmental delays;**
3. **Supporting relationships between children and families;**
4. **Working as a member of a professional team; and**
5. **Supporting children with lifetime relationships.**

(B) Direct care staff shall be at least twenty-one (21) years of age and shall have at least a high school diploma or general educational development *[(GED)]* certificate. A staffing plan shall be developed which allows for consistency of care through communication between different shifts of care regarding activities or special needs or problems of children.

(C) The ratio of direct care staff to children shall be dependent on the needs of the children, but the staff/child ratio during waking

hours shall not be less than one to four (1:4) **for children birth to [infants and children through] six (6) years of age.**

(D) The staff/child ratio during waking hours shall not be less than one to six (1:6) for children six (6) to eight (8) years of age.

(E) The staff/child ratio during waking hours shall not be less than one to ten (1:10) for children eight (8) years of age and over.

~~[(G)]~~(F) Staff in agencies serving children ages birth through six (6) years shall be awake during sleeping hours with a ratio of not less than one to six (1:6).

~~[(F)]~~(G) For children *[over six (6) years of age,] ages six (6) to eight (8) years of age*, the staff/child ratios during sleeping hours, for staff on duty but asleep, shall not be less than one to *[twelve (1:12)] ten (1:10)*. If staff on duty remain awake, a ratio of not less than one to *[twenty (1:20)] twelve (1:12)* shall be required.

(H) *[Any children of live-in staff shall be included in the required staff/child ratios.]* For children over eight (8) years of age, the staff/child ratios during sleeping hours, for staff on duty but asleep, shall not be less than one to ten (1:10). If staff on duty remain awake, a ratio of not less than one to twelve (1:12) shall be required.

Reference Chart

The ratio of direct care staff to children shall be dependent on the needs of the children.

Age Range	Level of Care	Direct Care Staff to Resident Ratio	
		Awake	Asleep
Birth to 6 years	Basic Core	One (1) staff per four (4) children	One (1) staff per six (6) children. Staff must remain awake.
6-8 years	Basic Core	One (1) staff per six (6) children	One (1) staff per ten (10) children (If the staff is on duty, but also sleeping). Or One (1) staff per twelve (12) children (if staff on duty remain awake).
Over 8 years	Basic Core	One (1) staff per ten (10) children	One (1) staff per ten (10) children (If the staff is on duty, but also sleeping). Or One (1) staff per twelve (12) children (if staff on duty remain awake).

(I) *[The division may require a higher staff/child ratio if onsite review indicates a need for more supervision to maintain control, discipline and adequate care, or the division may approve a lower staff/child ratio if onsite review indicates adequate care, discipline and control can be maintained at a lower staff/child ratio]* Agencies must have two (2) staff available at all times, even if their staff/child ratio is lower than required above. One (1) staff may be sleeping, but available for emergency situations. When an agency has multiple cottages/units on campus or in a large congregate care setting, an awake, roving, staff may serve the purpose of maintaining the required staff/child ratio by maintaining a presence in the cottages/units on a rotating, regular, and timely basis.

(J) *[Staff/child ratios shall be maintained at all group off-grounds activities]* Appropriate staff/child ratios must be maintained at all times.

(K) *[Agencies employing twelve (12) or more direct care staff shall designate staff to be primarily responsible for supervising, evaluating and monitoring the daily work and progress of the direct care workers who shall have one (1) of the following:*

1. A bachelor's degree and one (1) year of work experience in a residential care agency;
2. Two (2) years' college and two (2) years' work experience in a residential care agency; or
3. A high school diploma and four (4) years' work experience in a residential care agency.] Any children of live-in staff shall be included in the required staff/child ratios.

(L) The division may require a higher staff/child ratio if on-site review indicates a need for more supervision to maintain control, discipline, and adequate care, or the division may approve a lower staff/child ratio if onsite review indicates adequate care,

discipline, and control can be maintained at a lower staff/child ratio.

(M) Staff/child ratios shall be maintained at all group off-grounds activities.

(N) Agencies employing twelve (12) or more direct care staff shall designate staff to be primarily responsible for supervising, evaluating and monitoring the daily work and progress of the direct care workers who shall have one (1) of the following:

1. A bachelor's degree and one (1) year of work experience in a residential treatment agency for children and youth;
2. Two (2) years' college and two (2) years' work experience in a residential treatment agency for children and youth; or
3. A high school diploma and three (3) years' work experience in a residential treatment agency for children and youth.

(6) *[Students]* Interns. Graduate or undergraduate *[students]* interns in a field work placement at the agency shall be subject to the general personnel policies of the agency, but shall not be considered or used as substitutes for employed staff.

(7) Educational Staff. An agency operating an on-grounds school shall demonstrate compliance with the Missouri State Department of Elementary and Secondary Education certification requirements for teachers/administrators/counselors.

(8) Recreational and Activity Staff.

(A) The *[administrator]* agency shall develop and coordinate the agency's recreational and activity programs *[using]* by designating staff qualified by experience, education or training, or both, or certified to carry out the program outlined in the recreation plan.

(B) An agency shall assign recreational/activity staff on basis of experience, education, and/or training in working with groups of children whose recreational needs and interests vary. **Additional training shall be provided for this staff to enhance his/her ability to perform his/her assigned duties.**

(11) Volunteers. If an agency uses volunteers as part of its program of services, the agency shall have written policies which include:

(C) A clear differentiation of functions and activities appropriate for paid staff members and volunteers in policy-making, advocacy, administrative, and direct service roles[;]. **If volunteers are counted toward the staff/child ratio, an agency supervisory employee must be present and available at the operating site;**

(12) Visiting Resources.

*[(A) An agency shall have written policies for the use of visiting resources which are approved by the division. The policies shall be made available to a child's parent(s), guardian or legal custodian and to the child when appropriate.]*

*[(B) The agency shall request from the division a check of the Child Abuse and Neglect Central Registry Unit (CRU) to determine whether a child abuse or neglect report, or both, has been received on all visiting resources. Results of the CRU checks shall be on file at the agency.]* (A) Visiting resources shall be approved by individual resident's parent(s), legal guardian, or legal custodian.

*AUTHORITY: sections 210.481, 210.486, 210.506, and 210.511, [RSMo (1986), and] RSMo [(Cum. Supp. 1993)] 2000. This rule originally filed as 13 CSR 40-71.050. Original rule filed Nov. 9, 1978, effective Feb. 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 enti-*

*ties 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division  
Chapter 71—Licensing Rules for Residential *[Child Care Agencies]* Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.060 Social Services Program.** The division is amending the title of the chapter and sections (1)–(4).

*PURPOSE: The Children's Division is amending the admissions process to include the emotional/behavioral needs of children, planned instead of non-emergency admissions, recognition in the assessment if a child needs a more restrictive setting, all medical and health related documentation is held in confidence consistent with federal and state statute, clarification of criteria for a child's medical examination, a medical examination for a child within ten (10) days after admission instead of seventy-two (72) hours, a dental examination within three (3) months of admission, the written placement agreement is signed and dated, enhanced topics of discussion regarding the agency that include the child, when age appropriate, enhanced process for treatment (instead of service) plan that involves the key stake holders, and enhanced discharge plan.*

(1) Intake and Admission.

(B) Admission Policies.

1. The agency shall have current, clearly written admission policies and criteria describing the age, sex, and *[type]* **emotional/behavioral needs** of child/ren served; and

2. A copy of the admission policies must be submitted to the licensing unit with the application for the initial license and at any time changes are made in the admission policies.

(C) Admission Procedures.

1. An admission assessment must be completed for each child indicating that the placement meets the child's needs and best interests—

A. For *[nonemergency]* **planned** admissions, the admission assessment must be completed before a child is accepted for care; and

B. For emergency admissions, the admission assessment must be completed within five (5) days of admission.

**C. If the assessment of the child indicates a need for a more restrictive environment, the agency shall contact the child's treatment team, case manager, legal guardian, and/or legal custodian to plan for the child's placement in a more appropriate facility.**

2. The admission assessment must be in writing and include specific information on—

A. The circumstances which led to the child's referral;

B. The immediate and long-range goals of placement;

C. The child's family and his/her relationship with family members;

D. The child's relationships with other adults and children;

E. The child's behavior, including appropriate and maladaptive behavior;

F. The child's medical history, including any current medical problems **ensuring medical and all health related documentation is held in confidence consistent with applicable federal and state**



law;

G. The child's developmental history and current level of functioning;

H. The child's school history including current educational level, special achievements and any school problems;

I. The history of any other placements outside the home, including the reasons for placement;

J. An evaluation of the child's special needs and strengths in the following areas: physical, familial, educational, social and psychological;

K. The parent's or legal guardian's expectations for placement, family involvement and the duration of the child's stay in care; and

L. The child's understanding of placement.

3. Children must have a medical examination **that includes tests for communicable diseases including, but not limited to tuberculosis and hepatitis when recommended** by a licensed physician, certified nurse practitioner, advanced practice nurse who is in a collaborative practice agreement with a licensed physician, or a registered nurse under the supervision of a licensed physician, within thirty (30) days before or *[seventy-two (72) hours]* **ten (10) days** after admission. A copy of the medical examination report and findings, signed and dated by the physician, must be in the child's record.

4. Children must have a dental examination by a licensed dentist within one (1) year before admission or arrangements must be made for an examination *[after admission]* **within three (3) months after admission**. *[If the examination is done after admission, a copy of the examination report and findings must be in the child's record within three (3) months of admission.]*

*[5. Children must be tested for tuberculosis according to the recommendations of the state or local public health authorities.]*

*[6.]5.* A written placement agreement between the agency and the child's parent(s) or guardian must be completed at or before placement. A copy of the placement agreement must be in the child's record. The placement agreement must include authorization to care for the child and a medical consent form signed **and dated** by a child's parent(s) or legal guardian authorized to give consent.

*[7.]6.* Information about the agency must be discussed with the child's parent(s) or guardian at or before admission. Written material about the agency must be given to the child's parent(s) or guardian **and child when age appropriate**. The following information must be included in the discussion and in the written material $[-]$ :

- A. Rules regarding visits, mail, gifts, and telephone calls;
- B. Discipline policies;
- C. Policies regarding religious training; *[and]*
- D. Rules regarding recreational activities $[-]$ ;
- E. Policy regarding participation in treatment planning;**
- F. A copy of the treatment plan;**
- G. Copies of all signed and dated releases of information;**

and

**H. Health Insurance Portability and Accountability Act.**

(2) Evaluation and Planning.

(A) *[Service]* Treatment Plan.

1. A preliminary written *[service]* treatment plan must be developed and documented in the child's record within *[seventy-two (72) hours]* **fifteen (15) days** of admission for each child admitted on an emergency basis. If the child remains in care beyond an initial thirty (30)-day plan, the plan must be modified to indicate the need for continued placement. The plan must be based on the admission assessment.

2. A written *[service]* treatment plan must be developed and documented in the child's record within fifteen (15) days of admission for each child admitted by plan for placement. The plan must be based on the admission assessment and observations of the child's

adjustment into care. **When drafting the treatment plan the agency shall consult with and involve all individuals and institutions which are parties to a juvenile proceeding involving the child or who may be necessary in preparing a treatment plan for the child, including, but not limited to: the child's legal custodian/guardian, the child's parent, the child (when appropriate), guardian *ad litem*, juvenile officer, children's division case manager, court appointed special advocate, as applicable to the individual child, and staff members who provide direct care, social services, education, recreation, and health services in developing and implementing the treatment plan for the child and family.**

3. The service plan must identify and include:

A. The child's needs in addition to basic needs for food, shelter, clothing, routine care, and supervision;

B. Specific strategies and their frequencies to meet the child's needs, including instructions to staff;

C. Specific strategies and frequencies for family involvement, including a defined plan for visitation and engaging the family in services for the child;

D. Specific strategies to meet the recreational and developmental needs of the child;

E. The estimated length of stay;

F. Time limited goals and preliminary plans for discharge, *[including plans for reintegration into family and community; and]* **that address permanency related to family reunification, termination of parental rights and adoption, placement with a fit and willing relative, legal guardianship, or another planned permanent living arrangement; and**

G. The date and signature of the *[treatment team coordinator]* **program director/qualified professional staff** and a signed and dated attendance sheet of all other participants. **Invited participants shall include, but not be limited to:**

**(I) Legal custodian/guardian;**

**(II) Parent;**

**(III) Child, as age/developmentally appropriate; and**

**(IV) Guardian *ad litem*/court appointed special advocate, as applicable to the individual child.**

4. A copy or summary of the *[service]* treatment plan must be given to the child, when appropriate, and to the child's parents or legal guardian. If the plan is not shared with the child, the child's record must reflect justification for this decision.

5. An agency shall provide **and document in a child's record**, social services to each child at least two (2) times per month as required by treatment plan. Social services shall be provided to the child's family for whom reunification is the permanency goal and shall begin at placement. The family's participation or reasons for non-participation shall be documented.

6. The progress of a child and his/her family shall be evaluated at least every *[three (3) months]* **ninety (90) days from the date of admission**, and the service plan shall be modified when appropriate. In crisis placement, an evaluation shall be conducted at least every thirty (30) days. Evaluations shall be made by professional staff in consultation with other staff who have significant contact with the child, the parent(s), guardian, or legal custodian.

(B) *[Service]* Treatment Plan Review.

1. The *[service]* treatment plan review must include:

A. An evaluation of progress toward meeting the child's needs;

B. An evaluation of progress toward *[family reunification]* **the permanency goal;**

C. Any needs identified since the plan was developed or last reviewed and strategies to meet the needs, including instructions to staff; and

D. An update of the estimated length of stay and discharge plans, if changed.

2. The *[service]* review of the treatment plan *[review]* with the date and signature of the *[treatment team coordinator]* **program director/qualified professional staff** and a signed and dated

attendance sheet of all other participants in the review must be documented in the child's record.

3. Reports of the evaluations in summarized form shall be included in the child's record, and shall be shared with the parent(s), guardian, or legal custodian.

(3) Discharge from Care.

**(F) The discharge plan must be tied to permanency goals related to family reunification, termination of parental rights and adoption, placement with a fit and willing relative, legal guardianship, or another planned permanent living arrangement.**

(4) Discharge Summary. When a child in care is discharged, an agency shall complete a written discharge summary *[with]* **within** thirty (30) days of the date of discharge. This summary shall be included in the child's case record, and shall include:

*[1.]***(A)** The name, address, telephone number, and relationship of the person(s) or agency to whom the child is discharged;

*[2.]***(B)** A summary of services provided during care;

*[3.]***(C)** A summary of growth and accomplishments during care;

*[4.]***(D)** Reason for discharge; and

*[5.]***(E)** An identified aftercare plan which shall include cooperative efforts with the parent(s) or legal guardian to support the child's transition from placement into the family or community.

*AUTHORITY:* sections 210.481, [RSMo (1986) and] 210.486, and 210.506, RSMo [(Cum. Supp. 1993)] 2000. This rule originally filed as 13 CSR 40-71.060. Original rule filed Nov. 9, 1978, effective Feb. 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division  
Chapter 71—Licensing Rules for Residential [Child Care  
Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.070 Protection and Care of the Child.** The division is amending the title of the chapter, the purpose, and sections (1) and (2).

*PURPOSE:* The Children's Division is amending and expanding the meaning of an unusual incident, enhanced procedures with regard to staff reporting child abuse and neglect, enhanced procedures regarding an internal investigation, critical incident report, and corrective action plan, an agency shall have a centralized log of critical incidents, a signed and dated release form is needed regarding child photos and videotaping for the purpose of health, safety, welfare, enhanced supervision and/or other therapeutic purpose pursuant to the child's case plan when released, all discipline shall be consistent with the child's treatment/safety plan, an agency using physical restraint shall utilize a recognized physical restraint program

*approved by the division, that agency shall maintain a centralized record when physical restraint is used that includes certain pertinent information, physical restraint may be used as a management method after all other verbal de-escalation measures have been exhausted, never to replace other more positive measures of control, within twenty-four (24) hours of each physical restraint incident, treatment staff shall debrief the incident with the resident, the agency administrator and/or program director (when physical restraint is used) shall review its use quarterly, provisions for corrective action in the event an agency does not meet all requirements for the use of physical restraint, the inclusion of emergency preparedness policy, working with the child's treatment team regarding transportation to important events related to the needs of a child, documentation of deposits and withdrawals for funds related to a child, the process of documenting and reporting a critical incident, enhancement of child personal hygiene, enhancement of a child inventory log, an agency shall provide a written description of its religious practices prior to admission, the agency shall be responsible for ensuring compliance with Missouri statutes pertaining to a child's education, if the educational resources of the local community do not meet the needs of the child in care or the child is excluded from school for behavioral or other reasons, the agency shall work closely with the local school to provide an appropriate education plan pursuant to section 210.1050, RSMo, at the time of discharge, a copy of the child's educational records/file shall follow the child, agency employees providing educational services shall meet the certification criteria established by the Department of Elementary and Secondary Education, enhancement of staff supervision of child water related activities, enhancement of life skills training for older youth, smoking policy consistent with Chapter 407 RSMo, and prohibition of certain practices that negatively impact children.*

*PURPOSE:* This rule sets forth the provisions for protection of the child, including child abuse or neglect, or both, exploitation, confidentiality, discipline and control, physical restraint, fire safety/emergency preparedness procedures, transportation, work experience and allowances. Also, provision for the care of the child, including living arrangements, personal hygiene, clothing, food and nutrition, personal possessions, family identity, religious requirements, educational program, recreational and activity programs [and] transitional living services[.], smoking policy, and prohibition of practices with negative impact on residents.

**(1) Protecting the Child in Care.** An agency shall submit an immediate oral report (**within six (6) hours**), to the division followed by a written report, within five (5) working days after the occurrence of an unusual incident, such as the death or serious injury of a child, alleged child abuse or neglect, loss of any electricity, gas, water, telephone, or any other conditions affecting the health and safety of children for a period of longer than twelve (12) hours or requires the removal of residents, or [both, or a fire which required the services of the fire department.] any emergency that requires summoning first responders.

(A) Protecting the Child in Care-Child Abuse or Neglect, or Both.

1. [An agency shall have written procedures for any alleged incident of child abuse or neglect, or both, which shall include:

A. Reporting the alleged incident as required by the Child Abuse/Neglect Reporting Law, sections 210.110-210.165, RSMo;

B. Conducting an internal investigation of the alleged incident; and

C. Providing a written report to the licensing unit of the agency's internal investigation of the alleged incident.] The agency shall require each staff person to read and sign a statement defining child abuse and neglect and outlining responsibilities to report all child abuse and neglect incidents as required by statute.

2. *If the safety of the children is threatened, as determined by the executive director, no person who is alleged as a perpetrator in an incident of child abuse or neglect, or both, shall work directly with children until an investigation is complete.* An agency shall have written procedures for any alleged incident of child abuse or neglect, or both, which shall include:

A. Reporting the alleged incident as required by the child abuse/neglect reporting law, sections 210.110-210.165, RSMo;

B. Conducting an internal investigation of the alleged incident; and

C. Providing a written report to the licensing unit of the agency's internal investigation of the alleged incident.

D. An internal investigation shall include, but not be limited to:

(I) Names of staff and residents involved;

(II) Date incident occurred;

(III) Date division notified;

(IV) A copy of the critical incident report including but not limited to: injury of a child during physical restraint; serious physical or sexual aggression by or toward the child; significant physical injuries requiring medical attention; allegations of sexual abuse; criminal conduct involving the child; elopement; attempted suicide; fire setting; child death; and information which must be reported to the child abuse and neglect hotline pursuant to section 210.115, RSMo;

(V) A summary of administrative interviews with staff and residents(s) to determine the situation;

(VI) Any action taken to protect the child(ren); and

(VII) Any immediate corrective action of any licensing violations or agency policy.

E. An internal investigation should be completed by an objective third party not involved in the incident, so as to avoid any potential for conflict of interest.

3. *If the investigation determines reason to suspect child abuse or neglect, or both, the agency shall submit a written report to the licensing unit, outlining corrective action taken by the agency. If the agency fails to take appropriate action to prevent future abuse or neglect, or both, the division may revoke the license.* If the safety of the children is threatened, as determined by the executive director, no person who is alleged as a perpetrator in an incident of child abuse or neglect, or both, shall work directly with children until an investigation is complete.

4. If the investigation results in an affirmative finding consistent with current statutory standard of proof the agency shall submit a written report to the licensing unit, outlining corrective action taken by the agency. If the agency fails to take appropriate action to prevent future abuse or neglect, or both, the division may deny, suspend, or revoke the license.

5. The agency shall create and maintain a centralized log of all critical incidents.

(C) Confidentiality.

1. An agency shall have written procedures for the maintenance and security of clients' records. This shall include a staff review of the procedures for confidentiality and a signed and dated statement indicating that staff have reviewed the procedures. The agency shall secure records against loss, tampering, or unauthorized use by—

A. Protection of the confidentiality of records when in use and keeping them under lock when not in use;

B. Staff and professional consultants seeking access only to the records with which they are professionally involved;

C. Staff not disclosing or permitting the disclosure of any information concerning the child or his/her family, directly or indirectly, to any unauthorized person; and

D. Staff being informed of the requirement that they must observe the procedures for protecting confidentiality after termination of employment.

2. Records shall be made available to the division or its authorized and identified agents, either upon written or verbal request. This includes division staff who are involved in child abuse/neglect reporting/investigation.

3. All requests for access to a child's records shall be documented in the record providing the name of the individual making the request, the date, and the desired materials. If access was refused, the grounds for refusal shall be documented.

4. A consent for release form signed and dated by the parent(s), legal guardian, or legal custodian must be provided before a child's records are released or a child's photographs are displayed, or any video tape and/or audio recording of a child for the purpose of health, safety, welfare, enhanced supervision, and/or other therapeutic purpose pursuant to the child's case plan is released, to any person other than those specified in these rules. The consent must specify what information may be released, to whom, for what purpose and for what period of time.

(D) Discipline and Control.

1. An agency shall have written policies regarding discipline, supervision, and behavior management, which shall be explained and made available to a child's parent(s), or guardian or legal custodian, or both, staff, and to the child. The procedures shall be within each child's ability to understand and achieve.

2. The policies shall identify the type of children served, describe the anticipated behavioral problems, set forth acceptable methods of dealing with the behaviors, and detail the required qualifications and training of staff. All discipline shall be consistent with the [service] treatment/safety plan developed for the resident.

3. All discipline shall be reasonable and appropriate to the child's age and level of development. All discipline shall be limited to the least restrictive appropriate method and administered by appropriately trained staff;

4. Encouragement and praise of good behavior shall be used instead of focusing on unacceptable behavior.

5. The agency shall have written policies and procedures prohibiting discipline which may adversely affect a child's health or physical or psychological well-being. A copy shall be given to all residents, families, staff and placing agencies. The following forms of discipline shall not be used:

A. Cruel and unusual punishment;

B. Excessive or inappropriate work;

C. Denial of meals, daily needs, and the program provided by the individual service plan;

D. Verbal abuse, ridicule, or humiliation;

E. Permission for a child to discipline another child;

F. Chemical restraints;

G. Mechanical restraints;

H. Denial of planned visits, telephone calls, or mail contacts with family shall not be used as a consequence for negative behaviors;

I. The use of foods intended to produce an adverse reaction;

J. Physical or emotional abuse;

K. Confinement in any space not designed for isolation and observation;

L. Requirement that a child remain silent for long periods of time or other unreasonable verbal restrictions;

M. Corporal punishment including, but not limited to, slapping, hitting, spanking, paddling, shaking, belting, marching, standing rigidly in one (1) spot, use of excessive physical exercises such as running laps or doing push-ups or any method which harms or endangers the child;

N. Locked isolation for the purpose of discipline;

O. Withholding of an opportunity for a minimum of eight (8) hours of sleep in a twenty-four (24)-hour period;

P. Withholding of shelter, clothing, essential personal needs, essential program services; or

Q. Withholding of meals, mail, allowances, or family visits.

(E) Physical Restraint.

1. All agencies using physical control techniques must have written policies-defining the method of control<sup>(F)</sup> **utilizing a recognized physical restraint training program, approved by the division. The agency shall identify<sup>(G)</sup> persons used in implementing these methods; and establish<sup>(G)</sup> the training required for these persons. These policies shall address the use of crisis intervention, including techniques to be used prior to physical restraint and include:**

A. The use of two (2) staff, one (1) of whom is fully qualified;

B. An immediate notice to the supervisor; and

C. A written report to the administrator.

2. For agencies permitting the use of physical restraint, the administrator **and/or program director** shall review its usage at least quarterly.

3. **The agency shall maintain a centralized record when physical restraint is used, which shall include:**

A. **The name of the child, the date and time the child was physically restrained;**

B. **The circumstances that led to the placement of the child in a physical restraint and the de-escalation attempts used to try to prevent the use of physical restraint;**

C. **The name of the staff person who initiated the physical restraint, the staff person(s) who assisted with the physical restraint and any other staff and/or residents who witnessed the physical restraint;**

D. **The amount of time the child remained in the physical restraint, any changes in the staff participation and the time of and reasons for release;**

E. **Documented behavioral observations of the child at each five (5) minute interval;**

F. **Specific notation of any extension of any physical restraints lasting longer than five (5) minutes including reasons for the extension;**

G. **Documentation of results of debriefing that includes recommendations of staff and resident for avoiding a similar situation; and**

H. **Documentation of any medical care provided to the child.**

[3.]4. Physical restraint shall include all efforts to minimize the possibility of injury to a child.

[4.]5. All instances of physical restraint shall be documented on incident reports and filed in the child's record.

[5.]6. **Physical restraint may be used as a management method after all other verbal de-escalation measures have been exhausted, never to replace other more positive measures of control. Physical <sup>(R)</sup>restraint methods shall be used only to end disturbances that threaten physical injury to the child, physical injury to others, or to take from a child a dangerous object which the child has threatened to use against him/herself or against others <sup>(or do serious property damage)</sup>.**

[6.]7. An agency shall not use mechanical restraint.

[7.]8. Strap-boards, strait-jackets, or homemade restraint devices such as tape shall not be used.

9. **Within twenty-four (24) hours of each physical restraint incident, treatment staff shall debrief the incident with the resident.**

10. **For agencies permitting the use of physical restraint, the administrator and/or program director shall review its usage at least quarterly.**

11. **If the agency does not meet all the requirements for the use of physical restraint, the division shall give written notice of specific deficiencies and the agency shall not use physical restraint until corrections are made and approved by the division.**

(F) Fire Safety-Emergency Evacuation Procedure.

1. Each **[facility] operating site** shall be inspected biennially and shall be in compliance with the requirements of the State Fire

Marshal.

2. Written instructions for fire and other emergency evacuations shall be posted in a conspicuous place in each **[facility] operating site**. Children shall be instructed in evacuation procedures at the time of admission. An evacuation drill shall be held at least monthly, and a record of all drills shall be on file at each agency.

3. The agency shall train staff in fire prevention and to report fires and shall teach children fire safety.

4. **The agency shall establish emergency preparedness policy, to include but not to be limited to:**

A. **Emergency contact information;**

B. **Evacuation procedures; and**

C. **Medication management during emergencies.**

(G) Transportation.

1. General requirements.

A. The agency shall provide transportation as indicated by the individual needs of the children, for example, medical and dental appointments, educational or training programs, counseling, <sup>(and)</sup> family therapy, **and court proceedings. If the agency cannot, for any reason, transport a child to any required services, the agency shall work with the child's treatment team members, legal guardian, and/or legal custodian to make appropriate and timely arrangements.**

B. The agency shall be responsible for the care, safety, and supervision of children on field trips or at any time children are transported away from the **[facility] operating site**.

2. Vehicle and vehicle operator.

A. Staff transporting children shall have a valid driver's license as required by Missouri law.

B. All vehicles used to transport children shall be licensed and operated in accordance with Missouri law.

C. Children shall not be transported in campers, trailers, or in the back of trucks.

3. Safety and supervision.

A. All children shall be seated in a permanent seat and restrained by seat belts or child restraint devices as required by Missouri law.

B. Staff/child ratios shall be maintained at any time the agency transports children away from the **[facility] operating site**.

C. Children shall be required to remain seated while the vehicle is in motion.

D. Doors shall be locked when the vehicle is moving.

E. Order shall be maintained when the vehicle is moving.

F. Children shall not be left unattended in a vehicle at any time.

G. Children shall enter and leave the vehicle from the curbside unless the vehicle is in a protected area or driveway.

H. Children shall be assisted, when necessary, while entering or leaving the vehicle.

I. Head counts shall be taken before leaving the **[facility] operating site**, after entering the vehicle, during a field trip, after taking the children to bathrooms, after returning to the vehicle and when back at the **[facility] operating site**.

J. When children leave the vehicle, the vehicle shall be inspected to ensure that no children are left on or under seats.

(H) Work Experience.

1. An agency shall provide the opportunity for work experiences for each child <sup>(which is)</sup> appropriate to the age, health, and abilities of the individual child.

2. Work experience shall not interfere with a child's time for school, study periods, play, sleep, community contacts, or visits with his/her family, and shall be designed to serve the child's interest.

3. If work experience is a part of the child's <sup>(service)</sup> **treatment plan**, it shall be identified in the <sup>(service)</sup> **treatment plan**. A schedule shall be maintained for all children who work paying jobs for review by licensing staff.

4. Children shall not be used as substitutes for staff.

5. An agency shall differentiate between chores children are expected to perform, specific work assignments made as a means of earning money, and jobs performed in or out of the *[facility] operating site* to gain vocational training.

6. Work training programs and employment of children shall be approved by the executive director or designated staff when the child is employed outside *[a facility] the operating site*.

7. Children shall be given some choice in their chores and work experiences, and duties shall be changed periodically to provide the child a variety of experience.

8. An agency shall limit the length of time children spend on regular nonpaid chores to one (1) hour a day during the school year and not more than two (2) hours a day during the summer months for all children.

9. An agency shall comply with the applicable child labor laws, sections 294.011-294.140, RSMo. Children working paying jobs shall receive pay in accordance with community rates.

10. A complete record of a child's earnings and dispersals from this fund shall be maintained and made available upon request to the child, the parent(s), the guardian, or legal custodian and the licensing unit.

11. Children shall be provided proper supervision when working with, or in proximity to, power-driven machinery, upon scaffolding, in the operation of a motor vehicle or in any other occupation which is dangerous to the life or health of a child.

(I) Allowances and Money.

1. If a child does not work and earn his/her own spending money, each child shall receive a regular allowance. The child shall be allowed to use discretion in spending some of the allowance for items other than basic needs.

2. Money belonging to a child being discharged shall be transferred to the child, the parent(s), or the agency authorized to act as custodian.

**3. Documentation of all deposits and withdrawals should be maintained and available for review upon request. At the time of discharge from the agency, documentation shall be made part of the child's record.**

(J) Critical Incident Report.

1. In the event that a critical incident occurs that includes, but is not limited to: injury of a child during physical restraint; serious physical or sexual aggression by or toward the child; significant physical injuries requiring medical attention; allegations of sexual abuse; criminal conduct involving the child; elopement; attempted suicide; fire setting; child death; and information which must be reported to the child abuse and neglect hotline pursuant to section 210.115, RSMo a critical incident report is completed by the agency. When a child is not in Children's Division custody, the agency shall then verbally notify, within six (6) hours, the regional licensing consultant, the child's treatment team, case manager, parent, legal guardian, guardian *ad litem*, and legal custodian and provide them with a copy of the critical incident report within twenty-four (24) hours of the occurrence of the critical incident. In the event a child is in Children's Division custody, the agency contact, in addition to the regional licensing consultant, is the case manager. The agency contacts the regional licensing consultant and case manager within six (6) hours. The case manager then notifies the other pertinent team members. The agency then provides the regional licensing consultant and case manager with a copy of the critical incident report within twenty-four (24) hours of the occurrence of the critical incident.

(2) Care of the Child.

(B) Personal Hygiene.

1. An agency shall provide each child with his/her own *[toilet] toiletry* articles and with space for their storage.

2. An agency shall provide mirrors or *[nonbreakable] unbreakable* reflective surfaces in bathrooms at levels easily accessible to all children.

(D) Food and Nutrition.

1. Nutritional requirements.

A. An agency shall provide *[nutritional] nutritious*, appetizing food which meets the daily nutritional requirements of the children in care.

B. Consideration shall be given when planning meals to the religious practices and cultural differences of the children.

C. An agency shall provide supplementary foods and modified diets for children with special dietary needs.

D. When a dietitian or nutritionist is not employed by an agency, consultation on menu planning shall be obtained as needed from a city, county, or state health agency or through a local resource.

E. Variations in the appetites of the children in care shall be recognized, and the children shall be encouraged, but not forced, to eat.

F. Children shall be encouraged to develop healthy eating habits.

G. All milk shall be pasteurized. Dry or powdered milk shall only be used in meal preparation and not utilized for drinking purposes.

2. Meal service.

A. An agency shall serve meals at recognized meal times, and at least three (3) times a day, unless children receive their noon meal at school.

B. Nutritious between-meal snacks shall be provided.

C. Staff and children who eat together shall be served the same food unless contraindicated for medical reasons.

(E) Personal Possessions. Each child shall be permitted to bring safe and appropriate personal possessions with him/her and to acquire belongings of his/her own while in residence. A written inventory **log** of the child's possessions at the time of admission and at the time of discharge shall be on file. **The inventory log shall be updated during the stay, as needed.**

(F) Family Identity and Relationships.

1. An agency shall develop written visitation policies.

2. An agency shall encourage and support contacts between a child and his/her family while the child is in care, unless the rights of the parent(s) to contact their child have been terminated or restricted by court order. The frequency of contact shall be determined by the child's parent(s), guardian, or legal custodian in consultation with agency staff. An agency shall enable the family to visit and remain involved in their child's care as well as actively participate in relationship building.

3. Privacy shall be provided for visits with family members, relatives, and friends, for telephone calls and for written communications unless otherwise indicated by the *[service] treatment* plan.

4. Flexible visiting hours shall be provided for the parent(s) or legal guardian.

(G) Religious Requirements.

1. *[Upon] Prior to* admission, an agency shall provide a written description of the agency's religious requirements and practices, which shall be made available to the parent(s), guardian, or legal custodian, and, when appropriate, to the child.

2. Upon admission, if the agency requires mandatory religious observance or mandatory church attendance, consent of the parent(s), or guardian or legal custodian, or both, shall be obtained and explained to the child upon admission.

3. Opportunity for religious experience shall be made available to each child within the religious preference of his/her family by treatment plan.

4. The child's parent(s), guardian, or legal custodian shall provide written authorization regarding any change in religious affiliation by the child while s/he is in care.

5. Children shall be permitted to attend religious activities and services in the community by treatment plan.

(H) Educational Program. The *[administrator]* agency shall be responsible for ensuring compliance with Missouri statutes pertaining to the children's education.

*[A.]1.* An agency shall not admit a child unless an educational program appropriate to the child's needs can be *[obtained]* **made available and provided.**

*[B.]2.* The educational progress of a child shall be continually evaluated and the progress shall be included in the child's *[six (6)-]* **three (3) month [service] treatment plan review** according to *[13 CSR 40-71.080(2)(B)] 13 CSR-71.060(2)(B)1.A.*

*[C.]3.* *[Children excluded from school shall be provided education, training or work experience consistent with their needs and abilities.]* **If the educational resources of the local community do not meet the needs of the children in care or if a child is excluded from school for behavioral or other reasons, the agency shall work closely with the local school district to provide an appropriate education plan pursuant to section 210.1050, RSMo.**

*[D.]4.* An agency shall maintain contact and cooperation with involved school systems to provide a coordinated approach to meeting the educational needs of each child.

*[E.]5.* An agency shall provide appropriate space, adequate lighting, supervision for quiet study after school hours and access to reference materials and school supplies.

*[F.]6.* Children shall be permitted and encouraged to participate in extracurricular activities such as sports, art and music, to the extent of their interests, abilities, and talents.

**7. At the time of discharge, a copy of the child's educational records/file shall follow the child.**

**8. Agency employees providing educational services shall meet the certification criteria established by the Department of Elementary and Secondary Education.**

(I) Recreational and Activity Programs/Leisure Time.

1. An agency shall involve children in a variety of age and developmentally appropriate on-site and community activities individually, and in groups, which meet the range of needs specified in their *[service] respective treatment plan.*

2. An agency shall maintain a written plan and schedule for a recreational program of both general and physically challenging activities which promote health and physical development in accordance with the individual interests, ages, and needs of the children. This program shall include procedures by which a child's involvement and progress shall be regularly reported.

3. An agency shall submit a list of general and physically challenging activities which they plan to use in their recreational program which includes a description of the activity, the purposes and goals. This list shall be submitted to the division at **initial licensure or [relicensure] license renewal.**

4. An agency shall provide indoor and outdoor recreational facilities for quiet and active play.

5. Each child shall have some time to be alone if s/he wishes, and places where the child reasonably will be undisturbed, while under the overall supervision of staff.

6. Recreational and leisure-time activities shall be included as a planned part of family interventions, provided these activities do not interfere with the safety or security of the child, family, or *[facility] operating site.*

**7. [Swimming] Any water activity, including but not limited to swimming, wading, fishing, or boating shall be permitted only when—**

A. An adult with a current lifeguard certificate, including cardio pulmonary resuscitation *[[CPR]]* training is present; except

B. An adult who has completed a course in basic water safety, which includes infant/child **cardio pulmonary resuscitation [CPR]** training, may supervise children *[under age six (6)]* when a swimming pool containing a depth of less than *[forty-eight inches (48")]* **twenty-four inches (24")** of water is being used; and

*[8.]C.* Other water activities $[,]$  such as fishing or boating $[,]$

shall require staff supervision at all times $[,]$ . **The agency shall ensure the safety and supervision of the children and utilize appropriate equipment.**

*[9.]8.* Agencies with on- or off-ground activity programs, which by their nature significantly alter the usual level of resident supervision, shall clearly describe each activity in their recreational plan. These include activities which could be described as physically or otherwise challenging, or those which utilize animals, or those which might involve a level of risk to children. The plan for each activity shall outline the qualifications of staff members involved, special equipment, supervision rules that will be used, and any changes in the usual behavioral rules for residents and staff required by the activity. At a minimum, the plan specifically shall address each of the following:

A. Special qualifications of staff.

(I) The agency will confirm in writing in each staff's personnel file that the staff has specialized training, or extensive life experience in the recreational activity that qualify staff to supervise the activity.

(II) If the agency or specific staff is certified in a recognized activity area such as ROPES, Project Adventure, or Red Cross water safety instructor (WSI), these standards will be evidence of compliance;

B. Special safety equipment.

(I) All sports and outdoor equipment used in the program is selected on the basis of safety factors and is regularly checked or tested to insure it is up to the agency's standards, which comply at a minimum with applicable national standards for the equipment in use.

(II) First aid and emergency response kits and other emergency supplies and medications needed by participants are under the control of the designated group leader at all times.

(III) The agency provides for adequate shelter from the elements, safe and healthful food and water, appropriate clothing, and appropriate equipment required for the activities and the environment;

C. Special rules for staff and resident behavior.

(I) The agency has a written plan for coverage and supervision when groups are physically distant from the main location which includes delegation of authority.

(II) Personnel designated responsible for the group must have had first aid or first responder training and at least one (1) staff person with the group shall be certified to provide **[CPR] cardio pulmonary resuscitation;** and

D. Risk management.

(I) The agency shall have a written plan which describes unsafe conditions which would restrict or rule out this activity. Safety rules for staff and residents, appropriate clothing and equipment required, and necessary training for staff and residents prior to undertaking the activity shall be specified in the plan. Changes to this plan shall be submitted to the division.

(II) The agency shall include in its plan the level of administrative approval required to authorize the undertaking of any such activity.

(J) Transitional Living Services. Agencies serving an adolescent population shall develop and implement a transitional living services component which shall begin at the time of the initial assessment and shall be modified in accordance with the *[child's] youth's* changing needs as new skills are developed. **This component should complement any other life skills program/training in which the youth is involved.** Group and individual counseling should include coping and adjustment issues relating to the *[child's] youth's* transition from residential *[care] treatment.* The program shall include development of a planned program in which, at a minimum, residents may acquire skills and practice in the following areas developing:

1. Skills for independence;

2. Skills and knowledge of financial management;

3. Skills necessary for locating, obtaining, and maintaining a residence;
4. The basic skills for negotiating successfully with community institutions and systems;
5. A basic knowledge in substance abuse prevention, human sexuality, physical and sexual abuse, Human Immunodeficiency Virus [(HIV)] prevention and **other** sexually transmitted diseases;
6. Daily life skills;
7. Skills for job preparation, maintenance, and retention; and
8. Skills for developing positive peer relationships and a support system.

**(K) Smoking Policy.** Agencies shall develop a smoking policy for staff and residents that is consistent with Chapter 407, RSMo.

**(L) Prohibition of Practices with Negative Impact on Residents.** Agencies shall develop policy that prohibits activities and media (music, movies, video games, television) that negatively impact children.

*AUTHORITY:* sections 210.481, [RSMo (1986)] 210.486, and 210.506, RSMo [(Cum. Supp. 1993)] 2000. This rule originally filed as 13 CSR 40-71.070. Original rule filed Nov. 9, 1978, effective Feb. 11, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division**  
**Chapter 71—Licensing Rules for Residential [Child Care Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.075 Health Care.** The division is amending the title of the chapter, the purpose, and sections (1), (2), and (4).

*PURPOSE:* The Children's Division is amending testing a child for certain communicable diseases, a dental examination within one (1) year before admission or within three (3) months after admission, a dental examination at least annually while in care, provision for treatment or corrective measures required by a physician or dentist, upon discharge, a copy or summary of the child's health and dental records provided to the child's parent(s), guardian, or legal custodian, clarification of medication training, also storing refrigerated medication in a locked unit enhanced medication documentation destruction procedures for discontinued medications, medication procedures when a child is discharged, and enhanced administering and monitoring all medications, including psychotropic medication.

*PURPOSE:* This rule sets forth the procedures for health care, emergency medical care, psychiatric and psychological care, [and psychotropic] including psychotropic medication.

(1) Health Care Procedure.

(B) The agency's health care program shall include admission examinations, subsequent examinations, nursing care, first-aid procedures, dispensing of medicine, basic remedial treatment and the training and implementation of the use of the [U]niversal [H]ealth [C]are [P]recautions and the other basic principles of communicable disease prevention. The agency shall make provisions for the services of a licensed physician to be responsible for medical care, including on-site or office visits.

(D) A complete [physical] medical examination by a licensed physician certified nurse practitioner, advanced practice nurse in a collaborative practice agreement with a licensed physician, or a registered nurse who is under the supervision of a licensed physician shall be given to each child within thirty (30) days prior to admission, or within [seventy-two (72) hours] ten (10) days after admission. The findings of the examination shall be recorded on a form prescribed by the division, or one containing the equivalent information. Children shall receive physical examinations in accordance to the periodicity of the Missouri [M]edicaid [H]ealthy [C]hildren and [Y]outh [S]chedule for [physical] medical and developmental examinations.

(F) Any child who has not received primary immunization prior to admission shall be immunized according to the Department of Health['s] and Senior Services's current guidelines.

(H) Booster shots shall be administered to children as needed, and at time intervals recommended by the agency physician or by the Department of Health['s] and Senior Services's current guidelines.

(I) Each child [under twelve (12) years of age] shall be given an annual eye examination[. Children twelve (12) years of age and older shall be given an eye examination on an as-needed basis] and corrective treatment shall be provided as prescribed.

(J) [Upon discharge, a copy or summary of the child's health and dental records shall be provided to the child's parent(s), guardian or legal custodian.] Children must be tested for communicable diseases including, but not limited to tuberculosis and hepatitis according to the recommendations of a licensed physician.

**(K) Dental Care.**

1. Children must have a dental examination by a licensed dentist within one (1) year before admission or within three (3) months after admission. A copy of the examination report and findings must be in the child's record.

2. A child shall have a dental examination at least annually while in care.

(L) Any treatment or corrective measures required by the licensed physician or dentist shall be arranged by the agency, as approved by a parent, guardian, or legal custodian.

(M) Upon discharge, a copy or summary of the child's health and dental records shall be provided to the child's parent(s), guardian, or legal custodian.

(2) Emergency Medical Procedure.

(A) At least one (1) staff member shall be qualified/certified to administer first aid, including adult/child cardio pulmonary resuscitation [(CPR)], and shall be available within the agency at all times.

(C) An agency shall contact a child's parent(s), guardian, or legal custodian immediately, but no longer than twelve (12) hours when a serious illness, a serious injury, or hospitalization of the child occurs. This includes any visit to an emergency medical facility.

(4) Psychiatric and Psychological Care. When the agency's [service] treatment plan for a child indicates a need for professional care by a psychiatrist or a psychologist, the specialized treatment shall be provided, or arranged for, by the agency.

(5) Medicine and Drugs.

(A) All medication shall be prescribed by a licensed physician, and administered by a licensed nurse or staff who have successfully [have] completed and maintained, at a minimum, the Level 1,

Medication Aide Training Program or *[a certified Medication Training Program,]* a **recognized medication certification training program**, approved by the division for children in residential *[care]* treatment.

(B) All medicine and drugs shall be kept in a locked unit and shall only be accessible to and dispensed by the agency nurse or qualified/certified staff. **Medications requiring refrigeration shall also be stored in a locked unit.**

(C) All medication shall be labeled to indicate the name of the child, the type and dosage of medication, and shall be dated. **All administered, transferred, and/or destroyed medications shall be documented on a medication administration record.**

(E) No child shall self-administer medication unless the practice is approved by a licensed physician, or a registered nurse with approval of a licensed physician, *and the executive director*. The approval shall be documented in the child's medication record and *[social service]* treatment plan.

*[(F) Either a licensed physician, licensed nurse or a qualified pharmacist shall be responsible for developing, coordinating and supervising all pharmaceutical services, including psychotropic medications.]*

*[(G)](F)* When medications which are approved by a physician's order are prescribed, continued, discontinued or changed, an entry shall be made in the child's record. Entries shall be evaluated at least every *[sixty (60) days to determine if medication shall be continued, discontinued or changed.]* **thirty (30) days by a licensed nurse or staff that have successfully completed a recognized medication certification training program approved by the division for children in residential care.**

*[(H)](G)* When medications are discontinued, they shall be destroyed **within forty-eight (48) hours** by staff as directed by a licensed physician or qualified pharmacist or a registered nurse.

**(H) Upon discharge, all medication shall be transferred with the resident for whom it was prescribed. Medication must be given directly to a responsible adult/guardian/legal custodian or adult designee (such as a contracted transportation service) of the resident.**

#### (6) Psychotropic Medication.

##### (A) Prescribing Psychotropic Medication.

1. An agency shall have written policies, which, upon request, shall be made available to the child's parent(s), or guardian or legal custodian, or both, to staff and to the child, governing the use of psychotropic medication.

2. The prescribing physician shall provide a written medication order reflecting the reasons for prescribing the medication, the dosages and the frequency of administration.

3. When a written order for psychotropic medication is provided by a physician to be administered in an emergency situation in his/her absence, staff shall document all dosages of medication given. The physician shall fully document the justification for, and the expected results of, the medication order.

4. Psychotropic medication shall not be administered as a form of punishment, as a substitute for a program or due to lack of staff.

5. Unless there is a court order to the contrary, the parent(s), guardian or legal custodian of a child shall give prior, informed, written consent to the use of medication. Consent may be given at the time of admission.

6. The parent(s), guardian or legal custodian shall be informed regarding any possible side-effects of medications to be administered. This shall be documented in the child's record.

**(B) Administering and Monitoring of All Medications, Including Psychotropic Medication.**

1. The following information shall be maintained in the case record of each child receiving *[psychotropic]* medication:

- A. The medication history of the child;
- B. Documentation of all medication administered;

C. A description of any significant changes in the child's appearance or behavior that may be related to the use of medication;

D. Any medication errors; and

E. A record of each refusal of medication including the child's name, the date, the time, the staff administering medication and the child's reason for refusal.

(C) Staff Training Relating to *[Psychotropic]* Medication Management. An agency shall provide training for all staff who work directly with children to enable them to recognize changes in a child's appearance or behavior that may be related to the use of *[psychotropic]* any medication, **including psychotropic.**

*AUTHORITY: sections 210.481, [RSMo (1986)] 210.486, and 210.506, RSMo [(Cum. Supp. 1993)] 2000. This rule originally filed as 13 CSR 40-71.075. Emergency rule filed Nov. 1, 1993, effective Nov. 12, 1993, expired March 11, 1994. Emergency rule filed March 2, 1994, effective March 12, 1994, expired July 9, 1994. Original rule filed Nov. 1, 1993, effective June 6, 1994. Moved to 13 CSR 35-71.075, effective Oct. 30, 2008. Amended: Filed Dec. 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division

#### Chapter 71—Licensing Rules for Residential *[Child Care Agencies]* Treatment Agencies for Children and Youth

#### PROPOSED AMENDMENT

**13 CSR 35-71.080 Buildings, Grounds and Equipment.** The division is amending the title of the chapter, sections (1), (4), (5), (6), (8)–(16), and adding sections (17) and (18).

*PURPOSE: The Children's Division is amending enhanced general physical plant requirements, an outside of the operating site window in a child's sleeping room, bath and toilet facilities shall be in a separate, distinct room, a bathroom shall have a window to the outside of the operating site or other exhaust ventilation system, artificial lighting shall be safely and sufficiently shielded, the operating site shall have an adequate lighting source, the manufacture's designed functions of windows shall not be altered without the approval of the State Fire Marshal, refrigerated food is maintained at safe temperatures according to Department of Health and Senior Services standards and verified by thermometers located in each refrigerator and freezer, procedures when an agency has animals, and locked storage buildings.*

##### (1) Physical Plant-General Requirements.

(A) Plans for additional buildings, or alterations which affect the structural strength, safety, sanitary conditions, and floor space of existing buildings, shall meet the requirements of state and local ordinances. The plans for these buildings or alterations shall be submitted for review by the residential licensing unit, the State Fire Marshal and the Department of Health and Senior Services.



(C) An agency shall maintain its buildings, grounds, furniture, and equipment in a **clean, safe, and sanitary condition and in a good state of repair.**

(D) Each *[facility]* **operating site** shall be effectively safeguarded against insects and rodents.

(E) Each *[facility]* **operating site** housing children shall include areas and specialized recreational space, and shall properly equip, supply, and maintain these areas so as to promote relaxation and varied opportunities for recreation.

(F) Telephone service shall be available in each *[facility]* **operating site.**

(H) **Heaters, floor furnaces, radiators, hot water heaters, or other equipment which pose a threat to children shall be separated from areas used by children by partitions, screens, or other barriers, as approved by the state fire marshal.**

(I) **Smoking shall be prohibited in child care, food preparation, and food service areas.**

(J) **Porches, decks, stairwells, or other areas having a significant drop-off from which children might fall and be injured shall have an approved railing or approved barrier.**

(4) **Sleeping Rooms and Areas.**

(B) An agency licensed after (November 12, 1993) shall provide at least one (1) window **to the outside of the operating site (effective the date of this amendment)** in each sleeping room.

(E) Sleeping areas shall be designated and provided for boys and for girls to allow for maximum supervision and separation. Programs providing care for children through age three (3) **years** are not required to separate children according to gender. Consideration for waiving the age limit may be given to programs providing less than seventy-two (72)-hour care to enable programs to keep sibling groups together.

(5) **Staff Quarters.** When staff quarters are provided, they shall be located adjacent to the children's bedrooms so that children can be supervised easily and staff can be available to any child, when needed.

(6) **Bath and Toilet Facilities.**

(A) A minimum of one (1) toilet and one (1) wash basin shall be provided for every four (4) children and one (1) tub or shower shall be provided for every six (6) children in residence. In agencies licensed after the effective date of these rules (November 12, 1993), these accommodations shall be located on the same floor as the sleeping rooms. **In agencies licensed after (effective the date of this amendment) the bath and toilet facilities shall be in a separate, distinct room.**

(C) *[The facility shall]* **Agencies licensed after (effective the date of this amendment) shall have a window to the outside of the operating site** or other exhaust ventilation system in each bathroom.

(8) **Heating and Cooling.** *[Moderate temperatures which are comfortable to children shall be provided at all times. Each facility shall be well-ventilated.]* **Each operating site shall be well ventilated and maintain indoor temperatures comfortable for children.**

(9) **Electrical Systems.**

(A) Each *[facility's]* **operating site's** electrical system shall comply with all applicable local ordinances, state guidelines, or both.

(B) Artificial lighting shall be provided to meet the needs of the children **and shall be safely and sufficiently shielded.**

(C) **The operating site shall have an adequate lighting source.**

(10) **Windows, Screens, and Glass Doors.**

(A) Windows which are accessible from the outside shall be lockable and open easily from the inside. The manufacturer's designed functions of windows shall not be altered **without the approval of**

**the State Fire Marshal.**

(11) **Dining and Kitchen Area.**

(A) Each *[facility]* **operating site** shall have a kitchen which provides the following:

1. A refrigerator capable of maintaining foods at safe temperatures **according to Department of Health and Senior Services standards and verified by thermometers located in each refrigerator and freezer;**

2. A stove with a hood in operating condition;

3. A kitchen sink in operating condition with hot and cold running water;

4. Adequate provision for the sanitary disposal and temporary storage of food waste and refuse;

5. A supply of equipment to prepare meals, and dishes, glassware, and flatware for use at each meal. Utensils shall be free of chips, cracks, or other defects, and shall be thoroughly cleansed after each use;

6. Equipment used in the preparation and serving of food, including can openers, meat slicers, and cutting surfaces which shall be cleaned and sanitized after each use;

7. No smoking in food preparation and food service areas;

8. Dining areas equipped with tables and chairs appropriate to the children's ages, and arranged so that children and staff can have their meals together;

9. Dishwashing facilities with water hot enough to sanitize utensils or other approved sanitization method;

10. A window or other adequate exhaust ventilation system in each kitchen;

11. Adequate space and light; and

12. Walls, floors, and ceilings made of materials that are easy to clean and maintain.

(12) **Food Storage.**

(B) Each *[facility]* **operating site** shall store and use food service areas, only sufficient poisonous and toxic materials required to maintain sanitary conditions. Toxic materials shall be properly labeled and stored in secure, **locked,** cabinets which are used for no other purpose.

(13) **Water.**

(A) If an *[facility's]* **operating site's** water supply is not an approved public source, each *[facility]* **operating site** shall have its water supply annually approved by the Department of Health and Senior Services or Department of Natural Resources.

(B) Each *[facility]* **operating site** shall provide cool, safe drinking water and single-serving cups or glasses for those unable to drink from fountains.

(14) **Sewage Disposal.**

(B) If the agency does not utilize public sewage disposal systems, facilities shall have their sewage disposal systems approved biennially by the Department of Health and Senior Services or Department of Natural Resources.

(15) **Hazardous Materials.** All flammable liquids, matches, poisonous materials, medicines, alcoholic beverages, hazardous personal care items, or other hazardous items shall be **locked and** inaccessible to children. Any lawful, authorized use of such materials would be under the approval of the executive director of the *[residential care agency]* **residential treatment agency for children and youth.**

(16) **Weapons.**

(B) All guns *[also]* must have trigger locks installed.

(17) **Animals.**

(A) Agencies that have animals shall develop written policy and/or procedures that address the purpose and care of animals in therapeutic programming.

(B) Agencies that have animals shall adhere to local and state guidelines regarding care and public safety.

(C) Documentation of veterinarian visits and health records shall be made available, when requested.

(D) Appropriate pet containment systems shall be available to use, when necessary.

**(18) Out Buildings.** Any buildings used on campus for the storage of equipment or material shall be locked.

*AUTHORITY:* sections 210.481, [RSMo (1986)] 210.486, and 210.506, RSMo [(Cum. Supp. 1993)] 2000. This rule originally filed as 13 CSR 40-71.080. Original rule filed Nov. 9, 1978, effective Feb. 11, 1979. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division  
Chapter 71—Licensing Rules for Residential [Child Care  
Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.090 Record Keeping.** The division is amending the title of the chapter and section (2).

*PURPOSE:* The Children's Division is amending child record requirements, the initial and subsequent treatment plan, documentation in the child's record of recreational activities, enhancement of critical event criteria, and child health related documentation.

(2) Individual case records for all children accepted for care shall be maintained for at least five (5) years after a child is discharged from care and shall include:

(A) [The child's full name, birthdate and birthplace; parent's full name(s), including the mother's maiden name; date and place of parent's marriage; if parents are divorced or separated, date and place; if parents are deceased, date, place and cause of death; names, addresses and birthdates of other children in the family; names and addresses of grandparent(s); source of referral for care; date and reason for placement; and financial records, when available;] **The child's full name, date of birth, complete social history including reason and date of placement and medical history;**

(B) Reports of any pre-placement visits and conferences;

(G) The [service] **initial treatment** plan and subsequent [service] **treatment** plan reviews;

(J) Reports from recreational and other adjunctive staff involved with the child and family; *and*. **All recreational activity shall be documented separately in each child's record;**

(K) Copies of critical incident reports, which shall include, but not be limited to, [physical restraint, isolation and injury.] **injury of a child during physical restraint; serious physical or sexual aggression by or toward the child; significant physical injuries requiring medical attention; allegations of sexual abuse; criminal conduct involving the child; elopement; attempted suicide; fire setting; child death; and information which must be reported to the child abuse and neglect hotline pursuant to section 210.115, RSMo; and**

(L) Admission and periodic health, vision, and dental examination information, physician's written instructions with regard to special dietary or health care, and record of all medications and treatments.

*AUTHORITY:* sections 210.481, [RSMo (1986)] 210.486, and 210.506, RSMo [(Cum. Supp. 1993)] 2000. This rule originally filed as 13 CSR 40-71.090. Original rule filed Nov. 9, 1978, effective Feb. 11, 1979. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 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.

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**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 35—Children's Division  
Chapter 71—Licensing Rules for Residential [Child Care  
Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.100 Specific Rules for Basic Care Agencies Providing Care for Infant, Toddler, or Preschool Age Children (Birth Through Age Six (6)).** The division is amending the title of the chapter, deleting the Editor's Note, deleting section (1), and renumbering and amending section (2).

*PURPOSE:* The Children's Division is amending unbreakable (instead of nonbreakable) safety material, other Department of Health and Senior Services approved hand sanitizing method enhancement of water safety, safety restraints according to manufacturer's instructions, and gross motor (instead of large muscle) activities.

[(1) Personnel. Agencies, who by mission, serve a medically fragile or drug- and alcohol- affected population, or both, shall employ and schedule a licensed nurse for not less than twenty (20) hours per week. At least one (1) staff shall be present at all times who is trained in infant/child cardiopulmonary resuscitation (CPR).]

[(2)](1) Physical Requirements.

(A) General Requirements.

1. Stairways shall be well-lighted and free of obstructions. Stairways having more than three (3) steps shall have a handrail the children can reach.

2. Porches, decks, stairwells, or other areas having a significant drop-off from which children might fall and be injured shall have an approved railing or approved barrier. The railing or barrier shall be constructed to prevent the child from crawling or falling through or becoming entrapped.

3. Approved safety gates at stairways and doors shall be provided and used as needed.

4. Protective outlet covers or twist-lock outlets shall be used in areas accessible to the children.

5. Heaters, floor furnaces, radiators, hot water heaters, or other equipment which pose a threat to children shall be separated from areas used by children by partitions, screens, or other approved barriers.

6. Smoking shall be prohibited in child care, food preparation, and food service areas.

(B) Indoor Space.

1. General requirements.

A. Open windows and doors shall be securely screened. Barriers to prevent children from falling against windows or falling from windows shall be provided when windows are less than twenty-four inches (24") from the floor and not constructed of safety glass or other *[nonbreakable]* **unbreakable** material.

B. Walls, ceilings, and floors shall be finished with material which can be cleaned easily and shall be free of splinters, cracks, and chipping paint. Floor covering shall be in good condition. Lead-free paint shall be used for all painted surfaces.

C. Concrete floors in areas utilized for child care shall be covered with carpet, tile, linoleum, or other floor covering.

D. Floor surfaces under indoor equipment from which children might fall and be injured, shall be protected with pads or mats which will effectively cushion the fall of a child. Carpeting alone is not an acceptable resilient surface under indoor equipment.

E. Toilet and handwashing facilities shall be in working order and convenient for the children's use.

F. Paper towels, soap, and toilet paper shall be provided and easily accessible so the children can reach them without assistance.

G. Locks or latches shall not be used on bathroom or bathroom stall doors.

H. One (1) potty chair, junior commode, or toilet with an adaptor seat shall be provided for every four (4) children being toilet trained. Potty chairs shall be located in the bathroom and shall be emptied, cleaned, and disinfected after each use.

(C) Diapering Area.

1. A safe diapering table with a waterproof washable surface shall be used for changing diapers. The diapering table shall be located within or adjacent to the group space so staff using the diapering table can maintain supervision of his/her group of children at all times.

2. *[Facilities]* **Operating sites** shall have one (1) diapering table for every group of eight (8) infant/toddlers.

3. Diapering supplies, and a properly equipped hand washing sink with warm running water, soap, and a towel **or other Department of Health and Senior Services approved hand sanitizing method** shall be adjacent to the diapering area.

(D) Outdoor Space.

1. General requirements.

A. An outdoor play area shall be available on, or adjoining, the agency's property. The area shall be located so it is convenient and the children can gain access to it without hazard. It shall be fenced when necessary for the protection of children from traffic, water, or other hazards.

B. The play area shall be safe for children's activities, well-maintained, free of hazards such as poisonous plants, broken glass, rocks, or other debris and shall have good drainage.

C. The fall-zone area under and around outdoor equipment

where children might fall and be injured shall be covered with impact-absorbing materials which will effectively cushion the fall of a child. This material may include sand, pea gravel, tanbark, shredded tires, wood chips, rubber matting, or other approved resilient material.

(E) Swimming and Wading Pools.

1. Swimming and wading pools used by children shall be constructed, maintained, and used in a manner which safeguards the lives and health of children.

2. Swimming and wading pools shall be fenced to prevent access by children. The fence shall be at least forty-eight inches (48") high with a self-closing, self-latching door that must be unlatched from the inside and should be constructed so that a four-inch (4") sphere could not be passed through the fence.

3. Children using swimming or wading pools shall be instructed in water safety and supervised by an adult at all times.

4. An adult with a current lifeguard training certificate, including infant/child cardio pulmonary resuscitation *[(CPR)]* training, shall be on duty at all times when a swimming pool **or other bodies of water** containing a water depth of *[forty-eight inches (48")]* **twenty-four inches (24")** or more is being used.

5. An adult who has completed a course in basic water safety, which includes infant/child *[CPR]* **cardio pulmonary resuscitation**, shall be on duty when a swimming pool containing less than *[forty-eight inches (48")]* **twenty-four inches (24")** of water is being used.

(F) Sleeping Equipment.

1. An individually assigned crib, portable crib, or playpen shall be provided for each infant and toddler. Stack cribs shall not be used.

2. Cribs and playpens shall have side rail spokes which conform to current United States Consumer Product Safety Commission standards.

3. The crib mattress or playpen pad shall be correctly sized to the crib or playpen, in good condition, waterproof, and kept clean and dry. Sheets and covers shall be changed immediately when soiled or wet.

(G) Tables and Seating Equipment.

1. Individual chairs and table space for the licensed capacity of the *[facility]* **operating site** shall be available for children twelve (12) months of age and older. Chairs shall be proportioned so children sit comfortably and securely.

2. Infants and toddlers who are unable to sit at a table shall have one (1) piece of mealtime feeding equipment for every four (4) infant/toddlers which may include feeding tables, high chairs, infant seats, or other safely designed infant seating equipment. Equipment shall be provided which will allow the child to sit comfortably and securely while being fed. Appropriate **safety** restraints shall be used **according to manufacturer's instructions**.

(H) Indoor Play Equipment and Materials.

1. General requirements.

A. Play equipment and materials shall be clean, in good condition with all parts intact and accessible to children.

B. Play equipment and materials shall be replaced as needed to maintain the number of items required for the licensed capacity of the *[facility]* **operating site**.

2. Preschool and school-age children.

A. Children twenty-four (24) months of age and older shall have an ample variety of age-appropriate toys, books, creative materials and activities which provide fun, stimulation, development, and opportunities for individual choices.

B. The following shall be required:

- (I) Blocks, construction, and transportation toys;
- (II) Manipulatives;
- (III) Creative arts;
- (IV) *[Large muscle]* **Gross motor** activities;
- (V) Library and language activities;
- (VI) Music and rhythm activities;
- (VII) Dramatic and housekeeping play; and

(VIII) Science activities or sensory experiences.

C. Infants and toddlers.

(I) Infants and toddlers shall have safe toys which shall be washed or sanitized at least weekly or when soiled. Toys, parts of toys or other materials shall not be small enough to be swallowed. Toys and materials shall include, **but not be limited to**, each of the following:

- (a) Push-pull toys;
- (b) Balls or other *[large muscle]* **gross motor** equipment;
- (c) Blocks, stacking toys, or other manipulatives; and
- (d) Cloth or plastic-coated books.

3. Outdoor equipment.

A. All outdoor equipment shall be safely constructed, in good condition and free of sharp, loose or pointed parts. Only lead-free paint shall be used.

B. Outdoor equipment shall be provided for the ages and number of children in care to meet their physical and developmental needs.

C. Children shall be instructed in the safe use of outdoor equipment.

D. Stationary equipment such as swings, slides, and climbers shall be securely anchored, have no exposed footings and be placed to avoid accidents or collisions.

E. Any hanging apparatus that might entrap, close, or tighten upon a child shall not be used.

F. Trampolines shall not be used. Mini-trampolines, aerobic bouncers, or other similar small jumping equipment may be used with close supervision.

*AUTHORITY: sections 210.481, [RSMo (1986)] 210.486, and 210.506, RSMo [(Cum. Supp. 1993)] 2000. This rule originally filed as 13 CSR 40-71.100. Emergency rule filed Nov. 1, 1993, effective Nov. 12, 1993, expired March 11, 1994. Emergency rule filed March 2, 1994, effective March 12, 1994, expired July 9, 1994. Original rule filed Nov. 1, 1993, effective June 6, 1994. Moved to 13 CSR 35-71.100, effective Oct. 30, 2008. Amended: Filed Dec. 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division  
Chapter 71—Licensing Rules for Residential [Child Care  
Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.110 Child Care Program.** The division is amending the title of the chapter and sections (1), (2), (4), and (5).

*PURPOSE: The Children's Division is amending supervision of children, rules a child can understand, other hand-sanitizing method, and daily activities for infants and toddlers including but are not limited to specified activities.*

(1) General Requirements.

(A) Staff shall provide frequent, direct contact, **and supervision** so children are not left unobserved on the premises.

(2) Discipline.

(A) The agency shall establish simple, understandable rules for children's behavior and shall explain them to the children **in a manner they can understand**.

(4) Diapering and Toilet Training.

(F) Staff changing diapers shall wash their hands with soap and running water or **other Department of Health and Senior Services approved hand-sanitizing method** each time after changing a child's diaper before performing any other tasks.

(G) The diapering and *[handwashing]* **hand washing** area shall be separate from any food service area and any food-related materials.

(H) Children shall not be punished, berated, or shamed in any way for soiling their clothes.

(5) Daily Activities for Children.

(B) Daily activities for preschool and school-age children shall include, **but not be limited to**:

- 1. Developmentally appropriate play experiences and activities planned to meet the interests, needs, and desires of the children;
- 2. Individual attention and conversation with adults;
- 3. Indoor and outdoor play periods which provide a balance of quiet and active play, and individual and small group activities. Activities shall provide some free choice experiences;
- 4. Toileting and *[handwashing]* **hand washing** times;
- 5. Regular snack and meal times;
- 6. A supervised nap or rest period for preschool children after the noon meal;
- 7. A quiet time for school-age children after the noon meal with a cot or bed available for those who wish to nap or rest; and
- 8. A study time for school-age children who choose to do homework, with a separate, quiet work space.

(C) Daily activities for infants and toddlers shall include, **but not be limited to**:

- 1. Developmental and exploratory play experiences and free choices of play appropriate to the interests, needs, and desires of infants and toddlers;
- 2. Regular snack and meal times according to each infant's individual feeding schedule;
- 3. A supervised nap period. After awakening, an infant may remain in the crib for brief periods as long as s/he is content. Toddlers shall be taken out of bed for other activities when they awaken;
- 4. Individual attention and play with adults, including holding, cuddling, talking, and singing;
- 5. A plan for sensory stimulation which includes visual stimulation through pictures, books, toys, nonverbal communication, games, and the like; auditory stimulation through verbal communication, music, toys, games, and the like; tactile stimulation through surfaces, fabrics, toys, games, and the like;
- 6. Encouragement in the development of motor skills by providing opportunities for reaching, grasping, pulling up, creeping, crawling, and walking; and
- 7. Opportunity for outdoor play when weather permits.

*AUTHORITY: sections 210.481, [RSMo (1986)] 210.486, and 210.506, RSMo [(Cum. Supp. 1993)] 2000. This rule originally filed as 13 CSR 40-71.110. Emergency rule filed Nov. 1, 1993, effective Nov. 12, 1993, expired March 11, 1994. Emergency rule filed March 2, 1994, effective March 12, 1994, expired July 9, 1994. Original rule filed Nov. 1, 1993, effective June 6, 1994. Moved to 13 CSR 35-71.110, effective Oct. 30, 2008. Amended: Filed Dec. 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division**  
**Chapter 71—Licensing Rules for Residential [Child Care Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.120 Specific Rules for Residential [Care Agencies] Treatment Agencies for Children and Youth Providing Maternity Care.** The division is amending the title of the chapter, the title of the rule, and sections (1)–(3), and adding section (5).

*PURPOSE:* The Children's Division is amending basic core (instead of care), trained staff available on-site at all times, availability of a nurse on an as needed basis for pre and post-natal care, certain topics shall be offered to residents, at a minimum, to include sexually transmitted (instead of venereal) disease, and at least one (1) staff shall be present at all times who is trained in infant/child cardio pulmonary resuscitation.

(1) In addition to the rules for basic [care] core agencies, an agency desiring to provide maternity care shall meet these additional general requirements—

(A) A maternity residence upon request shall provide a written description of its program to the residents, parent(s), guardian, or legal custodian and to the division;

(B) Written financial policies and expectations shall be made available upon request to the division and to the parent(s), guardian, or legal custodian upon admission into the maternity residence[.];

(E) At least two (2) direct-care pursuant to 13 CSR 35-71.050(4)(A)1.–5. and (B) trained pursuant to 13 CSR 35-71.045(5)(A)-(Q) and 13 CSR 35-71.045(6)(A)1. and 13 CSR 35-71.045(2)(B)1.–9., (C), and (D)1.–12. staff shall be [available] on-site at all times.

(2) Health Care.

(B) Physician's Services.

1. Each resident shall receive the services of a licensed physician on a regular and continuing basis throughout pregnancy, delivery, and post-delivery checkups.

2. The maternity residence shall provide for consultation from a licensed obstetrician who shall be available in an emergency.

3. A licensed nurse shall be accessible on an as needed basis for pre and post-natal care.

(D) Medical Records. The resident's medical record shall include a medical consent form, the name of the health care provider, a schedule of appointments, documentation of pre and post-natal care, the expected date of delivery and any special needs or problems.

(3) Program.

(A) The maternity residence shall, at a minimum, provide a program to residents addressing prenatal care, labor, delivery, nutrition,

general health and hygiene, postnatal care, family planning, [venereal] sexually transmitted disease and child-care techniques.

**(5) Infant/Child Cardio Pulmonary Resuscitation.**

**(A) At least one (1) staff shall be present at all times who is trained in infant/child cardio pulmonary resuscitation.**

*AUTHORITY:* sections 210.481, [RSMo (1986)] 210.486, and 210.506, RSMo [(Cum. Supp. 1993)] 2000. This rule originally filed as 13 CSR 40-71.120. Emergency rule filed Nov. 1, 1993, effective Nov. 12, 1993, expired March 11, 1994. Emergency rule filed March 2, 1994, effective March 12, 1994, expired July 9, 1994. Original rule filed Nov. 1, 1993, effective June 6, 1994. Moved to 13 CSR 35-71.120, effective Oct. 30, 2008. Amended: Filed Dec. 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division**  
**Chapter 71—Licensing Rules for Residential [Child Care Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.130 Specialized Standards—Residential Treatment for Children and Youth.** The division is amending the title of the chapter and section (1).

*PURPOSE:* The Children's Division is amending the program director must be a full-time staff dedicated solely to the overall treatment program, the program director shall document the necessary number, qualifications, and responsibilities of professional staff, child:staff ratios to enhance child safety, no more than two (2) children per sleeping room, enhanced staff training, a minimum of one (1) hour of individual, group, or family therapy at least once per week, documentation of evacuating residents from locked isolation during an emergency, enhancement of locked isolation procedures, and an electronic locking-release mechanism, as approved by the State Fire Marshal.

(1) In addition to rules for basic residential [child care] treatment for children and youth, an agency seeking to become licensed to provide residential treatment for children and youth, shall meet these additional requirements:

(A) Program Director. [The person responsible for the overall treatment program] The program director must be a full-time staff dedicated solely to the overall treatment program with at least the following minimum qualifications:

1. A master's degree in social work or human service field from an accredited college or university or licensed as a certified social worker; and

2. Two (2) years' experience providing treatment services. One (1) year of this experience must have been in a residential treatment setting;

## (C) Professional Staff.

1. The agency must have sufficient, appropriately qualified professional staff available on a full-time, part-time, or continuing consultative basis, or any combination of these to address the needs of children in care.

2. The professional staffing plan must be in writing and implemented by the *[facility]* agency.

3. The *[professional staff must]* program director shall document that the number, qualifications and responsibilities of professional staff are appropriate to the *[facility's]* agency's size and the scope of its program.

## (D) Staff/Child Ratios.

1. At least one (1) direct care staff for every *[eight (8) children, eight (8) years of age and over]* **four (4) children, birth to six (6) years of age**, shall be on duty during waking hours.

2. Staff shall be awake during children's sleeping hours, and maintain staff/child ratios *[shall be one (1) staff for every sixteen (16) children]* of **one (1) staff for every six (6) children from birth to six (6) years of age**.

3. **At least one (1) direct care staff for every six (6) children, age six (6) years and older shall be on duty during waking hours.**

4. Staff shall be awake during children's sleeping hours and maintain staff/child ratios of **one (1) staff for every twelve (12) children age six (6) years and older.**

## Reference Chart

Age Range	Level of Care	Direct Care Staff to Resident Ratio	
		Awake	Asleep
Birth to six (6) years	Residential Treatment	One (1) staff per four (4) children	One (1) staff per six (6) children. Staff must remain awake.
Age six (6) and older	Residential Treatment	One (1) staff per six (6) children	One (1) staff per twelve (12) children. Staff must remain awake.

**5. An agency licensed, or buildings constructed after (effective the date of this amendment) shall have no more than two (2) children in a sleeping room.**

(E) Training. All staff working with children must receive at least forty (40) hours annually of in-service training and meet the training requirements in accordance with 13 CSR 35-71.045. At least ten (10) hours of the training must be related specifically to treatment issues with emotionally disturbed, **mentally ill, behaviorally disordered, medically fragile, physically disabled, and/or developmentally delayed children. Professional staff providing sexual abuse treatment are required to have fifteen (15) hours of annual training in investigation, treatment, nature, extent, and causes of sexual abuse pursuant to section 660.526, RSMo;**

## (F) Treatment Plan Review.

1. Each child's treatment plan shall be reviewed and updated at least every three (3) months.

2. If a child shows no progress toward achieving the goals and objectives in the treatment plan since the plan was developed or last reviewed, the reasons for continuing the child in the *[facility's]* agency's program must be included in the child's record.

3. Appropriate information about the updated treatment plan shall be given to the child and the child's parent(s), guardian, or legal custodian and documented in the child's record.

4. **A minimum of one (1) hour of //individual, group, or family counseling sessions shall be provided to each child at least one (1)**

time a week with other sessions available as needed.

## (G) Locked Isolation.

**1. Prior to the implementation of a locked isolation room, the agency shall have approval of the State Fire Marshal and the division.**

*[1.]2.* Written policies for the use of locked isolation shall be made available to the child's parent(s), or guardian or legal custodian, or both, and when appropriate, to the child.

*[2.]3.* Agencies utilizing locked isolation shall submit a plan for the emergency evacuation of isolated residents to the licensing unit including documentation that staff has included evacuating residents from locked isolation during fire drills.

*[3.]4.* Locked isolation *[shall]* may be used only as a management method after all other verbal de-escalation measures have been exhausted, and never to replace other more positive measures of control. **Documentation of intervention methods used to prevent use of locked isolation must be in the resident's record.**

*[4.]5.* Locked isolation *[shall]* may be used only when a child presents a danger to him/herself or others *[or poses a threat of serious property damage]*.

*[5.]6.* Locked isolation shall be used in the shortest intervals possible until the child regains reasonable self-control.

*[6.]7.* The maximum time a child may remain in locked isolation is *[two (2) hours]* **thirty (30) minutes**, unless extensions are approved at the end of every *[two (2)-hour]* **thirty (30) minute**

period by the [administrator] program director or a qualified designee. A child shall not remain in locked isolation more than a [twelve (12)-hour] two (2) hour period. If the child has not regained control after [twelve (12)] two (2) hours, a medical order shall be obtained.

[7.]8. When a child is placed in locked isolation, staff shall physically monitor the child in at least [fifteen (15)] five (5) minute intervals [unless closed circuit television contact is maintained]. Staff shall remain in close proximity to the child in locked isolation with no more than one (1) locked door between the staff and the child. Close proximity means that staff are close enough to the child(ren) to be able to hear any sounds the child(ren) might make that would indicate a need for assistance.

[8.]9. Not more than one (1) child shall be in a locked isolation room. A locked isolation room shall not be utilized for any other purpose.

**10. Within twenty-four (24) hours of each locked isolation incident, treatment staff shall debrief the incident with the resident.**

[9.]11. The agency shall maintain a record when locked isolation is used, which shall include:

A. The name of the child, the date, and the time the child was placed in locked isolation;

B. The circumstances that led to the placement of the child in locked isolation **and efforts to prevent the use of locked isolation;**

C. The name of the staff person who requested placement of the child in locked isolation, the staff person who approved locked isolation and the name of the staff person who monitored the child while in locked isolation; [and]

D. The amount of time the child remained in locked isolation, the frequency of monitoring and the time of and reasons for release[.];

E. **Documented behavioral observations of the child at each five (5) minute interval;**

F. **Specific notation of any extension of locked isolation including reasons for the extension and by whom approval for extension was given; and**

G. **Documentation of results of debriefing that includes recommendations of staff and resident for avoiding similar situations.**

[10.]12. For agencies permitting the use of locked isolation, the [administrator] treatment team shall review its usage at least [monthly] weekly and sign/date the isolation report. [The agency shall train all new staff in the use of locked isolation.]

A. **Written policies for the use of locked isolation shall be distributed to staff, and there shall be documented training provided to staff in the policies and use of locked isolation, which shall include, but not be limited to:**

(I) **Directions for the removal of all dangerous items from the child, including but not limited to, belts, shoelaces, jewelry, items in pockets, matches, and any other items which represent a potential hazard during locked isolation; and**

(II) **Proper written documentation of the use of locked isolation.**

[11.]13. If the agency does not meet all requirements for the use of locked isolation, the division shall give written notice of the specific deficiencies and the agency shall not use locked isolation until corrections are made and approved by the division.

[12.]14. Locked isolation rooms shall be constructed and equipped so that control is maximized, but the risk of suicide or injury to children is minimized. The following shall apply:

A. An isolation room shall be constructed to allow for both visual and auditory supervision of a child;

B. An isolation room shall have one (1) approved locking-against-egress device which shall be used only when staff are immediately present, awake, and in possession of a key. There shall be a backup system which does not rely on a key[;], i.e., **an electronic**

**locking-release mechanism, as approved by the State Fire Marshal;**

C. Potentially dangerous articles shall be removed from the child prior to placing the child in locked isolation, for example, belts, shoes, matches **and/or** contents of pockets;

D. An isolation room shall have at least a seven and one-half foot (7 1/2') ceiling and be of sufficient length and width for the comfort of the child;

E. All doors, ceilings, and walls shall be constructed of such strength and noncombustible material that harm to the child is minimized;

F. All switches controlling lights, ventilation, and the like, shall be on the outside of the room;

G. In order to prevent harm to the child, windows shall be secured and made of tempered material to prevent shattering;

H. No functional electrical outlets shall be allowed in the room;

I. Tamper-resistant, recessed ceiling lights shall be utilized, and steam or hot water radiators shall be enclosed in a tamper-resistant, protective casing;

J. The room shall be properly heated, cooled, and ventilated;

K. Normal toileting and bathing facilities shall be available during isolation; and

L. The agency shall have a schedule for monthly routine maintenance of the locks.

*AUTHORITY: sections 210.481, [RSMo (1986)] 210.486, and 210.506, RSMo [(Cum. Supp. 1993)] 2000. This rule originally filed as 13 CSR 40-71.130. Emergency rule filed Nov. 1, 1993, effective Nov. 12, 1993, expired March 11, 1994. Emergency rule filed March 2, 1994, effective March 12, 1994, expired July 9, 1994. Original rule filed Nov. 1, 1993, effective June 6, 1994. Moved to 13 CSR 35-71.130, effective Oct. 30, 2008. Amended: Filed Dec. 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. 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 35—Children's Division  
Chapter 71—Licensing Rules for Residential [Child Care Agencies] Treatment Agencies for Children and Youth**

**PROPOSED AMENDMENT**

**13 CSR 35-71.140 Specialized Standards For Intensive Residential Treatment for Children and Youth.** The division is amending the title of the chapter and section (1).

*PURPOSE: The Children's Division is amending staff/child ratios to enhance child safety, staff training in relevant intensive residential treatment issues, a minimum of one (1) hour of individual, group, or family counseling sessions two (2) times a week, recognition that intensive residential treatment is not meant to replace the need for more restrictive settings such as psychiatric care or incarceration indicated by psychological evaluation, psychiatric evaluation, or by*

physician or court order, electric locking mechanism approved by the State Fire Marshal, and no more than one (1) child per sleeping room.

(1) In addition to the licensing rules for basic residential *[care]* **treatment for children and youth**, an agency seeking to provide intensive residential treatment **for children and youth** shall meet these additional requirements—

(A) Personnel.

1. Program director. The person responsible for the overall treatment program shall be full-time staff with at least the following minimum qualifications:

A. A master's degree in social work or human service field from an accredited college or university or licensed as a clinical social worker; and

B. Two (2) years' experience providing treatment services. One (1) year of this experience must have been in a residential **treatment** setting.

2. Assessment staff. Staff responsible for developing an initial assessment and treatment plan for each child shall have at least the following minimum qualifications:

A. A master's degree in social work or human service field from an accredited college or university or licensed as a clinical social worker; and

B. One (1) year of experience in a residential treatment setting.

3. Professional staff.

A. Agencies must have sufficient appropriately qualified professional staff available on a full-time, part-time, or continuing consultative basis, or any combination of these, to address the needs of children in care.

B. The professional staffing plan must be in writing and implemented by the *[facility]* **agency**.

C. The professional staff plan must document that the number, qualifications, and responsibilities of professional staff are appropriate to the *[facility's]* **agency's** size and the scope of its program;

(B) Nursing Personnel. The agency shall employ and schedule a licensed nurse for not less than twenty (20) hours per week;

(C) Staff/Child Ratios. Staff/child ratios shall be maintained at not less than a *[one to six (1:6)]* **one to four (1:4) ratio [at all times] for children ages birth to age six (6) years when children are awake and one to five (1:5) ratio when children ages birth to age six (6) years are asleep and one to five (1:5) ratio when children/youth ages six (6) to twenty-one (21) years are awake and one to six (1:6) ratio when children and youth ages six (6) to twenty-one (21) years are asleep**. Staff shall remain awake on duty during children's sleeping hours;

### Reference Chart

Age Range	Level of Care	Direct Care Staff to Resident Ratio	
		Awake	Asleep
Birth to age six (6) years	Intensive Need	A minimum of one (1) staff per four (4) children when children are awake and a minimum of one (1) staff per five (5) children when children are asleep. Staff shall remain awake on duty during children's sleeping hours.	
Age six (6) years and older	Intensive Need	A minimum of one (1) staff per five (5) children/youth when children/youth are awake and one (1) staff per six (6) children/youth when children/youth are asleep. Staff shall remain awake on duty during children's/youth's sleeping hours.	



(D) Training. All staff working with children must receive at least forty (40) hours annually of in-service training at least ten (10) hours of the training must be specifically related to **relevant** intensive residential treatment issues;

(E) Treatment Plan Review.

1. Each child shall have an initial written treatment plan within ten (10) days of admission.

2. Each child's treatment plan must be reviewed and updated at least every month.

3. If a child shows no progress toward achieving the goals and objectives in the treatment plan since the plan was developed or last reviewed, the reason(s) for continuing secure care shall be included in the child's record.

4. Appropriate information about the updated treatment plan must be given to the child and the child's parent(s), guardian, or legal custodian. This must be documented in the child's record.

5. A **minimum of one (1) hour of** [//individual, group or family counseling sessions shall be provided to each child at least two (2) times a week with other sessions available as needed.

6. If the assessment of a child indicates a need for treatment by a psychiatrist or if the child is currently under psychiatric care, the agency shall provide or arrange for appropriate consultation and treatment;

**7. If the assessment of the child indicates a need for a more restrictive environment, the agency shall contact the child's treatment team, case manager, legal guardian, and legal custodian to plan for the child's placement in a more appropriate facility. Intensive residential treatment is not meant to replace the need for more restrictive settings such as psychiatric care or incarceration when indicated by psychological evaluation, psychiatric evaluation, or by physician or court order.**

(F) Recreation. A recreation plan shall be developed by an individual with a degree in recreational therapy or a related field with at least one (1) year's experience in working with children in a residential treatment setting; [and]

(G) Safety-Emergency Evacuation Procedure. Locking hardware is permitted on children's sleeping room doors if they are equipped with [approved] electronic locking-release mechanism **approved by the State Fire Marshal** or if staff are immediately present, awake, and in possession of a key for the locking device, or both. **There shall be a backup system which does not rely on a key, i.e., an electronic release mechanism, as approved by the State Fire Marshal; and**

**(H) Sleeping Area. An agency licensed, or buildings constructed after (effective the date of this amendment) shall house no more than one (1) child in a sleeping room.**

*AUTHORITY: sections 210.481, [RSMo (1986)] 210.486, and 210.506, RSMo [(Cum. Supp. 1993)] 2000. This rule originally filed as 13 CSR 40-71.140. Emergency rule filed Nov. 1, 1993, effective Nov. 12, 1993, expired March 11, 1994. Emergency rule filed March 2, 1994, effective March 12, 1994, expired July 9, 1994. Original rule filed Nov. 1, 1993, effective June 6, 1994. Moved to 13 CSR 35-71.140, effective Oct. 30, 2008. Amended: Filed Dec. 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 Children's Division, Tim Decker, Director, PO Box 88, Jefferson City, MO, 65103. To be considered, comments must be received with-*

*in thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 65—Missouri Medicaid Audit and Compliance  
Chapter 2—Medicaid**

**PROPOSED RULE**

**13 CSR 65-2.010 Definitions**

*PURPOSE: This rule implements federal regulatory requirements promulgated by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services at 76 Fed. Reg. 5862 (February 2, 2011), 42 CFR Parts 455 and 457, defining the terms used in the rules of the Missouri Medicaid Audit and Compliance Unit.*

(1) Application shall include:

(A) Enrollment application to become a MO HealthNet Program provider;

(B) Revalidation application to remain a MO HealthNet Program provider;

(C) New practice location application;

(D) Provider direct deposit application;

(E) Change of ownership application;

(F) Hardship waiver request; or

(G) Other information MMAC needs, under applicable federal or state laws and regulations, in order to enroll a MO HealthNet program provider.

(2) Application fee means a fee required to be paid by a MO HealthNet Program institutional provider at the time of—

(A) Initial application;

(B) Revalidation application;

(C) Change of ownership application; or

(D) New practice location application.

(3) Applying provider means any person submitting an application to become a MO HealthNet Program provider, submitting a renewal or revalidation application to continue to be a MO HealthNet Program provider and/or submitting an application to establish a new practice location.

(4) Approve/Approval as to a billing provider means the billing provider has been determined to be eligible under Medicaid rules and regulations to receive a Medicaid billing number and be granted Medicaid billing privileges.

(5) Approve/Approval as to a performing provider means the performing provider has been determined to be eligible under Medicaid rules and regulations to receive a Medicaid billing number.

(6) Best interests of the MO HealthNet Program shall include consideration of the following factors:

(A) Ensuring reasonable access to MO HealthNet Program services;

(B) Promoting health, safety, and welfare of participants;

(C) The provider's history of compliance with applicable rules and regulations related to the MO HealthNet Program; and

(D) Any other factors related to MO HealthNet Program integrity.

(7) Billing provider means a provider or supplier who is authorized to bill the MO HealthNet Program for items or services provided to Medicaid participants. Billing provider includes providers who are

authorized to bill Medicaid for items or services provided by performing providers.

(8) Closed-end provider agreement means an agreement which is for a specific period of time not to exceed twelve (12) months and which must be renewed in order for the provider to continue to participate as a Missouri Medicaid Title XIX, SCHIP Title XXI, or Waiver program provider.

(9) Deactivate means that the provider's billing privileges were stopped, but such provider's billing number was not terminated.

(10) Deny/Denial means the applying provider has been determined to be ineligible under Medicaid rules and regulations to receive a Medicaid billing number and/or Medicaid billing privileges.

(11) Department means the Department of Social Services or its designated divisions or units.

(12) Enroll/Enrollment means the process that MMAC uses to establish eligibility to receive a Medicaid billing number and/or Medicaid billing privileges. The process includes:

- (A) Identification of a provider;
- (B) Validation of the provider's eligibility to provide items or services to Medicaid beneficiaries;
- (C) Identification and confirmation of the provider's practice location(s) and owner(s); and
- (D) Granting the provider Medicaid billing privileges and/or a Medicaid billing number.

(13) Enrollment application means a MMAC-approved paper enrollment application or an electronic MMAC-approved enrollment process.

(14) Federal health care program means a program as defined in section 1128B(f), of the Social Security Act.

(15) Fiscal agent means an organization under contract to the state of Missouri for providing services related to the administration of the MO HealthNet Program.

(16) Hardship means a financial condition in which paying the application fee would impose a significant financial burden on the provider, and the provider is otherwise eligible to be a MO HealthNet Program provider. Other factors which may indicate that a hardship exists include:

- (A) Considerable bad debt expenses incurred by the provider;
- (B) Considerable amount of charity care/financial assistance furnished to patients;
- (C) Presence of substantive partnerships (whereby clinical, financial integration are present) with those who furnish medical care to a disproportionately low-income population;
- (D) Whether an institutional provider receives considerable amounts of funding through disproportionate share hospital payments; or
- (E) Whether the provider is enrolling in a geographic area that is a presidentially-declared disaster area under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206 (Stafford Act).

(17) Hardship waiver request means a request submitted to MMAC (defined below) along with the provider application requesting that the application fee be waived due to hardship, detailing the hardship, and providing any documentation in support of the hardship waiver request.

(18) Institutional provider is a non-corporeal provider. Individual physicians, individual dentists, and individual non-physician practi-

tioners are not institutional providers. Institutional provider includes, but is not limited to:

- (A) Ambulance service suppliers (ambulance);
- (B) Ambulatory surgical centers;
- (C) Community mental health centers;
- (D) Comprehensive outpatient rehabilitation centers (comprehensive rehabilitation centers);
- (E) End stage renal disease facilities (dialysis clinic);
- (F) Federally qualified health centers;
- (G) Health clinics;
- (H) Histocompatibility laboratories;
- (I) Home health agencies;
- (J) Hospices;
- (K) Hospitals;
- (L) Inpatient psychiatric facilities;
- (M) Inpatient rehabilitation facilities;
- (N) Independent clinical laboratories;
- (O) Independent diagnostic testing facilities;
- (P) Mammography centers;
- (Q) Mass immunizers (roster billers);
- (R) Mental health hospitals or inpatient facilities;
- (S) Organ procurement organizations;
- (T) Outpatient physical therapy facilities;
- (U) Outpatient occupational therapy facilities;
- (V) Outpatient rehabilitation centers;
- (W) Outpatient speech pathology services;
- (X) Pharmacies;
- (Y) Portable x-ray suppliers (independent x-ray supplier);
- (Z) Public health department clinics;
- (AA) Skilled nursing facilities (nursing home);
- (BB) Radiation therapy centers;
- (CC) Religious nonmedical healthcare institutions;
- (DD) Rural health clinics;
- (EE) Other institutional entities that bill the MO HealthNet

Program on a fee-for-service basis, such as personal care agencies, non-emergency transportation providers, residential care facilities, adult day care facilities, assisted living facilities, residential treatment centers, providers billing under the Consumer Directed Services Program or entities established under sections 205.968-205.973, RSMo;

(FF) Durable medical equipment, prosthetics, orthotics, and supplies suppliers whether owned by physicians or otherwise;

(GG) Institutional non-profit and public providers;

(HH) Institutional providers establishing a new practice location in a different enrollment jurisdiction or as a new provider type;

(II) Local education agencies, which are institutional providers consistent with the state plan; or

(JJ) Any other types of non-corporeal MO HealthNet Program providers consistent with the state plan, the Waiver Program, and CHIP Title XXI.

(19) Limited provider agreement means an agreement with an applying provider which has been accepted as a MO HealthNet Program provider by MMAC (defined below) conditional upon the applying provider performing services, delivering supplies, or otherwise participating in the program only in adherence to, or subject to, specially set out conditions agreed to by the applying provider prior to enrollment.

(20) Managed care entity has the same meaning as set forth in 42 CFR Section 455.101 (2011).

(21) Managing employee means a general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts, the day-to-day operation of the provider, either under contract or through some other arrangement, whether or not the individual is a W-2 employee of the provider.

(22) Missouri Medicaid Audit and Compliance Unit (MMAC) means the unit within the Department of Social Services that is responsible for the oversight and auditing of compliance for the Medicaid Title XIX, CHIP Title XXI, and Waiver Program in Missouri, which includes the oversight and auditing of compliance of MO HealthNet providers and Medicaid participants through the lock-in program. MMAC is charged with the responsibility of detecting, investigating, and preventing fraud, waste, and abuse of the Missouri Medicaid Title XIX, CHIP Title XXI, and waiver program.

(23) Medical assistance benefits means those benefits authorized to be provided by Chapter 208, RSMo.

(24) MO HealthNet Program means programs operated pursuant to Title XIX of the Social Security Act, Title XXI of the Social Security Act and/or waiver programs authorized by the United States Department of Health and Human Services.

(25) MO HealthNet Program provider means applying provider, billing provider, and/or performing provider.

(26) MO HealthNet means the division within the department, pursuant to 208.001 and 208.201, RSMo that administers the Medicaid Title XIX, CHIP Title XXI, and waiver programs, approves claims from MO HealthNet providers for services or merchandise provided to eligible Medicaid participants and authorizes and disburses payment for those services or merchandise accordingly.

(27) Non-physician practitioner means any person other than a physician or dentist that provides medical, dental, or professional items or services such as, but not limited to, nurses, therapists, counselors, social workers, pharmacists, pharmacies, and dental hygienists. This does not include persons that provide nonmedical support services such as clerical staff, carpenters, janitorial staff, food service workers, home health aides, personal care aides, Adult Day Health Care employees and Adult Day Care waiver employees, community support workers and case managers, peer specialists, family support workers, family assistance workers, psychosocial rehabilitation workers, detox technicians/aides, residential technicians/aides, personal assistants, non-professional direct care staff and other secondary support services, but does include the organizations that bill for services provided by these persons.

(28) Owner means any individual or entity that has any partnership interest in, or that has five percent (5%) or more direct or indirect ownership of, the provider as defined in sections 1124 and 1124A(a) of the Social Security Act.

(29) Ownership or control interest means a person has a direct or indirect ownership of five percent (5%) or more, or is a managing employee, of a provider.

(30) Participant means a person who is eligible to receive benefits allocated through the department as part of the MO HealthNet Program.

(31) Performing provider means a provider or supplier who provides items or services to Medicaid participants but who does not directly bill the MO HealthNet Program for such items or services or does not directly receive payment from the MO HealthNet Program for such items or services. Performing provider also includes referring and/or ordering physicians, dentists, and non-physician practitioners.

(32) Person means any corporeal person or individual; or any legal or commercial entity, including but not limited to, any partnership, corporation, not-for-profit, professional corporation, business trust, estate, trust, limited liability company, association, joint venture, governmental agency, or public corporation.

(33) Provider means billing and performing providers and includes any person that enters into a contract or provider agreement with MMAC for the purpose of providing items or services to Missouri Medicaid participants. Provider includes ordering and referring physicians, dentists, and non-physician practitioners.

(34) Provider agreement means an agreement, no greater than five (5) years in duration, and no less than twelve (12) months in duration, requiring revalidation prior to expiration of the agreement, with MMAC which provides a provider with the authority to provide items or services to eligible Missouri Medicaid participants.

(35) Provider application means the MMAC-approved application and supplemental forms required to be submitted for the purpose of becoming a MO HealthNet Program provider, containing all information and documentation requested by MMAC.

(36) Provider direct deposit means a signed writing utilizing forms specified by MMAC containing all information requested by MMAC and submitted by a provider of Medicaid Title XIX, CHIP Title XXI, or waiver program services for the purpose of having Missouri Medicaid checks automatically deposited to an authorized bank account.

(37) Reject/Rejected means that the provider's enrollment application was not processed due to incomplete information, failure to submit application fee, or hardship waiver request, or that additional information or corrected information was not received from the provider in a timely manner.

(38) Revalidation means the requirement that all existing MO HealthNet Program providers must go through a revalidation application process in accordance with this rule to continue to be a MO HealthNet Program provider.

(39) Revalidation application means an approved MMAC revalidation application and supplemental forms which are required to be submitted by all existing MO HealthNet Program providers containing all information and documentation requested by MMAC under applicable federal or state laws and regulations and submitted at the time revalidation is required pursuant to this rule.

(40) Site visit may include any or all of the following:

(A) Physical visit to, and inspection of, the premises of the provider;

(B) Obtaining photographs of the provider or the provider's business for inclusion in the provider's enrollment file;

(C) Full documentation of observations made at the provider's premises including such facts as:

1. The facility was vacant and free of all furniture;

2. A notice of eviction or similar documentation is posted at the facility; and

3. The premises are not occupied by the provider, but by another person;

(D) A written report of the findings regarding each site visit;

(E) Verification that the facility is operational, open for business, and staff is present;

(F) Verification that customers are present at the facility where appropriate for the provider type;

(G) Acceptance of attestation with documentation when deemed appropriate by MMAC and consistent with applicable federal or state laws and regulations; or

(H) Acceptance of proof of a recent site visit under the Medicare program or other state Medicaid program when deemed appropriate by MMAC and consistent with applicable federal or state laws and regulations.

(41) State plan means a document completed by the state of Missouri to tell the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) how the state will administer the MO HealthNet program according to federal laws and regulations.

(42) Suspension from participation means an exclusion from being a provider for a specified or indefinite period of time.

(43) Suspension of payments means withholding of payments otherwise due to a provider for a specified or indefinite period of time.

(44) Termination means the department's non-temporary discontinuation of a provider's billing privileges and/or elimination of the provider's number.

(45) Voluntary termination means that a provider submits written confirmation to MMAC of its decision to discontinue enrollment in the MO HealthNet Program. In addition, if a provider's agreement, on March 25, 2016, has an effective date of March 25, 2011, or earlier, that provider agreement shall be deemed voluntarily terminated.

(46) Waiver program means programs authorized in section 1915 of the Social Security Act (or other waiver programs authorized by federal law). These programs permit states to furnish an array of services that complement and/or supplement the services that are available to participants through the state plan.

(47) Written notice means a notice to the address of the provider as listed in MMAC's system, in writing, transmitted via the US mail, other public or private service for the delivery of correspondence, packages or other things, facsimile, e-mail, or any other method/mode of transmittal that is deemed by MMAC to be an efficient, cost-effective, verifiable and reliable method/mode of communication with the provider or applying provider.

*AUTHORITY: sections 660.017 and 208.159, RSMo 2000. Original rule filed Dec. 12, 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, Jessica Dresner, Director, Missouri Medicaid Audit and Compliance Unit, PO Box 6500, 205 Jefferson St., 2nd Floor, 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 65—Missouri Medicaid Audit and Compliance  
Chapter 2—Medicaid**

**PROPOSED RULE**

**13 CSR 65-2.020 Provider Enrollment and Application**

*PURPOSE: This rule implements federal regulatory requirements promulgated by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services at 76 Fed. Reg. 5862 (February 2, 2011), 42 CFR Parts 455 and 457, establishing the basis on which providers under the MO HealthNet Program may be approved or denied as a new provider and/or as a revalidat-*

*ing provider, establishing the basis on which a new practice location may be approved or denied, establishing a revalidation requirement for all providers and establishing application and periodic screening requirements.*

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

**(1) Enrollment.**

(A) All persons are required to enroll with MMAC as a billing or performing provider in the MO HealthNet Program if the services or items they provide will be billed to the MO HealthNet Program.

(B) For any person to receive payment from the MO HealthNet Program for items or services other than out-of-state emergency services, the billing providers and the performing providers of such items or services must be enrolled providers in the MO HealthNet Program on the date the items or services are provided unless applicable rules or manuals permit enrollment as of an earlier date, up to a maximum of three hundred sixty-five (365) days prior to the actual enrollment date.

(C) As required by 42 CFR Section 455.440, all claims for payment for items and services that were ordered or referred must contain the National Provider Identifier (NPI) of the provider who ordered or referred such items or services.

(D) All persons enrolled as MO HealthNet providers shall abide by the policies and procedures set forth in the MO HealthNet provider manual(s) applicable to the provider's provider type(s). The MO HealthNet provider manuals 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 the website [dss.mo.gov/mhd](http://dss.mo.gov/mhd), January 15, 2014. This rule does not incorporate any subsequent amendments or additions. A MO HealthNet provider's breach of any MO HealthNet provider manual may result in imposition of sanctions, including but not limited to, termination.

**(2) Application.**

(A) All applying providers shall have a valid e-mail address and shall submit an MMAC-approved application and any supplemental forms, information and documentation required by MMAC for the appropriate provider type for which the person is applying.

(B) All information and documentation requested in the application and supplemental forms must be provided to MMAC prior to the application being considered and screening being conducted pursuant to this rule.

(C) Specific application instructions are modified as necessary for efficient and effective administration of the MO HealthNet Program as required by federal or state laws and regulations. Providers should refer to the appropriate MMAC provider bulletins and application filing instructions for specific application filing instructions and information, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, Missouri Medicaid Audit and Compliance Unit, 205 Jefferson Street, Second Floor, Jefferson City, MO 65109, at its website [mmac.mo.gov](http://mmac.mo.gov), January 15, 2014. This rule does not incorporate any subsequent amendments or additions.

(D) The application shall include all information required in the mandatory disclosures pursuant to section (3). Upon submission of any application(s), supplemental form(s), information and documentation requested in the application(s) and supplemental form(s), MMAC may, at its discretion, request additional or supplemental information and documentation from the applying provider prior to considering the application and/or conducting screening pursuant to

this rule in order to clarify any information previously submitted and to verify that the provider meets all applicable requirements of state or federal laws and regulations.

(3) All providers, fiscal agents, and managed care entities are required to disclose as follows:

(A) The following disclosures are mandatory:

1. The name and address of any person with an ownership or control interest in the applying provider. The address for corporate entities must include as applicable primary business address, every business location, and PO Box address;

2. Date of birth and Social Security Number (in the case of a corporeal person);

3. Other tax identification number of any person with an ownership or control interest in the applying provider or in any subcontractor in which the applying provider has a five percent (5%) or more interest;

4. Whether any person with an ownership or control interest in the applying provider is related to another person with ownership or control interest in the applying provider as a spouse, parent, child, or sibling;

5. Whether any person with an ownership or control interest in any subcontractor in which the applying provider has a five percent (5%) or more interest is related to another person with ownership or control interest in the applying provider as a spouse, parent, child, or sibling;

6. The name of any other provider or applying provider in which an owner of the applying provider has an ownership or control interest; and

7. The name, address, date of birth, and Social Security Number of any managing employee of the applying provider;

(B) Disclosures from any provider or applying provider are due at the following times, and must be updated within thirty-five (35) days of any changes in information required to be disclosed:

1. Upon the provider or applying provider submitting an application; and

2. Upon request of MMAC;

(C) Disclosures from fiscal agents are due at the following times:

1. Upon the fiscal agent submitting the proposal;

2. Upon request of MMAC;

3. Ninety (90) days prior to renewal or extension of the contract; and

4. Within thirty-five (35) days after any change in ownership of the fiscal agent;

(D) Disclosures from managed care entities (managed care organizations, prepaid inpatient health plans, prepaid ambulatory health plans, and health insuring organizations), except primary care case management programs, are due at the following times:

1. Upon the managed care entity submitting the proposal;

2. Upon request of MMAC; and

3. Ninety (90) days prior to renewal or extension of the contract;

(E) Disclosures from Primary Care Case Management Programs (PCCM). PCCMs will comply with disclosure requirements under subsection (B) of this section;

(F) All Disclosures Must be Provided to MMAC. Disclosures not made to MMAC will be deemed non-disclosed and not in compliance with this section; and

(G) Consequences for Failure to Provide Required Disclosures.

1. Any person's failure to provide, or timely provide, disclosures pursuant to this section may result in deactivation, denial, rejection, suspension, or termination. If the failure is inadvertent or merely technical, MMAC may choose not to impose consequences if, after notice, the person promptly corrects the failure.

2. If federal financial participation (FFP) is recouped or withheld from the MO HealthNet Program because of any person's failure to provide, or timely provide, disclosures pursuant to this section, the amount recouped or withheld from the MO HealthNet Program shall be an overpayment, in addition to any other overpay-

ment, assessed against the person who failed to provide, or timely provide, the disclosures that resulted in the recoupment and or withholding of FFP. If the person subsequently corrects the failure such that FFP is restored, the overpayment shall be rescinded.

(4) Provider Revalidation.

(A) All enrolled MO HealthNet Program providers as of the effective date of this rule who are not on a closed-end provider agreement shall revalidate their enrollment as a MO HealthNet Program provider, on or before March 24, 2016, according to the schedule of revalidation, included herein by submitting an MMAC-approved revalidation application, supplemental forms, information, and documentation requested by MMAC, along with any required application fee and/or hardship waiver request, if applicable.

(B) All MO HealthNet Program providers shall revalidate their enrollment as MO HealthNet providers every five (5) calendar years from the effective date of the provider's most recently executed provider agreement, in order to remain a MO HealthNet provider. For example, a provider whose initial or revalidated provider agreement is effective on March 1, 2014, is required to revalidate his/her/its enrollment no later than March 1, 2019.

(C) The MMAC approved revalidation application, supplemental forms, information, and documentation requested by MMAC, along with the application fee and/or hardship waiver request, if applicable, shall be submitted no later than one-hundred twenty (120) days prior to the expiration of the effective provider agreement.

(D) Revalidating providers must comply with the requirements of this rule and will be subject to the screening process noted in this rule upon revalidation in order to have their applications for revalidation approved.

(E) MMAC may request that the provider revalidate on an off-cycle revalidation period as a result of random checks, information obtained by MMAC indicating local health care fraud problems, national initiatives, complaints, or other reasons that cause MMAC to question the compliance of the provider with MO HealthNet Program enrollment requirements.

(F) All MO HealthNet provider agreements with effective dates on or before the effective date of this rule shall be terminated by MMAC pursuant to the terms of the provider agreement, effective March 25, 2016, if the provider has not revalidated or begun the process of revalidation.

(5) Application Fee.

(A) An application fee, hardship waiver request, and/or an exemption reason must accompany every institutional provider's application.

(B) The application fee must be in the form of a cashier's check, money order, or an electronic payment acceptable to MMAC and for the correct application fee amount in effect as of the date of receipt by MMAC.

(C) Failure to submit the application fee in the form of a cashier's check, money order, or electronic payment acceptable to MMAC for the correct amount will result in the return of the fee to the provider and rejection of the application.

(D) The application fee shall be as determined by the Centers for Medicare and Medicaid Services (CMS) every year pursuant to 42 C.F.R. Section 424.514(d). A year runs from the first of January of each year to December 31 of that same year.

(E) An institutional provider shall submit an application and application fee for each provider type for which the institutional provider is applying. If an application is denied and the institutional provider submits another application, an additional application fee shall be included with each, all, and every subsequent application.

(F) If a person as defined herein is considered to be an institutional provider as defined herein, that person is required to pay the fee.

(G) Exemptions from Application Fee. Providers who are enrolled in, and paid the application fee required by CMS for, Medicare or another state's Title XIX or Title XXI program within two (2) years of the date the application to enroll as a MO HealthNet Provider shall

be exempt from paying an application fee. Providers seeking an exemption from the application fee are responsible for notifying MMAC, in writing, that they qualify for exemption and for providing proof of such qualification.

(6) Hardship Waiver Request.

(A) Institutional providers may submit application fee hardship waiver requests when submitting their initial enrollment applications, their revalidation applications, and their applications to establish new practice locations.

(B) A hardship waiver request may be granted if any of the following exists:

1. The provider demonstrates, via authenticated financial and legal records, hardship and MMAC, at its discretion, determines that imposition of the application fee would result in a hardship for the provider subject to the following requirements.

A. All records submitted in support of a hardship waiver must be authenticated by an affidavit signed under oath by the applying provider's or provider's owner(s) and chief financial officer or chief executive officer. Records not meeting this requirement shall not be considered as evidence of hardship.

B. Providers applying for hardship waivers must permit, upon request, MMAC to inspect the provider's financial records and other records MMAC deems relevant to MMAC's determination of whether hardship exists, including, but not limited to, historical cost reports, recent financial reports such as balance sheets and income statements, cash flow statements, and tax returns. Any provider who does not permit MMAC to inspect such records upon MMAC's request shall be denied a hardship waiver. Any provider who is denied a hardship waiver request based upon the provider's failure to permit MMAC to inspect the provider's financial records and any other records MMAC deems relevant to MMAC's determination of whether a hardship exists, shall not be eligible for a waiver under paragraph 6(B)1. for a period of five (5) years from the date of MMAC's letter notifying the provider that its hardship waiver request was denied due to the provider's failure to permit MMAC to inspect the provider's records.

C. A provider who is granted a hardship waiver pursuant to paragraph 6(B)1. shall not be granted a second waiver based upon paragraph 6(B)1. for a period of five (5) years from the date of MMAC's letter notifying the provider that its most recent 6(B)1. waiver request was granted;

2. MMAC, in consultation with other state of Missouri departments, divisions and units, determines that imposition of the application fee would impede Missouri Medicaid participants' access to care;

3. A provider is submitting a provider application as a result of a national or state public health emergency situation as lawfully declared by a federal or state authority; and

4. The provider is owned and operated by the state of Missouri or an agency of the state of Missouri.

(C) Application fee hardship waiver requests shall be considered by MMAC on a case-by-case basis.

(D) Application fee hardship waiver requests are subject to approval by CMS.

(7) MMAC shall use the application fee to offset the costs associated with the provider screening program in its entirety. This includes, but is not limited to the following:

(A) Implementation and augmentation of MMAC's provider enrollment system; and

(B) Any other administrative costs related to the provider screening program, which include costs associated with processing fingerprints and conducting criminal background checks. The application fee does not cover the cost associated with capturing fingerprints and a provider may be charged additional costs for this purpose in addition to the application fee.

(8) Refund of the Application Fee.

(A) If an institutional provider is granted a hardship exception pursuant to this rule or if the application is rejected because it was not properly signed or is missing other information required to be provided on the application itself, and an application fee was included with the application and the hardship waiver request, the application fee shall be returned to the applying provider.

(B) Once the screening process has begun, regardless whether the application goes through part or all of the screening process, the application fee is non-refundable.

(9) Screening.

(A) The screening requirements contained in this section apply to all applying providers and to all persons disclosed, or required to be disclosed, in the application.

(B) MMAC shall conduct pre-enrollment screening and post-enrollment monthly screenings. Screenings shall include the following:

1. Screening pursuant to 42 C.F.R. Sections 455.410(a), (b); 42 CFR 455.412; 42 CFR 455.432; 42 CFR 455.436; and 42 CFR 455.452;

2. Screening to ensure that the providers meet all enrollment criteria for their provider type;

3. Unannounced pre- and post-approval site visits; and

4. For screening purposes, utilization of databases and other sources of information to prevent enrollment of non-existent providers, to ensure that spurious applications are not processed, and to prevent fraud, waste, and abuse in the MO HealthNet Program.

(C) The screening procedures and requirements in this rule shall be implemented as of the effective date of this rule.

(D) The new screening procedures and requirements will be applicable to all enrolled MO HealthNet Program providers and applying providers as of the effective date of this rule. All enrolled MO HealthNet providers are required to revalidate according to the schedule of revalidation. After being screened pursuant to this rule, MO HealthNet Program providers will be required to revalidate every five (5) years from the date of their most recent revalidation.

(E) Upon the effective date of this rule, no provider shall be allowed to enroll or revalidate in the MO HealthNet Program without being screened pursuant to this rule. On or before March 25, 2016, all providers in, and applying providers to, the MO HealthNet Program shall be screened pursuant to this section. By operation of law, any provider who has not been screened pursuant to this section on or before March 25, 2016, shall have his/her/its provider number deactivated at 5:00 p.m. on March 25, 2016. Such deactivation shall remain in effect until the provider or applying provider has been screened pursuant to this rule.

(F) The following screening categories are established for MO HealthNet providers, as required by federal law and regulation for Medicare and Medicaid providers under 42 CFR Section 424.518 and section 1902(kk) (1) of the Social Security Act. There are three (3) levels of screening: limited, moderate, and high. Each provider type is assigned to one (1) of these screening levels. If a provider could fit within more than one (1) screening level described in this section, the highest risk category of screening is applicable.

1. Limited Risk Category.

A. The following providers pose a limited risk of fraud, waste, and abuse to the MO HealthNet Program and are subjected to limited category screening:

(I) Physicians, dentists, or non-physician practitioners (except as otherwise listed in another risk category) and medical groups or clinics with the exception of physical therapists and physical therapy(ist) groups;

(II) Ambulatory surgical centers (ASCs);

(III) Competitive acquisition program/Part B vendors;

(IV) End-stage renal disease (ESRD) facilities;

(V) Federally qualified health centers (FQHCs);

(VI) Histocompatibility laboratories;

(VII) Hospitals, including critical access hospitals (CAHs);

(VIII) Health programs operated by an Indian Health

Program (as defined in section 4(12) of the Indian Health Care Improvement Act) or an urban Indian organization (as defined in section 4(29) of the Indian Health Care Improvement Act) that receives funding from the Indian Health Service pursuant to Title V of the Indian Health Care Improvement Act (IHS);

- (IX) Mammography screening centers;
- (X) Mass immunization roster billers;
- (XI) Organ procurement organizations (OPOs);
- (XII) Pharmacies;
- (XIII) Religious nonmedical health care institutions

(RNHCIs);

- (XIV) Rural health clinics (RHCs);
- (XV) Radiation therapy centers;
- (XVI) Skilled nursing facilities (SNFs);
- (XVII) Occupational therapists;
- (XVIII) Speech language pathologists;
- (XIX) Rehabilitation agencies; and
- (XX) Community mental health centers (CMHCs).

B. The providers in the limited category are subject to the following screening requirements:

(I) Verification that the applying provider, and all persons disclosed or required to be disclosed, meet all applicable federal regulations and MO HealthNet Program requirements for the provider type;

(II) Verification that the applying provider, and all persons disclosed, have a valid license, operating certificate, or certification if required for the provider type, and that there are no current limitations on such licensure, operating certificate, or certification which would preclude enrollment;

(III) Verification that the applying provider's, and that of all persons disclosed, license(s) held in any other state has/have not expired and that there is/are no current limitations on such license(s) which would preclude enrollment;

(IV) Confirmation of the identity of the applying provider and determination of the exclusion status of the applying provider and any person with an ownership or control interest or who is an agent or managing employee of the provider through routine checks of the following federal databases:

- (a) Social Security Administration's Death Master File;
- (b) National Plan and Provider Enumeration System;
- (c) List of Excluded Individuals/Entities;
- (d) The Excluded Parties List System;
- (e) Medicare Exclusion Database;
- (f) Department of the Treasury's Debt Check Database;

and

(g) Department of Housing and Urban Development's (DHUD) Credit Alert System or Credit Interactive Voice Response System;

(V) Database checks of the Missouri Department of Revenue;

(VI) Database check of the National Sex Offender Public Website;

(VII) The information from these databases shall be used to determine eligibility of the MO HealthNet provider and for verification of: the identity of the applying person; the Social Security Number; the National Provider Identifier (NPI); the National Practitioner Data Bank (NPDB) licensure; any exclusion by the Department of Health and Human Services, Office of Inspector General; the taxpayer identification number; any Missouri tax delinquencies and death of the applying provider and all other persons disclosed in the applications and supplemental forms; and

(VII) MMAC may conduct pre-approval site visits prior to acceptance of an applying provider's application.

#### 2. Moderate Risk Category:

A. The following providers pose a moderate risk of fraud, waste, and abuse to the MO HealthNet Program and are subject to moderate screening requirements:

(I) Comprehensive outpatient rehabilitation facilities (CORFs);

(II) Hospice organizations;

(III) Independent diagnostic testing facilities (IDTFs);

(IV) Independent clinical laboratories;

(V) Ambulance service suppliers;

(VI) Physical therapists including physical therapy groups;

(VII) Portable x-ray suppliers;

(VIII) Revalidating home health agencies;

(IX) Revalidating durable medical equipment providers;

(X) Adult day care waiver providers;

(XI) Personal care providers, including providers billing under the Consumer Directed Services program;

(XII) Entities established under sections 205.968-205.973

RSMo;

(XIII) Prosthetics, orthotics and supplies suppliers (DME-POS) (this includes an existing pharmacy durable medical equipment supplier that seeks to add a new DMEPOS supplier store, new practice locations, and those that are owned by occupational or physical therapists); or

(XIV) Non-emergency transportation providers; and

B. In addition to the screening requirements for the limited risk category in (9)(F)1., the providers in the moderate risk category shall be subject to pre-approval site visits prior to acceptance of an applying provider's application and are additionally subject to unannounced pre- and post-enrollment site visits—

(I) To determine and ensure that the provider is operational at the practice location found on the enrollment application. For these purposes, "operational" means the provider has a qualified physical practice location, is open to the public for the purpose of providing health care related services, is prepared to submit valid Medicaid claims, and is properly staffed, equipped, and stocked (as applicable, based on the type of facility or organization, provider specialty, or the services or items being rendered), to furnish these items or services; and

(II) To verify established provider standards or performance standards other than conditions of participation subject to survey and certification by MMAC, where applicable, to ensure that the provider remains in compliance with program requirements.

#### 3. High Risk Category:

A. The following providers pose a high risk of fraud, waste, and abuse to the MO HealthNet Program and are subject to high screening requirements:

(I) Prospective (newly enrolling) home health agencies; and

(II) Prospective (newly enrolling) DMEPOS suppliers; and

B. In addition to the screening requirements for the limited risk category in paragraph (9)(F)1. of this rule, and for the moderate risk category in paragraph (9)(F)2. of this rule, the providers in the high risk category must submit to, or subject individuals with ownership or control interests to, a fingerprint-based criminal history report check of the Federal Bureau of Investigations (FBI) Integrated Automated Fingerprint Identification System—

(I) A revalidating provider who has already submitted fingerprints once will not be required to submit fingerprints a second time unless required by FBI protocols;

(II) Pursuant to 42 C.F.R. Section 455.434(b), the provider is responsible for the cost of taking the fingerprints and supplying the fingerprints, and the state and federal government will share the cost of the processing of the fingerprints and the background check; and

(III) This fingerprint-based criminal history report check applies to all persons in this risk category applying to be a provider (whether as a billing or performing provider), or an individual with a five percent (5%) or greater direct or indirect ownership interest in such provider, or a managing employee;

(G) MMAC must adjust the categorical risk level from "limited" or "moderate" to "high" when any of the following occurs:

1. MMAC imposes a payment suspension on a provider based on a credible allegation of fraud, waste, or abuse by the provider; the provider has an existing Medicaid overpayment; or the provider has been excluded by the Department of Health and Human Services, Office of Inspector General or another state's Medicaid program

within the previous ten (10) years. The upward adjustment of the provider's categorical risk level for a payment suspension or overpayment shall continue only so long as the payment suspension or overpayment continues; or

2. MMAC or CMS in the previous six (6) months lifted a temporary moratorium for the particular provider type and a provider that was prevented from enrolling based on the moratorium applies for enrollment as a provider at any time within six (6) months from the date the moratorium was lifted.

(H) If a person has been screened by Medicare or by another state Medicaid agency and paid Medicare or another state Medicaid agency's application fee, within two (2) years of the date of the application to MMAC, such person will not be subject to the screening requirements or application fee provided for by this rule except those screening requirements and application fee imposed pursuant to subsection (G) of this section.

(I) Any MO HealthNet Program provider not categorized by this regulation as within the limited, moderate or high risk category shall be a considered moderate risk and screened as a moderate risk.

(J) The screening requirements in this rule are the minimum screening requirements that may be imposed by MMAC, and nothing in this rule shall be interpreted as limiting the amount of additional scrutiny that MMAC may apply to a person in following up on the information submitted by the person or for the purpose of determining the person's eligibility to become a MO HealthNet Program provider.

(10) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

#### Revalidation Schedule for MO HealthNet Providers

All MO HealthNet providers enrolled as of January 15, 2014, must revalidate their enrollments by March 25, 2016, and, thereafter, before the five (5) year anniversary of their previous revalidation. All MO HealthNet providers who become enrolled after January 15, 2014, must revalidate their enrollments within five (5) years of their initial enrollment in the MO HealthNet program and, thereafter, before the five (5) year anniversary of their previous revalidation.

Subject to the above requirements, providers shall revalidate pursuant to the following schedule:

MO HealthNet providers who are also Medicare enrolled providers shall revalidate with MO HealthNet within two (2) years of their most recent Medicare revalidations.

MO HealthNet providers who are not also Medicare providers shall revalidate as follows:

(A) Initial revalidation—

Provider numbers beginning with 25, 26, 28, 39, and 58 must revalidate prior to the end of 2014.

Provider numbers beginning with 15, 17, 86, 87, and 85 must revalidate prior to the end of 2015.

(B) Subsequent revalidations—

After their initial revalidation or enrollment, MO HealthNet providers who are not also Medicare providers shall revalidate prior to the expiration of their enrollment as provided in this rule.

*AUTHORITY: sections 660.017 and 208.159, RSMo 2000. Original rule filed Dec. 12, 2013.*

*PUBLIC COST: This proposed rule is estimated to cost the Missouri Department of Social Services, Missouri Medicaid Audit and Compliance Unit up to seven hundred eight thousand six hundred dollars (\$708,600) for additional expenses of screening providers upon initial enrollment and upon revalidation.*

*PRIVATE COST: This proposed rule is estimated to cost private entities enrolling or enrolled as MO HealthNet providers up to seven hundred ninety-nine five hundred ninety-two dollars (\$799,592) in the aggregate for application fees and indirect costs of revalidating their enrollments, depending upon how many providers are exempted because they already have paid an application fee or have been screened by Medicare or another state's Medicaid agency.*

*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, Missouri Medicaid Audit and Compliance Unit, PO Box 6500, 205 Jefferson St., 2nd Floor, Jefferson City, MO 65102. 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. No public hearing is scheduled.*



**FISCAL NOTE**

**PUBLIC COST**

**Department Title: Department of Social Services**  
**Division Title: Missouri Medicaid Audit and Compliance Unit (MMAC)**  
**Chapter Title: General Rules**

<b>Rule Number and Name:</b>	13 CSR 65-2.020 Provider Enrollment and Application
<b>Type of Rulemaking:</b>	Proposed

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
MMAC	Site visits + Screening costs \$708,600

**III. WORKSHEET**

8 hrs per site visit multiplied by \$50/hour multiplied by 1181 Medicare-only revalidating providers = \$472,400  
4 hours screening multiplied by \$50/hr multiplied by 1181 Medicare-only revalidating providers = \$236,200

**IV. ASSUMPTIONS**

Uses assumptions about the costs to Medicaid agencies estimated by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). See 76 Fed. Reg. 5862, 5949-5958 (February 2, 2011).  
The number of revalidating Medicaid-only providers is an estimate and may be lower than estimated.  
All providers will be revalidated between 2013 and 2016. Thereafter, they will be on a 5 year revalidation schedule.

**FISCAL NOTE****PRIVATE COST**

**Department Title: Department of Social Services**  
**Division Title: Missouri Medicaid Audit and Compliance Unit**  
**Chapter Title: General Rules**

<b>Rule Number and Title:</b>	<b>13 CSR 65-2.020 Provider Enrollment and Application</b>
<b>Type of Rulemaking:</b>	<b>Proposed</b>

**I. SUMMARY OF FISCAL IMPACT**

<b>Estimate of the number of entities by class which would likely be affected by the adoption of the rule:</b>	<b>Classification by types of the business entities which would likely be affected:</b>	<b>Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:</b>
100	Medicaid-only newly enrolled providers	Application fees \$53,200
1181	Medicaid-only revalidating providers	Revalidation/screening costs+ application fees \$746,392
<b>TOTAL (annual for 1<sup>st</sup> two years)</b>		<b>\$799,592</b>

**II. WORKSHEET**

100 Medicaid-only providers enrolled per year multiplied by \$532 (current application fee) = \$53,200.

1,181 Medicaid-only providers revalidated in each of first 2 years multiplied by \$100 provider costs of revalidation/screening = \$118,100

1,181 Medicaid-only providers paying a \$532 application fee on revalidation = \$628,292

**III. ASSUMPTIONS**

Uses assumptions about the costs to each Medicaid-only provider of revalidation estimated by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). See 76 Fed. Reg. 5862, 5949-5958 (February 2, 2011).

Costs will change annually as the amount of the application fee changes.

The number of enrolling and revalidating Medicaid-only providers is an estimate and may be lower than estimated.

All providers will be revalidated between 2013 and 2016. Thereafter, they will be on a 5 year revalidation schedule.

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 65—Missouri Medicaid Audit and Compliance  
Chapter 2—Medicaid**

**PROPOSED RULE**

**13 CSR 65-2.030 Denial or Limitations of Applying Provider**

*PURPOSE: This rule implements federal regulatory requirements promulgated by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services at 76 Fed. Reg. 5862 (February 2, 2011), 42 CFR Parts 455 and 457, establishing the bases on which enrollment, revalidation, and establishment of a new practice location may be approved, limited, or denied.*

(1) Missouri Medicaid Audit Compliance (MMAC) shall terminate the provider's enrollment or deny enrollment—

(A) Where the provider or any person with a five percent (5%) or greater direct or indirect ownership interest in the provider did not submit timely and accurate information or did not cooperate with screening methods required under applicable statutes and regulations unless the provider or person cures the failure to comply with this subsection within thirty (30) days of MMAC's notice that it intends to terminate the provider or deny enrollment;

(B) Where the provider or any person with a five percent (5%) or greater direct or indirect ownership interest in the provider has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last ten (10) years, unless MMAC determines that denial or termination of enrollment is not in the best interests of the MO HealthNet Program and MMAC documents that determination in writing;

(C) Of any provider that is terminated on or after January 1, 2011, under Title XVIII of the Social Security Act or under the Medicaid Program or Children's Health Insurance Program (CHIP) of any other state unless MMAC determines that the termination was not for cause, which may include, but is not limited to, fraud, integrity, or quality. Termination or denial of enrollment will not be required if MMAC determines it would not be in the best interests of the MO HealthNet Program and MMAC receives a waiver from the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services pursuant to 42 USC 1320a-7;

(D) If the provider or a person with an ownership or control interest or who is an agent or managing employee of the provider fails to submit timely or accurate information, unless MMAC determines that termination or denial of enrollment is not in the best interests of the MO HealthNet Program, and MMAC documents that determination in writing;

(E) If the provider, or any person with a five percent (5%) or greater direct or indirect ownership interest in the provider, fails to submit sets of fingerprints in a form and manner to be determined by MMAC within thirty (30) days of a request by CMS or MMAC, unless MMAC determines that termination or denial of enrollment is not in the best interests of the MO HealthNet Program, and MMAC documents that determination in writing; and

(F) If the provider fails to permit access to provider locations for any site visits under 13 CSR 65-2.020, unless MMAC determines that termination or denial of enrollment is not in the best interests of the MO HealthNet Program, and MMAC documents that determination in writing.

(2) MMAC may terminate the provider's enrollment or deny enrollment if CMS or MMAC—

(A) Determines that the provider has falsified any information provided on the application; or

(B) Cannot verify the identity of any provider applicant.

(3) Except to the extent inconsistent with this rule, the requirements of 13 CSR 70-3.020 and 13 CSR 70-3.030 remain in force, includ-

ing any provisions regarding denial of applications and termination, until those provisions are rescinded.

(4) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

*AUTHORITY: sections 660.017 and 208.159, RSMo 2000. Original rule filed Dec. 12, 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 rule with the Department of Social Services, Jessica Dresner, Director, Missouri Medicaid Audit and Compliance Unit, PO Box 6500, 205 Jefferson St., 2nd Floor, 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 10—Nursing Home Program**

**PROPOSED AMENDMENT**

**13 CSR 70-10.030 Prospective Reimbursement Plan for Nonstate-Operated Facilities for ICF/MR Services.** The division is adding subparagraph (4)(A)1.N.

*PURPOSE: This amendment provides for Fiscal Year 2014 trend factor to be applied to adjust per diem rates for nonstate-operated ICF/MR facilities providing ICF/MR services participating in the Medicaid program.*

(4) Prospective Reimbursement Rate Computation.

(A) Except in accordance with other provisions of this rule, the provisions of this section shall apply to all providers of ICF/MR services certified to participate in Missouri's MO HealthNet program.

1. ICF/MR facilities.

A. Except in accordance with other provisions of this rule, the MO HealthNet program shall reimburse providers of these LTC services based on the individual MO HealthNet-participant days of care multiplied by the Title XIX prospective per-diem rate less any payments collected from participants. The Title XIX prospective per-diem reimbursement rate for the remainder of state Fiscal Year 1987 shall be the facility's per-diem reimbursement payment rate in effect on October 31, 1986, as adjusted by updating the facility's allowable base year to its 1985 fiscal year. Each facility's per-diem costs as reported on its Fiscal Year 1985 Title XIX cost report will be determined in accordance with the principles set forth in this rule. If a facility has not filed a 1985 fiscal year cost report, the most current cost report on file with the department will be used to set its per-diem rate. Facilities with less than a full twelve (12)-month 1985 fiscal year will not have their base year rates updated.

B. For state FY-88 and dates of service beginning July 1, 1987, the negotiated trend factor shall be equal to two percent (2%) to be applied in the following manner: Two percent (2%) of the average per-diem rate paid to both state- and nonstate-operated ICF/MR facilities on June 1, 1987, shall be added to each facility's rate.

C. For state FY-89 and dates of service beginning January 1, 1989, the negotiated trend factor shall be equal to one percent (1%) to be applied in the following manner: One percent (1%) of the average per-diem rate paid to both state- and nonstate-operated ICF/MR facilities on June 1, 1988, shall be added to each facility's rate.

D. For state FY-91 and dates of service beginning July 1, 1990, the negotiated trend factor shall be equal to one percent (1%) to be applied in the following manner: One percent (1%) of the average per-diem rate paid to both state- and nonstate-operated ICF/MR facilities on June 1, 1990, shall be added to each facility's rate.

E. FY-96 negotiated trend factor. All nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates effective for dates of service beginning January 1, 1996, of six dollars and seven cents (\$6.07) per patient day for the negotiated trend factor. This adjustment is equal to four and six-tenths percent (4.6%) of the weighted average per-diem rates paid to nonstate-operated ICF/MR facilities on June 1, 1995, of one hundred and thirty-one dollars and ninety-three cents (\$131.93).

F. State FY-99 trend factor. All nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates effective for dates of service beginning July 1, 1998, of four dollars and forty-seven cents (\$4.47) per patient day for the trend factor. This adjustment is equal to three percent (3%) of the weighted average per-diem rate paid to nonstate-operated ICF/MR facilities on June 30, 1998, of one hundred forty-eight dollars and ninety-nine cents (\$148.99).

G. State FY-2000 trend factor. All nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates effective for dates of service beginning July 1, 1999, of four dollars and sixty-three cents (\$4.63) per patient day for the trend factor. This adjustment is equal to three percent (3%) of the weighted average per-diem rate paid to nonstate-operated ICF/MR facilities on April 30, 1999, of one hundred fifty-four dollars and forty-three cents (\$154.43). This increase shall only be used for increases for the salaries and fringe benefits for direct care staff and their immediate supervisors.

H. State FY-2001 trend factor. All nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates effective for dates of service beginning July 1, 2000, of four dollars and eighty-one cents (\$4.81) per patient day for the trend factor. This adjustment is equal to three percent (3%) of the weighted average per-diem rate paid to nonstate-operated ICF/MR facilities on April 30, 2000, of one hundred sixty dollars and twenty-three cents (\$160.23). This increase shall only be used for increases for salaries and fringe benefits for direct care staff and their immediate supervisors.

I. State FY-2007 trend factor. All nonstate-operated ICF/MR facilities shall be granted an increase of seven percent (7%) to their per-diem rates effective for dates of service billed for state fiscal year 2007 and thereafter. This adjustment is equal to seven percent (7%) of the per-diem rate paid to nonstate-operated ICF/MR facilities on June 30, 2006.

J. State FY-2008 trend factor. Effective for dates of service beginning July 1, 2007, all nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates of two percent (2%) for the trend factor. This adjustment is equal to two percent (2%) of the per-diem rate paid to nonstate-operated ICF/MR facilities on June 30, 2007.

K. State FY-2009 trend factor. Effective for dates of service beginning July 1, 2008, all nonstate-operated ICF/MR facilities shall be granted an increase to their per-diem rates of three percent (3%) for the trend factor. This adjustment is equal to three percent (3%) of the per-diem rate paid to nonstate-operated ICF/MR facilities on June 30, 2008.

L. State FY-2009 catch up increase. Effective for dates of service beginning July 1, 2008, all nonstate-operated ICF/MR facilities shall be granted an increase to their per diem rates of thirteen and ninety-five hundredths percent (13.95%). This adjustment is equal to thirteen and ninety-five hundredths percent (13.95%) of the per-diem rate paid to nonstate-operated ICF/MR facilities on June

30, 2008. This increase is intended to provide compensation to providers for the years (2003, 2004, 2005, and 2006) where no trend factor was given. The catch up increase was based on the CMS PPS Skilled Nursing Facility Input Price Index (4 quarter moving average).

M. State FY-2012 trend factor. Effective for dates of service beginning October 1, 2011, all nonstate-operated ICF/MR facilities shall be granted an increase to their per diem rates of one and four tenths percent (1.4%) for the trend factor. This adjustment is equal to one and four tenths percent (1.4%) of the per diem rate paid to nonstate-operated ICF/MR facilities on September 30, 2011.

**N. State FY-2014 trend factor. Effective for dates of service beginning January 1, 2014, all nonstate-operated ICF/MR facilities shall be granted an increase to their per diem rates of three percent (3%) for the trend factor. This adjustment is equal to three percent (3%) of the per diem rate paid to nonstate-operated ICF/MR facilities on December 31, 2013.**

2. Adjustments to rates. The prospectively determined reimbursement rate may be adjusted only under the following conditions:

A. When information contained in a facility's cost report is found to be fraudulent, misrepresented, or inaccurate, the facility's reimbursement rate may be reduced, both retroactively and prospectively, if the fraudulent, misrepresented, or inaccurate information as originally reported resulted in establishment of a higher reimbursement rate than the facility would have received in the absence of this information. No decision by the MO HealthNet agency to impose a rate adjustment in the case of fraudulent, misrepresented, or inaccurate information in any way shall affect the MO HealthNet agency's ability to impose any sanctions authorized by statute or rule. The fact that fraudulent, misrepresented, or inaccurate information reported did not result in establishment of a higher reimbursement rate than the facility would have received in the absence of the information also does not affect the MO HealthNet agency's ability to impose any sanctions authorized by statute or rules;

B. In accordance with subsection (6)(B) of this rule, a newly constructed facility's initial reimbursement rate may be reduced if the facility's actual allowable per diem cost for its first twelve (12) months of operation is less than its initial rate;

C. When a facility's MO HealthNet reimbursement rate is higher than either its private pay rate or its Medicare rate, the MO HealthNet rate will be reduced in accordance with subsection (2)(B) of this rule;

D. When the provider can show that it incurred higher cost due to circumstances beyond its control, and the circumstances are not experienced by the nursing home or ICF/MR industry in general, the request must have a substantial cost effect. These circumstances include, but are not limited to:

(I) Acts of nature, such as fire, earthquakes, and flood, that are not covered by insurance;

(II) Vandalism, civil disorder, or both; or

(III) Replacement of capital depreciable items not built into existing rates that are the result of circumstances not related to normal wear and tear or upgrading of existing system;

E. When an adjustment to a facility's rate is made in accordance with the provisions of section (6) of this rule; or

F. When an adjustment is based on an Administrative Hearing Commission or court decision.

*AUTHORITY: section 208.159, RSMo 2000, and sections 208.153 and 208.201, RSMo Supp. [2011] 2013. This rule was previously filed as 13 CSR 40-81.083. Original rule filed Aug. 13, 1982, effective Nov. 11, 1982. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 13, 2013.*

*PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately ninety-seven thousand nine hundred five dollars (\$97,905) for SFY 2014.*

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication 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.*

**FISCAL NOTE  
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services  
**Division Title:** Division 70 - MO HealthNet Division  
**Chapter Title:** Chapter 10 - Nursing Home Program

<b>Rule Number and Name:</b>	13 CSR 70-10.030 Prospective Reimbursement Plan for Nonstate-Operated Facilities for ICF/MR Services
<b>Type of Rulemaking:</b>	Proposed Amendment

**II. SUMMARY OF FISCAL IMPACT**

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services MO HealthNet Division	Estimated cost for SFY 2014: \$97,905

**III. WORKSHEET**

Description	Trend Add-On Increase
Estimated Paid Days: SFY 2014	28,114
Effective 1/1/14: January-June = 6/12 months	6/12
Estimated Paid Days Impacted SFY 2014	14,057
x Average Per Diem Rate Increase	\$6.96
Total Estimated Impact: SFY 2014	\$97,905
State Share (General Revenue)	\$37,175
Federal Share (62.03%)	\$60,731

**IV. ASSUMPTIONS****Estimated Paid Days:****ICF/MR Facility:**

The estimated paid days for SFY 2014 are based on the actual Medicaid days paid for nonstate-operated ICF/MR facility services paid during SFY 2013. There are seven (7) facilities which operate close to full occupancy and the number of patient days has been constant each year.

**Title 15—ELECTED OFFICIALS  
Division 30—Secretary of State  
Chapter 50—General**

**PROPOSED AMENDMENT**

**15 CSR 30-50.010 Definitions.** The commissioner of securities is amending subsections (1)(F) and (N).

*PURPOSE:* This amendment modifies the existing rule to correct an inaccuracy in the definition of “certified,” and to correct an inaccuracy within the definition of “NASAA.” As it currently reads, 15 CSR 30-50.010(1)(F) incorrectly refers to “generally accepted accounting practices.” This amendment modifies 15 CSR 30-50.010(1)(F) to correctly refer to “generally accepted accounting principles.” Additionally, 15 CSR 30-50.010(1)(N) incorrectly defines NASAA as the “National Association of Securities Administrators Association, Inc.” This amendment modifies 15 CSR 30-50.010(1)(N) to correctly define NASAA as the “North American Securities Administrators Association, Inc.”

(1) When the terms listed in this rule are used in the Missouri Securities Act of 2003 (the Act), these rules, the forms, and the orders of the commissioner, the following meanings shall apply (unless the context otherwise requires), together with those which may later appear to the extent that they are not inconsistent with definitions provided in Chapter 409, RSMo:

(F) Certified means, when used in connection with financial statements, certified by an independent certified public accountant in accordance with generally accepted accounting [practices] principles;

(N) NASAA means the [National Association of Securities Administrators Association, Inc] North American Securities Administrators Association, Inc.;

*AUTHORITY:* section 409.6-605, RSMo Supp. [2010] 2013. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 3, 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 Office of the Secretary of State, Securities Division, Andrew M. Hartnett, Securities Commissioner, PO Box 1276, 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 15—ELECTED OFFICIALS  
Division 30—Secretary of State  
Chapter 50—General**

**PROPOSED AMENDMENT**

**15 CSR 30-50.040 Forms.** The commissioner of securities is amending paragraphs (1)(A)3. and 5.

*PURPOSE:* This amendment modifies the existing rule to update the “revised” date of a form. As it currently reads, the rule states that the Missouri Broker-Dealer Affidavit was last revised in October

2001. The amendment updates the revised date to January 2005.

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

(A) Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives—

1. Form BD—Uniform Application for Broker-Dealer Registration approved May 2001, OMB Approval Number 3235-0012, or any form which substantially comports with the specified form;

2. Form BDW—Uniform Request for Broker-Dealer Withdrawal approved November 2000, OMB Approval Number 3235-0018, or any form which substantially comports with the specified form;

3. Form SBD-1—Missouri Broker-Dealer Affidavit revised [October 2001] January 2005, or any form which substantially comports with the specified form;

4. Form X-17A-5—Financial and Operational Combined Uniform Single Report approved July 2002, OMB Approval Number 3235-0123, or any form which substantially comports with the specified form;

5. Form U-4—Uniform Application for Securities Industry Registration or Transfer adopted by the North American Securities [Administration] Administrators Association, Inc. (NASAA) on April 16, 2003, or any form which substantially comports with the specified form;

6. Form U-5—Uniform Termination Notice for Securities Industry Registration adopted by the NASAA on April 16, 2003, or any form which substantially comports with the specified form;

7. Form SA-1—Missouri Application for Renewal Registration as Agent revised August 2003, or any form which substantially comports with the specified form;

8. Form ADV—Uniform Application for Investment Adviser Registration approved July 2003, OMB Approval Number 3235-0049, or any form which substantially comports with the specified form;

9. Form ADV-W—Uniform Notice of Withdrawal from Registration as Investment Adviser approved January 2001, OMB Approval Number 3235-0313, or any form which substantially comports with the specified form;

10. Form SADV-1—State Covered Investment Adviser Affidavit revised March 2002, or any form which substantially comports with the specified form;

11. Form SADV-SH—State Application for Hardship Exemption from IARD revised October 2001, or any form which substantially comports with the specified form; and

12. Form U-2—Uniform Consent to Service of Process adopted by NASAA and revised November 1997, or any form which substantially comports with the specified form.

*AUTHORITY:* section 409.6-605, RSMo Supp. [2005] 2013. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 3, 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 Office of the Secretary of State, Securities Division, Andrew M. Hartnett, Securities Commissioner, PO Box 1276, 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 15—ELECTED OFFICIALS  
Division 30—Secretary of State  
Chapter 52—Registration of Securities**

**PROPOSED AMENDMENT**

**15 CSR 30-52.015 Applications for Registration.** The commissioner of securities is amending section (1).

*PURPOSE:* This amendment clarifies an existing rule. As it is currently composed, 15 CSR 30-52.015(1) reads “Registration by Coordination and Qualification.” The proposed amendment changes it to read “Registration by Coordination or Qualification,” which is more accurate and consistent with the rest of 15 CSR 30-52.015.

(1) Registration by Coordination *[and]* or Qualification. A registration statement to register securities by coordination or qualification shall contain the following:

*AUTHORITY:* sections 409.3-303, 409.3-304, 409.3-305, 409.3-307, 409.6-605, and 409.6-611, RSMo Supp. [2003] 2013. Original rule filed Aug. 30, 2002, effective Feb. 28, 2003. Emergency amendment filed Aug. 19, 2003, effective Sept. 12, 2003, expired March 9, 2004. Amended: Filed Aug. 22, 2003, effective Feb. 29, 2004. Amended: Filed Dec. 3, 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 Office of the Secretary of State, Securities Division, Andrew M. Hartnett, Securities Commissioner, PO Box 1276, 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 15—ELECTED OFFICIALS  
Division 30—Secretary of State  
Chapter 52—Registration of Securities**

**PROPOSED AMENDMENT**

**15 CSR 30-52.030 NASAA Statements of Policy.** The commissioner of securities is amending subsection (1)(A).

*PURPOSE:* This amendment updates an existing rule. As it is currently composed, 15 CSR 30-52.030(1)(A) contains inaccurate “as amended by NASAA on” dates. The amendment edits the rule to reference the correct dates. The amendment also updates the link to the relevant NASAA statements of policy.

(1) The Securities Division will apply the applicable statement of policy adopted by North American Securities Administrators Association, Inc. (NASAA) when conducting a merit review to determine whether an offering is fair, just, and equitable.

(A) The following statements of policy are hereby incorporated by reference and made a part of this rule as published by NASAA, 750 First Street, N.E./E./J., Suite 1140, Washington, D.C./C./J 20002, and available at [[http://www.nasaa.org/industry\\_regulatory\\_resources/corporation\\_finance/1248.cfm](http://www.nasaa.org/industry_regulatory_resources/corporation_finance/1248.cfm)] <http://www.nasaa.org/regulatory-activity/statements-of-policy/>. This rule does not incorporate any subsequent amendments or additions:

1. Corporate Securities Definitions, as amended by NASAA on [September 28, 1999] **March 31, 2008**;

2. Loans and Other Material Affiliated Transactions, as amended by NASAA on [November 18, 1997] **March 31, 2008**;

3. Options and Warrants, as amended by NASAA on [September 28, 1999] **March 31, 2008**;

4. Preferred Stock, as amended by NASAA on [April 27, 1997] **March 31, 2008**;

5. Promoter’s Equity Investment, as [adopted] amended by NASAA on [April 27, 1997] **March 31, 2008**;

6. Promotional Shares, as amended by NASAA on [September 28, 1999] **March 31, 2008**;

7. Risk Disclosure Guidelines, as adopted by NASAA on September 9, 2001;

8. Specificity in Use of Proceeds, as amended by NASAA on [September 28, 1999] **March 31, 2008**;

9. Underwriting Expenses, Underwriter’s Warrants, Selling Expenses and Selling Security Holders, as [adopted] amended by NASAA on [September 28, 1999] **March 31, 2008**;

10. Unsound Financial Condition, as [adopted] amended by NASAA on [September 28, 1999] **March 31, 2008**;

11. Unequal Voting Rights, as [adopted] amended by NASAA on [October 24, 1991] **March 31, 2008**;

12. Registration of Asset-Backed Securities, as amended by NASAA on May 7, 2007;

13. Mortgage Program Guidelines, as amended by NASAA on May 7, 2007;

14. Real Estate Programs, as revised by NASAA on May 7, 2007;

15. Real Estate Investment Trusts, as revised by NASAA on May 7, 2007;

16. Registration of Oil and Gas Programs, as amended by NASAA on May 7, 2007;

17. Equipment Programs, as amended by NASAA on May 7, 2007;

18. Commodity Pool Programs, as amended by NASAA on May 7, 2007;

19. Cattle-Feeding Programs, as adopted by NASAA on September 17, 1980;

20. Omnibus Guidelines, as amended by NASAA on May 7, 2007; and

21. Viatical Investment Guidelines, as adopted by NASAA on October 1, 2002.

*AUTHORITY:* sections 409.3-303, 409.3-304, 409.3-305, 409.3-306, 409.3-307, 409.5-501, 409.6-605, and 409.6-608, RSMo Supp. [2007] 2013. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 3, 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 Office of the Secretary of State, Securities Division, Andrew M. Hartnett, Securities Commissioner, PO Box 1276, 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 15—ELECTED OFFICIALS  
Division 30—Secretary of State  
Chapter 52—Registration of Securities**

**PROPOSED AMENDMENT**

**15 CSR 30-52.275 Small Company Offering Registrations (formerly Missouri Issuer Registration).** The commissioner of securities is amending sections (1) and (3).

*PURPOSE:* The purpose of this amendment is to correct inaccuracies and clarify citations, within the original rule. As it currently reads, the rule inaccurately attributes to the Securities Division certain powers held by the commissioner (the commissioner is the one who incorporates by reference North American Securities Administrators Association, Inc. (NASAA) statements of policy). Accordingly, the amendment changes the relevant language from “Securities Division” to “commissioner of securities.” The current rule also contains a provision outlining different financial statements requirements for SCOR offerings over one (1) million dollars, which is inaccurate, because under the NASAA statement of policy incorporated by reference in section (1), a SCOR offering must be under one (1) million dollars. Lastly, for clarification, the amendment pinpoints the 15 CSR 30-52.025 citation to 15 CSR 30-52.025(3).

(1) The [Securities Division] commissioner of securities hereby incorporates by reference the North American Securities Administrators Association, Inc. (NASAA) Statement of Policy Regarding Small Company Offering Registrations (SCOR), as adopted by NASAA, 750 First Street, NE, Suite 1140, Washington, DC 20002, on April 28, 1996, and available at <http://www.nasaa.org/industry-resources/corporation-finance/scor-overview/scor-statement-of-policy/>. This rule does not incorporate any subsequent amendments or additions.

(3) Financial Statements. The financial statements for SCOR offerings [over one (1) million dollars shall comply with 15 CSR 30-52.025. The financial statements for SCOR offerings up to one (1) million dollars shall also] shall comply with 15 CSR 30-52.025(3), but only need to be reviewed as determined under the NASAA Statement of Policy Regarding SCOR.

*AUTHORITY:* sections 409.3-304, 409.3-305, 409.3-306, 409.3-307, and 409.6-605, RSMo Supp. [2003] 2013. Original rule filed Nov. 1, 1996, effective June 30, 1997. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 3, 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 Office of the Secretary of State, Securities Division, Andrew M. Hartnett, Securities Commissioner, PO Box 1276, 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 15—ELECTED OFFICIALS  
Division 30—Secretary of State  
Chapter 54—Exemptions and Federal Covered Securities**

**PROPOSED AMENDMENT**

**15 CSR 30-54.010 General.** The commissioner of securities is amending sections (2) and (3) of this rule.

*PURPOSE:* This amendment modifies the existing rule to correct an inaccuracy within the citations found in 15 CSR 30-54.010(2) and (3). As it currently reads, 15 CSR 30-54.010(2) incorrectly references 15 CSR 30-50.010(1)(H). This amendment changes 15 CSR 30-54.010(2) to correctly reference 15 CSR 30-50.010(1)(I). Additionally, 15 CSR 30-54.010(3) incorrectly references section 409.2-210(7), RSMo. This amendment changes 15 CSR 30-54.010(3) to correctly reference section 409.2-201(7), RSMo.

(2) The burden of proof that the offer and sale of large blocks of securities by any person or of any securities by controlling persons (15 CSR 30-50.010(1)(H)(I)) is not directly or indirectly for the benefit of the issuer and therefore eligible for the nonissuer exemptions of section 409.2-202 of the Act, is upon the person claiming the exemption (section 409.5-503, RSMo). For purposes of this rule, sales of securities in accordance with rule 144 or any similar rule promulgated under the Securities Act of 1933 are deemed to be not directly or indirectly for the benefit of the issuer.

(3) All issuers who effect sales of securities pursuant to the exemptions specified in sections [409.2-210(7)] 409.2-201(7) and 409.2-203, RSMo, shall preserve the following records during the period of six (6) years following the completion of the sales:

*AUTHORITY:* sections 409.2-202, 409.2-203, 409.5-503, and 409.6-605, RSMo Supp. [2003] 2013. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 3, 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 Office of the Secretary of State, Securities Division, Andrew M. Hartnett, Securities Commissioner, PO Box 1276, 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 15—ELECTED OFFICIALS  
Division 30—Secretary of State  
Chapter 54—Exemptions and Federal Covered Securities**

**PROPOSED AMENDMENT**

**15 CSR 30-54.070 Not-for-Profit Securities.** The commissioner of securities is amending subsection (2)(B).

*PURPOSE:* This amendment modifies the existing rule to correct an inaccuracy. As it currently reads, the rule references the North American Securities Administrators Association, Inc. (NASAA) statement of policy regarding “Church Extension Funds.” The amendment edits the reference to correctly refer to the statement of policy regarding “Church Extension Fund Securities.”

(2) The following statements of policy are hereby incorporated by reference:

(B) Church Extension *[Funds]* **Fund Securities** as amended and published by NASAA on April 18, 2004. A copy of this policy can be obtained from NASAA, 750 First Street, NE, Suite 1140, Washington, DC 20002, and is available online at <http://www.nasaa.org/content/files/Church%5FExtension%5FFund%5FSecurities.pdf> [http://www.nasaa.org/wp-content/uploads/2011/07/39-Church\\_Extension\\_Fund\\_Securities.pdf](http://www.nasaa.org/wp-content/uploads/2011/07/39-Church_Extension_Fund_Securities.pdf). This rule does not incorporate any subsequent amendments or additions.

*AUTHORITY: sections 409.2-201(7)(B) and 409.6-605, RSMo Supp. [2005] 2013. Original rule filed June 25, 1968, effective Aug. 1, 1968. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 3, 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 Office of the Secretary of State, Securities Division, Andrew M. Hartnett, Securities Commissioner, PO Box 1276, 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 15—ELECTED OFFICIALS**  
**Division 30—Secretary of State**  
**Chapter 54—Exemptions and Federal Covered Securities**

**PROPOSED AMENDMENT**

**15 CSR 30-54.150 Suggested Form of Investment Letter.** The commissioner of securities is amending the purpose statement of this rule.

*PURPOSE: This amendment modifies the existing rule's purpose statement to correct an inaccurate citation of section 409.402(b)(10), RSMo. This amendment changes 15 CSR 30-54.150 to correctly cite section 409.2-202(14), RSMo.*

*PURPOSE: This rule suggests the form [for compliance with the requirement of an investment undertaking in clause (B), section 409.402(b)(10)] of an investment letter for securities offered pursuant to section 409.2-202(14), RSMo [1986].*

*AUTHORITY: sections 409.2-202(14) and 409.6-605, RSMo Supp. [2003] 2013. Original rule filed July 21, 1972, effective Aug. 1, 1972. For intervening history, please consult the Code of State Regulations. Amended: Filed Dec. 3, 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 Office of the Secretary of State, Securities Division, Andrew M. Hartnett, Securities Commissioner, PO Box 1276, 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.*