19 Mo. Code of State Regulations 30-70.110

19 CSR 30-70.110 Definitions and Abbreviations for Lead Abatement and Assessment Licensing

PURPOSE: This rule provides definitions and abbreviations to be used in the interpretation and enforcement of 19 CSR 30-70.110 through 19 CSR 30-70.200.

(1) EPA is the United States Environmental Protection Agency.

(2) Large-scale abatement project is a lead abatement project consisting of ten (10) or more dwellings.

(3) Occupation is one of the specific types or categories of lead-bearing substance activities identified in these regulations for which individuals may receive training from accredited training providers. This includes, but not limited to, lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and/or project designer.

(4) OLLA is the Missouri Department of Health Office of Lead Licensing and Accreditation.

(5) Passing score is a grade of seventy percent (70%) or better on the state examination for a lead occupation license.

(6) Reciprocity is an agreement between OLLA and other states who have similar licensing provisions.

(7) Refresher course is the course of instruction established by these regulations which must be periodically completed to obtain or maintain an individual’s licensure in a single occupation.

(8) Renewal is the reissuance of a lead occupation license.

(9) Training course, is the course of instruction established by these regulations to prepare an individual for licensure in a single occupation.

(10) Training provider is a person or entity providing training courses for the purpose of state licensure or licensure renewal in the occupations of lead inspector, risk assessor, lead abatement worker, lead abatement supervisor, and/or project designer.

Current through May 31, 2014
PURPOSE: This rule outlines specific responsibilities that apply to all applicants of a lead occupation license and all licensed individuals.

(1) Waiver. Applicants for licensure and/or licensees may authorize others, such as their employer, to act on their behalf regarding their license application. Such authorization shall be indicated on the application form provided by the Office of Lead Licensing and Accreditation (OLLA). If at any time the applicant and/or licensee decides to change this authorization, the applicant and/or the licensee shall notify OLLA in writing of such change.

(2) Change of Address. Licensed individuals shall notify OLLA in writing of a change of mailing address no later than thirty (30) days following the change. Licensed contractors shall notify OLLA in writing of a change of business address no later than thirty (30) days following the change. Until a change of address is received, all correspondence will be mailed to the individual’s mailing address and the contractor’s business address indicated on the most recent application form.

(3) Reciprocity. OLLA may issue a lead occupation license to any person or entity who has made application and provided proof of certification or licensure from another state, provided that OLLA has entered into a reciprocity agreement with that state, and the necessary fees have been paid.

(4) Suspension, Revocation or Restriction of a Lead Occupation License.

(A) OLLA may restrict, suspend or revoke a license issued under sections 701.300 through 701.338, RSMo, for any one or any combination of the following causes:

1. Providing any false information in the application;

2. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

3. History of citations or violations of existing lead abatement regulations or standards;

4. Fraud or failure to disclose facts relevant to his or her application and/or license;

Current through May 31, 2014
5. Performing work requiring licensure at the job site without having proof of licensure;

6. Conviction of a felony under any state or federal law or having entered a plea of guilty or *nolo contendere* in a criminal prosecution under the laws of any state or of the United States;

7. Permitting the duplication or use of the individual’s own training certificate, license, or license identification by another;

8. Performing work requiring licensure at a job site without being licensed;

9. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections;

10. Other information which may affect the licensee’s ability to appropriately perform lead-bearing substance activities; or

11. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

(B) Prior to restricting, suspending, or revoking a license, the licensee will be given written notice of the reasons for the suspension, revocation and/or restriction. The licensee may appeal the determination of OLLA by requesting a hearing before the Administrative Hearing Commission as provided by section 621.045, RSMo.

(5) Replacement Fee. A fifteen dollar ($15) fee will be assessed for duplicate and/or replacement license certificates or identification badges.

19 Mo. Code of State Regulations 30-70.130

19 CSR 30-70.130 Application Process and Requirements for the Licensure of Lead Inspectors

*PURPOSE: This rule provides the requirements to be licensed as a lead inspector.*

(1) Application for a Lead Inspector License.

Current through May 31, 2014
(A) An applicant for a lead inspector license must submit a completed application to the Office of Lead Licensing and Accreditation (OLLA) prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the state lead examination; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant’s full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant’s current employer;

C. The applicant’s Social Security number;

D. The county or counties in which the applicant is employed;

E. The location where the applicant would like to receive correspondence regarding his or her application or license;

F. The occupation the applicant wishes to be licensed for;

G. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states license/certificate;

H. Certification by the Environmental Protection Agency (EPA), including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

I. Type of training completed, including name of training provider, certificate identification number and dates of course completion;
J. Employment history and/or education which meets the experience and/or education requirements in paragraph (3)(B)1. of this regulation; and

K. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant’s knowledge and that the applicant will comply with applicable state statutes and regulations.

2. A copy of the OLLA- or EPA-accredited lead inspector training program completion certificate, and any required refresher completion certificates;

3. Two (2) recent passport-size color photographs of the applicant’s face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable);

4. Documentation pursuant to paragraph (3)(B)2. of this regulation as evidence of meeting the education and/or experience requirements for lead inspectors; and

5. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a lead inspector license shall apply to OLLA within one (1) year of the applicant’s successful completion of an OLLA- or EPA-accredited lead inspector training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training course completion certificate shall, before making application for license, successfully complete the eight (8)-hour lead inspector refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to apply within three (3) years of the lead inspector training and who have not successfully completed annual refresher training, shall successfully complete the OLLA- or EPA-accredited lead inspector training course again before submitting application for a lead inspector license.

(2) Application for a Lead Inspector License Under Reciprocity.

(A) An applicant for a lead inspector license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.
B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:
   
   A. The applicant’s full legal name, home address, and telephone number;

   B. The name, address, and telephone number of the applicant’s current employer;

   C. The applicant’s Social Security number;

   D. The location where the applicant would like to receive correspondence regarding his or her application or license;

   E. The occupation the applicant wishes to be licensed for;

   F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states’ license/certificate;

   G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

   H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant’s knowledge and that the applicant will comply with applicable state statutes and regulations;

2. Two (2) recent passport-size color photographs of the applicant’s face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training, Education and Experience Requirements for Lead Inspector License.
(A) An applicant for a license as a lead inspector shall complete an OLLA- or EPA-accredited lead inspector training program (see 19 CSR 30-70.330) and pass the course examination with a score of seventy percent (70%) or more.

(B) An applicant for a license as a lead inspector shall meet minimum education and/or experience requirements for a licensed lead inspector.

1. The minimum education and/or experience requirements for licensed lead inspector includes at least one (1) of the following:

A. A bachelor’s degree;

B. An associate’s degree and one (1) year experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work; or

C. A high school diploma or certificate of high school equivalency (GED) and two (2) years of experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work.

2. The following documents will be recognized by OLLA as evidence of meeting the requirements listed in subsection (3)(B) of this regulation:

A. Official academic transcripts or diploma as evidence of meeting the education requirements;

B. Resumes, letters of reference, or documentation of work experience, which, at a minimum, includes dates (month and year) of employment, employer’s name, address and telephone number, and specific job duties, as evidence of meeting the work experience requirements; and

C. Course completion certificates issued by the OLLA- or EPA-accredited training program as evidence of meeting the training requirements.

(4) Procedure for Issuance or Denial of Lead Inspector License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.
A. Within thirty (30) calendar days after the issuance date of the notice, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in OLLA’s denial of the applicant’s application for a lead inspector license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a lead inspector license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a lead inspector license for any one (1) or any combination of the following reasons:

A. Failure to satisfy the education and/or experience requirements;

B. Type and amount of training;

C. False or misleading statements in the application;

D. Failure to achieve a passing score on the state examination after three (3) attempts;

E. Failure to submit a complete application;

F. History of citations or violations of existing lead abatement regulations or standards;

G. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

H. Fraud or failure to disclose facts relevant to his or her application;

I. Conviction of a felony under any state or federal law or having entered a plea of guilty or nolo
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Assessment Licensing, Training Accreditation

contendere in a criminal prosecution under the laws of any state or of the United States;

J. Permitting the duplication or use by another of the individual’s training certificate;

K. Other information which may affect the applicant’s ability to appropriately perform lead
inspections;

L. Failure to comply with any state or federal law or regulation, including, but not limited to, any part
of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to those sections; or

M. Final disciplinary action against a licensee by another state, territory, federal agency or country,
whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of
licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or
restricting the license while subject to investigation or while actually under investigation by another
state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA for a lead inspector license by
submitting a complete lead occupation license application form with another nonrefundable fee of one
hundred dollars ($100).

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA’s
denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) Within one hundred and eighty (180) calendar days of application approval, the applicant shall attain a
passing score on the state lead inspector examination.

1. An applicant cannot sit for the state lead inspector examination more than three (3) times within one
hundred and eighty (180) calendar days after the issuance date of the notice of an approved application.

2. The applicant’s failure to attain a passing score on the state lead inspector examination within the one
hundred eighty(180)-day period following the notice of an approved application for a license shall result in
OLLA’s denial of the applicant’s application for a license. The individual may reapply to OLLA pursuant
to this regulation but only after retaking an OLLA- or EPA-accredited lead inspector training course.

(C) After the applicant passes the state lead inspector examination, OLLA will issue a two (2)-year lead
inspector license certificate and photo identification badge.

Current through May 31, 2014
(D) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

19 Mo. Code of State Regulations 30-70.140

19 CSR 30-70.140 Application Process and Requirements for the Licensure of Risk Assessors

**PURPOSE:** *This rule provides the requirements to be licensed as a risk assessor.*

(1) Application for a Risk Assessor License.

(A) An applicant for a risk assessor license must submit a completed application to the Office of Lead Licensing and Accreditation (OLLA) prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the state lead examination; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

   A. The applicant’s full legal name, home address, and telephone number;

   B. The name, address, and telephone number of the applicant’s current employer;

   C. The applicant’s Social Security number;

   D. The county or counties in which the applicant is employed;

   E. The location where the applicant would like to receive correspondence regarding his or her application or license;

   F. The occupation the applicant wishes to be licensed for;
G. Type of training completed, including name of training provider, certificate identification number and dates of course completion;

H. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states’ license/certificate;

I. Certification by the Environmental Protection Agency (EPA), including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

J. Employment history and/or education which meets the experience and/or education requirements in paragraph (3)(B)1. of this regulation; and

K. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant’s knowledge and that the applicant will comply with applicable state statutes and regulations;

2. A copy of the OLLA- or EPA-accredited lead inspector and risk assessor training program completion certificates and any required refresher completion certificates;

3. Two (2) recent passport-size color photographs of the applicant’s face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable);

4. Documentation pursuant to paragraph (3)(B)2. of this regulation as evidence of meeting the education and/or experience requirements for risk assessors; and

5. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a risk assessor license shall apply to OLLA within one (1) year of the applicant’s successful completion of an OLLA- or EPA-accredited risk assessor training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training program completion certificates shall, before making application for license, successfully complete the eight (8)-hour risk assessor refresher training course accredited by OLLA or the EPA.

Current through May 31, 2014
(D) Applicants failing to apply within three (3) years of the risk assessor training and who have not successfully completed annual refresher training, shall successfully complete the OLLA- or EPA-accredited risk assessor training course again before submitting application for a risk assessor license.

(2) Application for a Risk Assessor License Under Reciprocity.

(A) An applicant for a risk assessor license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

   A. The applicant’s full legal name, home address, and telephone number;

   B. The name, address, and telephone number of the applicant’s current employer;

   C. The applicant’s Social Security number;

   D. The location where the applicant would like to receive correspondence regarding his or her application or license;

   E. The occupation the applicant wishes to be licensed for;

   F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states' license/certificate;

   G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

   H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant’s knowledge and that the applicant will comply with applicable state statutes and regulations;

Current through May 31, 2014
2. Two (2) recent passport-size color photographs of the applicant’s face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training, Education and Experience Requirements for Risk Assessor License.

(A) An applicant for a license as a risk assessor shall complete an OLLA- or EPA-accredited lead inspector training program and an OLLA- or EPA-accredited risk assessor training program (see 19 CSR 30-70.340) and pass both of the course examinations with a score of seventy percent (70%) or more.

(B) An applicant for a license as a risk assessor shall meet minimum education and/or experience requirements for a licensed risk assessor.

1. The minimum education and/or experience requirements for a licensed risk assessor includes at least one (1) of the following:

A. A bachelor’s degree and at least one (1) year of experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work;

B. An associate’s degree and two (2) years experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work;

C. Certification as an industrial hygienist, professional engineer, registered architect and/or certification in a related engineering/health/environmental field such as safety professional or environmental scientist; or

D. A high school diploma or certificate of high school equivalency (GED) and three (3) years of experience in a related field such as lead, asbestos, housing repair or inspection, and/or environmental hazard remediation work.

2. The following documents will be recognized by OLLA as evidence of meeting the requirements listed in paragraph (3)(B)1. of this regulation:
A. Official academic transcripts or diploma, as evidence of meeting the education requirements;

B. Resumes, letters of reference, or documentation of work experience, which includes dates (month and year) of employment, employer’s name, address and telephone number, and specific job duties, as evidence of meeting the work experience requirements;

C. Course completion certificates issued by the OLLA- or EPA-accredited training program, as evidence of meeting the training requirements; and

D. Appropriate documentation of certifications or registrations.

(4) Procedure for Issuance or Denial of Risk Assessor License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

   A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing the information requested in the written notice.

   B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in OLLA’s denial of the applicant’s application for a risk assessor license.

   C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a risk assessor license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a risk assessor license for any one (1) or any combination of the following reasons:

   A. Failure to satisfy the education and/or experience requirements;

   B. Type and amount of training;
C. False or misleading statements in the application;

D. Failure to achieve a passing score on the state examination after three (3) attempts;

E. Failure to submit a complete application;

F. History of citations or violations of existing lead abatement regulations or standards;

G. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

H. Fraud or failure to disclose facts relevant to his or her application;

I. Conviction of a felony under any state or federal law or having entered a plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or of the United States;

J. Permitting the duplication or use by another of the individual’s training certificate;

K. Other information which may affect the applicant’s ability to appropriately perform risk assessments;

L. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

M. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA for a risk assessor license, by submitting a complete lead occupation license application form and another nonrefundable fee of one hundred dollars ($100).

Current through May 31, 2014
4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA’s
denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) Within one hundred and eighty (180) calendar days after the issuance date of application approval, the
applicant shall attain a passing score on the state risk assessor examination.

1. An applicant cannot sit for the state risk assessor examination more than three (3) times within one
hundred and eighty (180) calendar days after the issuance date of the notice of an approved application.

2. The applicant’s failure to attain a passing score on the state risk assessor exam within the one hundred
eighty (180)-day period following the notice of an approved application for a license shall result in
OLLA’s denial of the applicant’s application for a license. The individual may reapply to OLLA pursuant
to this regulation but only after retaking an OLLA- or EPA-accredited risk assessor training course.

(C) After the applicant passes the state risk assessor examination, OLLA will issue a two (2)-year risk assessor
license certificate and photo identification badge.

(D) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

19 Mo. Code of State Regulations 30-70.150
19 CSR 30-70.150 Application Process and Requirements for the Licensure of Lead Abatement Workers

PURPOSE: This rule provides the requirements to be licensed as a lead abatement worker.

(1) Application for a Lead Abatement Worker License.

(A) An applicant for a lead abatement worker license must submit a completed application to the Office of
Lead Licensing and Accreditation (OLL) prior to consideration for license issuance. All applications for
licensure must be received by OLLA at least thirty (30) days prior to the date of the lead abatement project;
provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify.
Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O.
Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

Current through May 31, 2014
1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant’s full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant’s current employer;

C. The applicant’s Social Security number;

D. The county or counties in which the applicant is employed;

E. The location where the applicant would like to receive correspondence regarding his or her application or license;

F. The occupation the applicant wishes to be licensed for;

G. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states’ license/certificate;

H. Certification by the Environmental Protection Agency (EPA), including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

I. Type of training completed, including name of training provider, certificate identification number and dates of course completion; and

J. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant’s knowledge and that the applicant will comply with applicable state statutes and regulations;

2. A copy of the OLLA- or EPA-accredited lead abatement worker training program completion certificate, and any required refresher completion certificates;
3. Two (2) recent passport-size color photographs of the applicant’s face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

4. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a lead abatement worker license shall apply to OLLA within one (1) year of the applicant’s successful completion of an OLLA- or EPA-accredited lead abatement worker training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training program completion certificate shall, before making application for license, successfully complete the eight (8)-hour lead abatement worker refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to apply within three (3) years of the lead abatement worker training and who have not successfully completed annual refresher training, shall successfully complete the OLLA- or EPA-accredited lead abatement worker training course again before submitting application for a lead abatement worker license.

(2) Application for a Lead Abatement Worker License Under Reciprocity.

(A) An applicant for a lead abatement worker license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

   A. The applicant’s full legal name, home address, and telephone number;

   B. The name, address, and telephone number of the applicant’s current employer;

   C. The applicant’s Social Security number;

   D. The location where the applicant would like to receive correspondence regarding his or her application or license;

Current through May 31, 2014
E. The occupation the applicant wishes to be licensed for;

F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states’ license/certificate;

G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant’s knowledge and that the applicant will comply with applicable state statutes and regulations;

2. Two (2) recent passport-size color photographs of the applicant’s face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training Requirements for Lead Abatement Worker License. An applicant for a license as a lead abatement worker shall complete an OLLA- or EPA-accredited lead abatement worker training program (see 19 CSR 30-70.350) and pass the course examination with a score of seventy percent (70%) or more. The document that will be recognized by OLLA as evidence of meeting the requirement is listed in subsection (1)(C) of this regulation.

(4) Procedure for Issuance or Denial of Lead Abatement Worker License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in OLLA’s denial of the applicant’s application for a lead abatement worker.

Current through May 31, 2014
C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a lead abatement worker license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a lead abatement worker license for any one (1) or any combination of the following reasons:

A. Type and amount of training;

B. False or misleading statements in the application;

C. Failure to submit a complete application;

D. History of citations or violations of existing lead abatement regulations or standards;

E. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

F. Fraud or failure to disclose facts relevant to his or her application;

G. Conviction of a felony under any state or federal law or having entered a plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or of the United States;

H. Permitting the duplication or use by another of the individual’s training certificate;

I. Other information which may affect the applicant’s ability to appropriately perform lead abatement work;

J. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

K. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of

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licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA by submitting a complete lead occupation license application form with another nonrefundable fee of one hundred dollars ($100).

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA’s denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) After notice of complete application, OLLA will issue a two (2)-year license certificate and photo identification badge.

(C) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

PURPOSE: This rule provides the requirements to be licensed as a lead abatement supervisor.

(1) Application for a Lead Abatement Supervisor License.

(A) An applicant for a lead abatement supervisor license must submit a completed application to the Office of Lead Licensing and Accreditation (OLLA) prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the state lead examination; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant’s full legal name, home address, and telephone number;
B. The name, address, and telephone number of the applicant’s current employer;

C. The applicant’s Social Security number;

D. The county or counties in which the applicant is employed;

E. The location where the applicant would like to receive correspondence regarding his or her application or license;

F. The occupation the applicant wishes to be licensed for;

G. Type of training completed, including name of training provider, certificate identification number and dates of course completion;

H. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states’ license/certificate;

I. Certification by the Environmental Protection Agency (EPA), including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

J. Employment history which meets the experience requirements in paragraph (3)(B)1. of this regulation; and

K. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant’s knowledge and that the applicant will comply with applicable state statutes and regulations;

2. A copy of the OLLA- or EPA-accredited lead abatement supervisor training program completion certificate, and any required refresher completion certificates;

3. Two (2) recent passport-size color photographs of the applicant’s face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable);
4. Documentation pursuant to paragraph (3)(B)2. of this regulation as evidence of meeting the experience requirements for lead abatement supervisors; and

5. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a lead abatement supervisor license shall apply to OLLA within one (1) year of the applicant’s successful completion of an OLLA- or EPA-accredited lead abatement supervisor training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training program completion certificate shall, before making application for license, successfully complete the eight (8)-hour lead abatement supervisor refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to apply within three (3) years of completing the lead abatement supervisor training and who have not successfully completed annual refresher training, shall successfully complete the OLLA-or EPA-accredited lead abatement supervisor training course again before submitting application for a lead abatement supervisor license.

(2) Application for a Lead Abatement Supervisor License Under Reciprocity.

(A) An applicant for a Lead Abatement Supervisor license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

   A. The applicant’s full legal name, home address, and telephone number;

   B. The name, address, and telephone number of the applicant’s current employer;

   C. The applicant’s Social Security number;

   D. The location where the applicant would like to receive correspondence regarding his or her
E. The occupation the applicant wishes to be licensed for;

F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states license/certificate;

G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant’s knowledge and that the applicant will comply with applicable state statutes and regulations;

2. Two (2) recent passport-size color photographs of the applicant’s face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training and Experience Requirements for Lead Abatement Supervisor License.

(A) An applicant for a license as a lead abatement supervisor shall complete an OLLA- or EPA-accredited lead abatement supervisor training program (see 19 CSR 30-70.360) and pass the course examination with a score of seventy percent (70%) or more.

(B) An applicant for a license as a lead abatement supervisor shall meet minimum experience requirements for a licensed lead abatement supervisor.

1. The minimum experience requirements for a licensed lead abatement supervisor licensure includes at least one (1) of the following:

A. At least one (1) year of experience as a licensed lead abatement worker (by Missouri, EPA or EPA-approved state);
B. At least two (2) years of experience in asbestos abatement work or as a construction manager or superintendent; or

C. At least two (2) years of experience as a manager for environmental hazard remediation projects.

2. The following documents shall be recognized by OLLA as evidence of meeting the requirements listed in subsection (3)(B) of this regulation:

A. Resumes, letters of reference, or documentation of work experience, which includes dates (month and year) of employment, employer’s name, address and telephone number, and specific job duties, as evidence of meeting the work experience requirements;

B. Course completion certificates issued by the OLLA- or EPA-accredited training program as evidence of meeting the training requirements; and

C. A copy of the lead abatement worker certificate or identification badge as evidence of having been a licensed lead abatement worker.

(4) Procedure for Issuance or Denial of Lead Abatement Supervisor License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice shall result in OLLA’s denial of the applicant’s application for a lead abatement supervisor license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a lead abatement supervisor license is denied, the written notice of denial to the
applicant will specify the reasons for the denial. OLLA may deny a lead abatement supervisor license for any one or any combination of the following reasons:

A. Failure to satisfy the experience requirements;

B. Type and amount of training;

C. False or misleading statements in the application;

D. Failure to achieve a passing score on the state examination after three (3) attempts;

E. Failure to submit a complete application;

F. History of citations or violations of existing lead abatement regulations or standards;

G. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

H. Fraud or failure to disclose facts relevant to his or her application;

I. Conviction of a felony under any state or federal law or having entered a plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or of the United States;

J. Permitting the duplication or use by another of the individual’s training certificate;

K. Other information which may affect the applicant’s ability to appropriately supervise lead abatement work;

L. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

M. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of
licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA by submitting a complete lead occupation license application form and another nonrefundable fee of one hundred dollars ($100).

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA’s denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) Within one hundred and eighty (180) calendar days after the issuance date of application approval, the applicant shall attain a passing score on the state lead abatement supervisor examination.

1. An applicant cannot sit for the state lead abatement supervisor examination more than three (3) times within one hundred and eighty (180) calendar days from the date of issuance of the notice of an approved application.

2. The applicant’s failure to attain a passing score on the state lead abatement supervisor exam within the one hundred eighty (180)-day period following the notice of an approved application for a license shall result in OLLA’s denial of the applicant’s application for license. The individual may reapply to OLLA pursuant to this regulation but only after retaking an OLLA- or EPA-accredited lead abatement supervisor training course.

(C) After the applicant passes the state lead abatement supervisor examination, OLLA will issue a two (2)-year lead abatement supervisor license certificate and photo identification badge.

(D) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

19 Mo. Code of State Regulations 30-70.170
19 CSR 30-70.170 Application Process and Requirements for the Licensure of Project Designers

PURPOSE: This rule provides the requirements to be licensed as a project designer.

(1) Application for a Project Designer License.

Current through May 31, 2014
(A) An applicant for a project designer license must submit a completed application to the Office of Lead Licensing and Accreditation (OLLA) prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the lead abatement project design; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed lead occupation license application form provided by OLLA which shall include:

   A. The applicant’s full legal name, home address, and telephone number;

   B. The name, address, and telephone number of the applicant’s current employer;

   C. The applicant’s Social Security number;

   D. The county or counties in which the applicant is employed;

   E. The location where the applicant would like to receive correspondence regarding his or her application or license;

   F. The occupation the applicant wishes to be licensed for;

   G. Type of training completed, including name of training provider, certificate, identification number and dates of course completion;

   H. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states’ license/certificate;

   I. Certification by the Environmental Protection Agency (EPA), including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate;

   J. Employment history and/or education which meets the experience and/or education requirements in
K. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant’s knowledge and that the applicant will comply with applicable state statutes and regulations;

2. A copy of the OLLA- or EPA-accredited lead abatement supervisor and project designer training program completion certificates, and any required refresher completion certificates;

3. Two (2) recent passport-size color photographs of the applicant’s face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable);

4. Documentation pursuant to paragraph (3)(B)2. of this regulation as evidence of meeting the education and/or experience requirements for project designers; and

5. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(C) An applicant for a project designer license shall apply to the OLLA within one (1) year of the applicant’s successful completion of an OLLA- or EPA-accredited project designer training course, as indicated on the certificate of completion. Applicants failing to apply within one (1) year from the date on the training provider completion certificates shall, before making application for license, successfully complete the four (4)-hour project designer refresher training course accredited by OLLA or the EPA.

(D) Applicants failing to apply within three (3) years of lead abatement supervisor and project designer training and who have not successfully completed annual refresher training, shall successfully complete the OLLA- or EPA-accredited project designer training course again before submitting application for a project designer license.

(2) Application for a Project Designer License Under Reciprocity.

(A) An applicant for a project designer license by reciprocity must submit a completed application to OLLA prior to consideration for license issuance. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

Current through May 31, 2014
1. Completed lead occupation license application form provided by OLLA which shall include:

A. The applicant’s full legal name, home address, and telephone number;

B. The name, address, and telephone number of the applicant’s current employer;

C. The applicant’s Social Security number;

D. The location where the applicant would like to receive correspondence regarding his or her application or license;

E. The occupation the applicant wishes to be licensed for;

F. Licensure for lead occupations in other states, including name of other states, type of license, license expiration date, and license number, and copies of other states’ license/certificate;

G. Certification by the EPA, including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

H. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant’s knowledge and that the applicant will comply with applicable state statutes and regulations;

2. Two (2) recent passport-size color photographs of the applicant’s face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

3. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) Training, Education and Experience Requirements for Project Designer License.

(A) An applicant for a license as a project designer shall complete an OLLA- or EPA-accredited lead abatement
(B) An applicant for a license as a project designer shall meet minimum education and/or experience requirements for a licensed project designer.

1. The minimum education and/or experience requirements for a licensed project designer include at least one (1) of the following:

   A. Bachelor’s degree in engineering, architecture, or a related profession, and one (1) year of experience in building construction and design;

   B. At least one (1) year of experience as a licensed lead abatement supervisor (by Missouri, EPA or an EPA-approved state) and at least two (2) years experience in building construction and design; or

   C. At least four (4) years of experience in building construction and design.

2. The following documents may be recognized by OLLA as evidence of meeting the requirements listed in paragraph (3)(B) 1. of this regulation:

   A. Official academic transcripts or diploma, as evidence of meeting the education requirements;

   B. Resumes, letters of reference, or documentation of work experience, which includes dates (month and year) of employment, employer’s name, address and telephone number, and specific job duties, as evidence of meeting the work experience requirements;

   C. Course completion certificates issued by the OLLA- or EPA-accredited training program as evidence of meeting the training requirements; and

   D. A copy of the lead abatement supervisor certificate or identification badge as evidence of having been a licensed lead abatement supervisor.

(4) Procedure for Issuance or Denial of Project Designer License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

Current through May 31, 2014
1. If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing, the information requested in the written notice.

B. Failure to submit the information requested in the written notice shall result in OLLA’s denial of the applicant’s application for a project designer license.

C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a project designer license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a project designer license for any one (1) or any combination of the following reasons:

A. Failure to satisfy the education and/or experience requirements;

B. Type and amount of training;

C. False or misleading statements in the application;

D. Failure to submit a complete application;

E. History of citations or violations of existing lead abatement regulations or standards;

F. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

G. Fraud or failure to disclose facts relevant to his or her application;

H. Conviction of a felony under any state or federal law or having entered a plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or of the United States;

Current through May 31, 2014
I. Permitting the duplication or use by another of the individual’s training certificate;

J. Other information which may affect the applicant’s ability to appropriately perform lead abatement project design;

K. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

L. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA by submitting a complete lead occupation license application form and another nonrefundable fee of one hundred dollars ($100).

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA’s denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) After notice of complete application, OLLA will issue a two (2)-year license certificate and photo identification badge.

(C) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

19 Mo. Code of State Regulations 30-70.180

19 CSR 30-70.180 Application Process and Licensure Renewal Requirements for Lead Abatement Contractors

*PURPOSE: This rule provides the requirements to be licensed and renewal requirements as a lead abatement contractor.*

(1) Application for a Lead Abatement Contractor License.

Current through May 31, 2014
(A) An applicant for a lead abatement contractor license must submit a completed application to the Office of Lead Licensing and Accreditation (OLLA) prior to consideration for license issuance. All applications for licensure must be received by OLLA at least thirty (30) days prior to the date of the lead abatement activity; provided, however, OLLA may waive the time for the filing of applications as particular circumstances justify. Completed applications shall be mailed to the Missouri Department of Health, Attention Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include:

1. A completed lead abatement contractor form provided by OLLA which shall include:
   A. The applicant’s name, address and telephone number;
   B. If the applicant is a sole proprietorship, the applicant’s Social Security number;
   C. The county or counties in which the applicant is located;
   D. Lead-bearing substance activities the applicant will be conducting (i.e., lead inspection, risk assessments, lead abatement projects, and/or project design);
   E. A certification that the lead abatement contractor shall only employ appropriately Missouri licensed individuals to conduct lead-bearing substance activities; and
   F. A certification that the lead abatement contractor and its employees shall follow the Missouri Work Practice Standards for Lead-Bearing Substances Activities in 19 CSR 30-70.600 through 19 CSR 30-70.650;

2. If the applicant is a corporation, a copy of its registration with the Missouri secretary of state’s office. Every corporation desiring a license as a lead abatement contractor under sections 701.300 through 701.338, RSMo, must be registered and in good standing with the Missouri secretary of state’s office;

3. Every corporation desiring a license which conducts business under a fictitious name must have the fictitious name registered with the Missouri secretary of state’s office, and must submit a copy of its fictitious name registration with its application to OLLA; and

Current through May 31, 2014
4. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of two hundred and fifty dollars ($250); provided, however, that lead abatement contractors who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee.

(2) Application for a Lead Abatement Contractor License Under Reciprocity.

(A) An applicant for a lead abatement contractor license by reciprocity shall apply to OLLA. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include:

1. A completed lead abatement contractor form provided by OLLA which shall include:

   A. The applicant’s name, address and telephone number;

   B. If the applicant is a sole proprietorship, the applicant’s social security number;

   C. The county or counties in which the applicant is located;

   D. Lead-bearing substance activities the applicant will be conducting (i.e., lead inspection, risk assessments, lead abatement projects, and/or project design);

   E. A certification that the lead abatement contractor shall only employ appropriately Missouri licensed individuals to conduct lead-bearing substance activities; and

   F. A certification that the lead abatement contractor and its employees shall comply with the Work Practice Standards 19 CSR 30-70.600 through 19 CSR 30-70.650; and

2. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of two hundred and fifty dollars ($250); provided, however, that lead abatement contractors who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee.
(3) Procedure for Issuance or Denial of a Lead Abatement Contractor License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

   A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing, the information requested in the written notice.

   B. Failure to submit the information requested in the written notice shall result in OLLA’s denial of the applicant’s application for a lead abatement contractor license.

   C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a lead abatement contractor license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a lead abatement contractor license for anyone (1) or any combination of the following reasons:

   A. History of citations or violations of existing local, state and federal lead abatement or other environmental regulations or standards;

   B. Past felony convictions under any state or federal law designed to protect human health or the environment. Any plea of guilty or nolo contendere shall be considered a conviction for the purposes of this subsection;

   C. False or misleading statements in the application;

   D. Failure to submit a complete application;

   E. Other information which may affect the applicant’s ability to appropriately perform lead-bearing substance activities;

   F. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

Current through May 31, 2014
G. Fraud or failure to disclose facts relevant to the lead abatement contractor application;

H. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

I. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. When an application is denied, the applicant may reapply to OLLA by submitting a complete lead abatement contractor application form along with the applicable fee.

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA’s denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) After notice of complete application, OLLA will issue a two (2)-year lead abatement contractor license.

(C) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

(4) Change of Ownership. If a licensed lead abatement contractor changes ownership, the new owner shall notify OLLA in writing no later than thirty (30) calendar days prior to the change of ownership becoming effective. The notification shall include a new lead abatement contractor license application, the appropriate fee, and the date that the change of ownership will become effective. The new lead abatement contractor application shall be processed in the same manner pursuant to 19 CSR 30-70.180(3). The current lead abatement contractor’s license shall expire on the effective date set forth in the notification of the change of ownership.

(5) Renewal Application for Lead Abatement Contractor License. An application for lead abatement contractor license renewal shall be mailed at least sixty (60) days prior to the expiration date on the license accompanied by a nonrefundable renewal fee of two hundred and fifty dollars ($250) (provided, however, that lead abatement contractors who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee) with a completed application form to the Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102. If the licensee fails to apply at least sixty (60) days prior to the expiration date on the license, OLLA cannot guarantee that the license will be renewed before the end of the licensing period.

19 Mo. Code of State Regulations 30-70.190

Current through May 31, 2014
PURPOSE: This rule provides the requirements for renewal licensure of lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and project designer.

(1) Renewal Application for Lead Inspector, Risk Assessor, Lead Abatement Worker, Lead Abatement Supervisor and Project Designer Licenses.

(A) A completed application for renewal of license, including required supporting documentation, shall be submitted to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570, at least sixty (60) days prior to the license expiration date indicated on the license. Failure of the licensee to submit an application at least sixty (60) days prior to the current license’s expiration date may result in the license not being renewed before the current license expires.

(B) The licensee applying for license renewal shall complete the eight (8)-hour Office of Lead Licensing Accreditation (OLLA)- or Environmental Protection Agency (EPA)-accredited refresher training course for the appropriate occupation.

(C) The renewal application shall include the following:

1. A completed lead occupation renewal license application form provided by OLLA which shall include:

A. The licensee’s full legal name, home address, and telephone number;

B. The name, address, and telephone number of the licensee’s current employer;

C. The licensee’s Social Security number;

D. The county or counties in which the licensee is employed;

E. The location where the licensee would like to receive correspondence regarding his or her renewal application or license;
F. The license occupation the licensee wishes to have renewed;

G. Type of refresher training completed, including name of training provider, certificate identification number and dates of course completion; and

H. Signature of the licensee which certifies that all information in the application is complete and true to the best of the licensee’s knowledge and that the licensee will comply with applicable state statutes and regulations;

2. A copy of the OLLA- or EPA-accredited refresher training course completion certificate for the appropriate occupation;

3. Two (2) recent passport-size color photographs of the licensee’s face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

4. A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of fifty dollars ($50).

(2) Procedure for Issuance or Denial of a Renewal License.

(A) OLLA will inform the licensee in writing that the renewal application is either approved, incomplete or denied.

1. If a renewal application is incomplete, the notice will include a list of additional information or documentation required to complete the renewal application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the licensee shall submit to OLLA the information requested in the written notice.

B. Failure to submit the information requested in the written notice to OLLA in writing shall result in OLLA’s denial of the licensee’s renewal application for the appropriate occupation.

C. After receipt of the information requested in the written notice, OLLA will inform the licensee in writing that the application is either approved or denied.

Current through May 31, 2014
2. When a renewal application for a lead license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a renewal license for any one (1) or any combination of the following reasons:

A. Type and amount of training;

B. False or misleading statements in the application;

C. Failure to submit a complete application;

D. History of citations or violations of existing lead abatement regulations or standards;

E. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

F. Fraud or failure to disclose facts relevant to his or her application;

G. Conviction of a felony under any state or federal law or having entered a plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or of the United States;

H. Permitting the duplication or use by another of the individual’s training certificate;

I. Other information which may affect the licensee’s ability to appropriately perform lead-bearing substance activities;

J. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or

K. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If a renewal application is denied, the applicant may reapply to OLLA by submitting a completed lead
4. If a licensee is aggrieved by a determination to deny renewal licensure, the applicant may appeal OLLA’s denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) After notice of complete renewal application, OLLA will issue a two (2)-year license certificate and photo identification badge.

(C) Restricted licenses may be issued pursuant to an agreement between the applicant or licensee and OLLA.

PURPOSE: This rule provides the requirements for reapplication of a lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and project designer after a license has expired.

(1) Unless sooner renewed or revoked, a license shall expire within two (2) years from its effective date indicated on the current license. If a licensee allows the license to expire before renewal, the licensee must reapply to the Office of Lead Licensing and Accreditation (OLLA). Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(2) The application shall include the following:

(A) A completed lead occupation license application form provided by OLLA which shall include:

1. The applicant’s full legal name, home address, and telephone number;

2. The name, address, and telephone number of the applicant’s current employer;

3. The applicant’s Social Security number;

4. The county or counties in which the applicant is employed;
5. The location where the applicant would like to receive correspondence regarding his or her application or license;

6. The license occupation the applicant wishes to be licensed for;

7. Type of training completed, including name of training provider, certificate identification number and dates of course completion;

8. Licensure for lead occupations in other states including, name of other states, type of license, license expiration date, and license number, and copies of other states’ license/certificate;

9. Certification by the Environmental Protection Agency (EPA), including EPA region number, type of certification, certification expiration date, certification number, and a copy of the EPA certificate; and

10. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant’s knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) A copy of the OLLA- or EPA-accredited refresher (and/or initial, if applicable—see 19 CSR 30-70.195(4)) training course completion certificate for the appropriate occupation;

(C) Two (2) recent passport-size color photographs of the applicant’s face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable); and

(D) A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one hundred dollars ($100).

(3) An applicant reapplying for a lead occupation license within one (1) year from the license expiration date shall complete the appropriate eight (8)-hour refresher training course accredited by OLLA or the EPA.

(4) Applicants failing to reapply within three (3) years of the license expiration date and who have not successfully completed annual refresher training, shall successfully complete the appropriate OLLA- or EPA-accredited initial training course again.
(5) Any licensed lead inspector, risk assessor, or lead abatement supervisor, that allows his or her license to expire before renewal shall retake the state lead examination for the appropriate occupation.

(6) OLLA will use the procedure for issuance or denial of a license pursuant to 19 CSR 30-70.130(4), 19 CSR 30-70.140(3), 19 CSR 30-70.150(4), 19 CSR 30-70.160(4), 19 CSR 30-70.170(4) as applicable.

19 Mo. Code of State Regulations 30-70.200

19 CSR 30-70.200 Application Process and Requirements for the Licensure of Risk Assessors Who Possessed a Valid Missouri Lead Inspector License on August 28, 1998

PURPOSE: This rule provides the requirements for a temporary risk assessor license.

(1) Only individuals possessing a valid Missouri lead inspector license on August 28, 1998, may apply for a risk assessor license pursuant to this rule. All other risk assessor applicants must apply pursuant to 19CSR 30-70.140. No person may apply for a risk assessor license pursuant to this rule after December 1, 2000.

(2) Completed applications shall be mailed to the Missouri Department of Health, P.O. Box 570, Jefferson City, MO 65102-0570.

(3) The application shall include the following:

(A) A completed lead occupation license application form provided by the Office of Lead Licensing and Accreditation (OLL) which shall include:

1. The applicant’s full legal name, home address, and telephone number;

2. The name, address, and telephone number of the applicant’s current employer;

3. The applicant’s Social Security number;

4. The county or counties in which the applicant is employed;

5. The location where the applicant would like to receive correspondence regarding his or her application.

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6. Name of training provider, certificate identification number and dates of course completion; and

7. Signature of the applicant which certifies that all information in the application is complete and true to the best of the applicant’s knowledge and that the applicant will comply with applicable state statutes and regulations;

(B) A copy of the OLLA- or Environmental Protection Agency (EPA)-accredited risk assessor refresher training course completion certificate; and

(C) Two (2) recent passport-size color photographs of the applicant’s face without a hat or sunglasses (computer generated or photocopied photographs are not acceptable).

(4) An applicant for a temporary risk assessor license shall apply to OLLA within one (1) year from the date on the completion certificate from an OLLA- or EPA-accredited risk assessor refresher training provider. Applicants failing to apply within these restrictions shall apply pursuant to 19 CSR 30-70.140.

(5) Training Requirements for a Temporary Risk Assessor License. An applicant for a license as a risk assessor shall complete an OLLA- or EPA-accredited risk assessor refresher training course (see 19 CSR 30-70.380) and pass the course examination with a score of seventy percent (70%) or more.

(6) Procedure for Issuance or Denial of a Temporary Risk Assessor License.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice will include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing the information requested in the written notice.

B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in OLLA’s denial of the applicant’s application for a risk assessor license.
C. After receipt of the information requested in the written notice, OLLA will inform the applicant in writing that the application is either approved or denied.

2. When an application for a risk assessor license is denied, the written notice of denial to the applicant will specify the reasons for the denial. OLLA may deny a temporary risk assessor license for any one (1) or any combination of the following reasons:

A. Type and amount of training;

B. False or misleading statements in the application;

C. Failure to pass the state examination after two (2) attempts;

D. Failure to submit a complete application;

E. History of citations or violations of existing lead abatement regulations or standards;

F. Violations of 29 CFR part 1926.62 or 29 CFR part 1926.59;

G. Fraud or failure to disclose facts relevant to his or her application;

H. Conviction of a felony under any state or federal law or having entered a plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or of the United States;

I. Permitting the duplication or use by another of the individual’s training certificate;

J. Other information which may affect the applicant’s ability to appropriately perform lead-bearing substance activities;

K. Failure to comply with any state or federal law or regulation, including, but not limited to, any part of sections 701.300 through 701.338, RSMo, or any rules promulgated pursuant to these sections; or
L. Final disciplinary action against a licensee by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or restricting the license while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

3. If an application is denied, the applicant may reapply to OLLA for a risk assessor license, by submitting a complete lead occupation license application form pursuant to 19 CSR 30-70.140.

4. If an applicant is aggrieved by a determination to deny licensure, the applicant may appeal OLLA’s denial to the Administrative Hearing Commission as provided by section 621.045, RSMo.

(B) Within thirty (30) days after the issuance date of application approval, the applicant shall attain a passing score on the state risk assessor examination.

1. An applicant cannot sit for the state examination more than twice within thirty (30) calendar days after the issuance date of the notice of an approved application.

2. If an applicant fails to pass the state examination on the second attempt, the applicant’s application for a risk assessor is considered denied. The individual may reapply to OLLA pursuant to 19 CSR 30-70.140 but only after retaking the OLLA- or EPA-accredited risk assessor training course.

(C) After the applicant passes the state risk assessor examination, OLLA will issue a risk assessor license certificate and photo identification badge. This license will expire on the same date as the lead inspector license used to fulfill the requirement of section (1) of this regulation.

19 Mo. Code of State Regulations 30-70.310

19 CSR 30-70.310 Definitions and Abbreviations for the Accreditation of Training Providers

PURPOSE: This rule provides definitions and abbreviations to be used in the interpretation and enforcement of 19 CSR 30-70.310 through 19 CSR 30-70.400.

(1) Accreditation is approval by the Office of Lead Licensing and Accreditation (OLLA) of a training provider for a training course to train individuals for lead-bearing substance activities.

(2) Audit is the monitoring by OLLA of a training provider for a training course to ensure compliance with state statutes and regulations.

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(3) Classroom training is training devoted to lecture, learning activities, small group activities, demonstrations, and/or evaluations.

(4) Course agenda is an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

(5) Course exam blueprint is written documentation identifying the proportion of course exam questions devoted to each major topic in the course curriculum.

(6) EPA is the United States Environmental Protection Agency.

(7) Guest instructor is an individual designated by the training manager to provide instruction specific to the lecture, hands-on training, or work practice components of a course.

(8) Hands-on skills assessment is an evaluation of the effectiveness of the hands-on training which shall test the ability of the trainees to demonstrate satisfactory performance of work practices and procedures as well as any other skills demonstrated in the course.

(9) Hands-on training is training which involves the actual practice of a procedure and/or use of equipment.

(10) Large-scale abatement project is a lead abatement project consisting of ten (10) or more dwellings.

(11) Occupation is one of the specific types or categories of lead-bearing substance activities identified in these regulations for which individuals may receive training from accredited training providers, including, but not limited to, lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and/or project designer.

(12) OLLA is the Missouri Department of Health Office of Lead Licensing and Accreditation.

(13) Oral exam is equivalent to the written exam in content, but is read to the student by the principal instructor. The student is required to provide his or her answers to the exam in writing.

(14) Principal instructor is any qualified individual designated by the training manager that has the primary
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responsibility for organizing and teaching a particular course.

(15) Reaccreditation is the renewal of accreditation of a training provider for a training course subsequent to initial accreditation expiration.

(16) Reciprocity is an agreement between OLLA and other states who have similar accreditation provisions.

(17) Refresher course is the course of instruction established by these regulations which must be periodically completed to obtain or maintain an individual’s licensure in a single occupation.

(18) Training course is the course of instruction established by these regulations to prepare an individual for licensure in a single occupation.

(19) Training provider is any person or entity providing training courses for the purpose of state licensure or licensure renewal in an occupation.

(20) Training curriculum is an established set of course topics for instruction by an accredited training provider for a particular occupation designed to provide specialized knowledge and skills.

(21) Training hour is at least fifty (50) minutes of actual instruction, including but not limited to time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on training. A training hour shall not include a break.

(22) Training manager is any individual responsible for administering the training courses and monitoring the performance of principal instructors and guest instructors.

PURPOSE: This rule provides the procedures and requirements for the accreditation of training providers for training courses.

(1) Reciprocity. The Office of Lead Licensing and Accreditation (OLLA) may issue an accreditation certificate to any person or entity that has made application, paid the necessary fees, and provided proof of accreditation from another state, provided that OLLA has entered into a reciprocity agreement with that state.

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(2) Good Standing. Every corporation desiring accreditation of the lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and/or project designer training course under sections 701.300 through 701.338, RSMo, must be registered and in good standing with the Missouri secretary of state’s office.

(3) Application for Accreditation of a Training Provider for a Training Course.

(A) Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed training provider course accreditation application form provided by OLLA which shall include:

   A. The training provider’s name, address, and telephone number;

   B. The name and date of birth of the training manager;

   C. The name and date of birth of the principal instructor for each course;

   D. A list of locations at which training will take place;

   E. A list of courses for which the training provider is applying for accreditation; and

   F. A statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager’s knowledge and understanding, that the training provider will comply with 19 CSR 30-70.310 through 19 CSR 30-70.400, and that the training provider will only conduct lead training in those occupations in which the training provider has received accreditation;

2. A copy of the student and instructor manuals;
3. Course agenda;

4. Course examination blueprint;

5. A copy of the quality control plan as described in subsection (6)(H) of this regulation;

6. A copy of a sample course certificate as described in subsection (6)(G) of this regulation;

7. A description of the facilities and equipment to be used for lecture and hands-on training;

8. A description of the activities and procedures that will be used for conducting the hands-on skills assessment for each course;

9. A check or money order for the non-refundable fee of one thousand dollars ($1,000) per course made payable to the Missouri Department of Health; provided, however, that training providers who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee; and

10. Supporting documentation of the training manager’s and principal instructor’s qualifications.

(4) Application for Accreditation of a Training Provider for a Training Course Under Reciprocity.

(A) Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed training provider course accreditation application form provided by OLLA which shall include:

   A. The training provider’s name, address, and telephone number;

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B. The name and date of birth of the training manager;

C. The name and date of birth of the principal instructor for each course;

D. A list of locations at which training will take place;

E. A list of courses for which the training provider is applying for accreditation; and

F. A statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager’s knowledge and understanding, that the training provider will comply with 19 CSR 30-70.310 through 19 CSR 30-70.400, and that the training provider will only conduct lead training in those occupations in which the training provider has received accreditation;

2. Course agenda;

3. Course examination blueprint;

4. A copy of the quality control plan as described in subsection (6)(H) of this regulation;

5. A copy of a sample course certificate as described in subsection (6)(G) of this regulation;

6. A description of the facilities and equipment to be used for lecture and hands-on training;

7. A description of the activities and procedures that will be used for conducting the hands-on skills assessment for each course;

8. A check or money order for the non-refundable fee of one thousand dollars ($1,000) per course made payable to the Missouri Department of Health; provided, however, that training providers who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee; and
9. Supporting documentation of the training manager’s and principal instructor’s qualifications.

(5) Procedure for Issuance or Denial of a Training Provider for a Training Course.

(A) OLLA will inform the applicant in writing that the application is either approved, incomplete, or denied.

1. If an application is incomplete, the notice shall include a list of additional information or documentation required to complete the application.

A. Within thirty (30) calendar days after the issuance date of the notice of incomplete application, the applicant shall submit to OLLA in writing, the information requested in the written notice.

   B. Failure to submit the information requested in the written notice within thirty (30) calendar days shall result in denial of the application for a training course accreditation.

   C. After the information in the written notice is received, OLLA will inform the applicant in writing that the application is either approved or denied.

2. If an application is approved, OLLA shall issue a two (2)-year accreditation certificate.

3. If an application for training course accreditation is denied, OLLA shall state in the notice of denial to the applicant the specific reasons for the denial.

   A. OLLA may deny training course accreditation for any one (1) or any combination of the following reasons:

      (I) Failure of the training manager and/or principal instructor to satisfy the experience requirements;

      (II) History of citations or violations of existing local, state and federal regulations or standards;

      (III) Persons listed in the application have been convicted of a felony under any state or federal law or have entered a plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or of the United States;
(IV) False or misleading statements in the application;

(V) False records, instructor qualifications, or other accreditation-related information or documentation;

(VI) Failure of the applicant to submit a complete application; or

(VII) Final disciplinary action against a training provider by another state, territory, federal agency or country, whether or not voluntarily agreed to by the training provider, including, but not limited to, the denial of accreditation, surrender of the accreditation, allowing the accreditation to expire or lapse, or discontinuing or restricting the accreditation while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.

(B) If an application is denied, the applicant may reapply for accreditation at any time.

(C) If an applicant is aggrieved by a determination to deny accreditation, the applicant may request a hearing by the department according to Chapter 536 of the Administrative Procedures Act.

(6) Requirements for Accreditation of a Training Provider for a Training Course. For a training provider to maintain accreditation from OLLA to offer a training course, the training provider shall meet the following requirements:

(A) Training Manager. The training provider shall employ a training manager who meets the requirements in subsection (7)(A) of this regulation. The training manager shall be responsible for ensuring that the accredited training provider complies at all times with all of the requirements in these regulations. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course;

(B) Principal Instructor. The training provider, in coordination with the training manager, shall designate a qualified principal instructor who meets the requirements in subsection (8)(A) of this regulation. The principal instructor shall be responsible for the organization of the course and oversight of the teaching of all course materials;

(C) The training provider shall meet the requirements set forth in subsections (6)(D) through (N) of this regulation for each course contained in the application for accreditation of a training provider for a training course;
(D) Delivery of Course. The training provider shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course exam, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practice standards set forth in 19 CSR 30-70.600 through 19 CSR 30-70.650 and maintaining or updating the course materials, equipment and facilities as needed;

(E) Course Exam. For each course offered, the training provider shall conduct a monitored, written course exam at the completion of each course. An oral exam may be administered in lieu of a written course exam for the lead abatement worker course only. If an oral examination is administered, the student is required to provide his or her answers to the exam in writing.

1. The course exam shall evaluate the trainee’s competency and proficiency.

2. All individuals must pass the course exam in order to successfully complete any course and receive a course completion certificate. Seventy percent (70%) shall be considered the passing score on the course exam.

3. The training provider and the training manager are responsible for maintaining the validity and integrity of the course exam to ensure that it accurately evaluates the trainees’ knowledge and retention of the course topics;

(F) Hands-On Skills Assessment. For each course offered, except for project designers, the training provider shall conduct a hands-on skills assessment. The training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees’ performance of the work practices and procedures associated with the course topics;

(G) Course Completion Certificate. The training provider shall issue unique course completion certificates to each individual who passes the training course. The course completion certificate shall include:

1. The name, a unique identification number, and address of the individual;

2. The name of the particular course that the individual completed;

3. Dates of course completion/exam passage; and

4. The name, address and telephone number of the training provider;

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(H) Quality Control Plan. The training manager shall develop and implement a quality control plan. The plan shall be used to maintain or improve the quality of the accredited training provider over time.

1. This plan shall contain at least the following elements:

A. Procedures for periodic revision of training materials and the course exam to reflect innovations in the field;

B. Procedures for the training manager’s annual review of principal instructor competency; and

C. A review to ensure the adequacy of the facilities and equipment.

2. An annual report discussing the results of the quality control plan shall be submitted to OLLA one (1) year following accreditation and at renewal;

(I) Access by OLLA. The accredited training provider shall allow OLLA to conduct audits as needed in order for OLLA to evaluate the provider’s compliance with OLLA accreditation requirements. During this audit, the provider shall make available to OLLA information necessary to complete the evaluation. At OLLA’s request, the provider shall also make documents available for photo-copying;

(J) Recording Keeping. The accredited training provider shall maintain at its principal place of business, for at least five (5) years, the following records:

1. All documents specified in subsections (7)(B) and (8)(B) of this regulation that demonstrate the qualifications listed in subsection (7)(A) of this regulation for the training manager, and subsection (8)(A) of this regulation for the principal instructor;

2. Curriculum/course materials and documents reflecting any changes made to these materials;

3. The course examination and blueprint;

4. Information regarding how the hands-on skills assessment is conducted including, but not limited to:

A. Who conducts the assessment;

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B. How the skills are graded;

C. What facilities are used;

D. The pass/fail rate; and

E. The quality control plan as described in subsection (6)(H) of this regulation;

5. Results of the students’ hands-on skills assessments and course exams, and a record of each student’s course completion certificate; and

6. Any other material not listed in paragraph (6)(J)4. of this regulation that was submitted to OLLA as part of the training provider’s application for accreditation;

(K) Course Notification. The accredited training provider shall notify OLLA in writing fourteen (14) calendar days prior to conducting an accredited training course.

1. The notification shall include:

A. The location of the course if it will be conducted at a location other than the provider’s training facility;

B. The dates and times of the course;

C. The name of the course; and

D. The name of the principal instructor and any guest instructors conducting the course.

2. If the scheduled training course has been changed or canceled, the accredited training provider shall notify OLLA in writing twenty-four (24) hours prior to the scheduled training course;
(L) Changes of a Training Course. Once a training course has been accredited, any changes in any one (1) of the items listed below must be submitted in writing to OLLA for review and approval prior to the continuation of the training course:

1. Course curriculum;

2. Course examination;

3. Course materials;

4. Training manager and/or principal instructors; and/or

5. Certificate of completion.

Within sixty (60) calendar days of receipt of a change of a training course, OLLA shall inform the provider in writing that the change is either approved or disapproved. If the change is approved, the accredited training provider shall include the change in the training course. If the change is disapproved, the accredited training provider shall not include the change in the training course;

(M) Change of Ownership. If an accredited training provider changes ownership, the new owner shall notify OLLA in writing at least thirty (30) calendar days prior to the change of ownership becoming effective. The notification shall include a new training course provider accreditation application, the appropriate fee(s), and the date that the change of ownership will become effective. The new training course provider accreditation application shall be processed pursuant to 19 CSR 30-70.320. The current training provider’s accreditation shall expire on the effective date set forth in the notification of the change of ownership; and

(N) Change of Address. The accredited training provider shall notify OLLA in writing of the accredited training provider’s new address, telephone number and description of the new training facility, and shall submit such notification to OLLA not later than thirty (30) days prior to relocating its business or transferring its records.

(7) Training, Education and Experience Requirements for the Training Manager.

(A) The education and/or experience requirements for the training manager shall include one (1) year of experience in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene; and at least one of the following:
1. A minimum of two (2) years of experience teaching or training adults;

2. A bachelor’s or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, business administration, education; or

3. A minimum of two (2) years experience in managing a training program specializing in environmental hazards.

(B) The following records of experience and education shall be recognized by OLLA as evidence that the individual meets or exceeds OLLA requirements for a training manager:

1. Resumes, letters of reference from past employers, or documentation to evidence past experience, which includes dates (month/year) of employment, employer’s name, address, telephone number, and specific job duties, as evidence of meeting the experience requirements; and

2. Official academic transcripts or diploma, as evidence of meeting the education requirements.

(8) Training, Education and Experience Requirements for the Principal Instructor.

(A) The training, education and experience requirements for the principal instructor of a training course includes all of the following:

1. Successfully completed at least twenty-four (24) hours of any OLLA- or Environmental Protection Agency (EPA)-accredited lead-specific training;

2. A minimum of one (1) year of experience in teaching or training adults; and

3. A minimum of one (1) year of experience in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene, or an associate degree or higher from a post-secondary educational institution in building construction technology, engineering, safety, public health, or industrial hygiene; and

(B) The following records of experience and education shall be recognized by OLLA as evidence that the individual meets or exceeds OLLA requirements for a principal instructor:
PURPOSE: This rule delineates the curriculum requirements for a lead inspector training course.

(1) A training provider of a lead inspector training course must ensure that their lead inspector training course curriculum includes, at a minimum, sixteen (16) training hours of classroom training and eight (8) training hours of hands-on training.

(2) A lead inspector training course shall include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on training as an integral component of the course.

(A) Role and responsibilities of an inspector;

(B) Background information on lead—history of lead use and sources of environmental lead contamination;

(C) Health effects of lead—how lead enters and affects the body; levels of concern; and symptoms, diagnosis and treatments;

(D) Regulatory background and overview of lead in applicable state and federal guidance or regulations pertaining to lead-bearing substances including: 40 CFR part 745; U.S. HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (and its most recent revisions), 29 CFR part 1910.1200; 29 CFR part 1926.62; Title X: Residential Lead-Based Paint Hazard Reduction Act of 1992;
(E) Sections 701.300 to 701.338, RSMo, Missouri regulations pertaining to lead licensure, and Missouri Work Practice Standards for Lead-Bearing Substances specific to lead inspection activities;

(F) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing;*

(G) Pre-inspection planning and review including: developing a schematic site plan, determining inspection criteria and locations to collect samples in single and multi-family housing;*

(H) Paint, dust, and soil sampling methodologies including:*  

1. Lead-based paint testing or X-ray fluorescence paint analyzer (XRF) use: types of XRF units and basic operation and interpretation of XRF results, including substrate correction;  

2. Soil sample collection including soil sampling techniques, number and location of soil samples, and interpretation of soil sampling results; and  

3. Dust sample collection techniques including number and location of wipe samples, and interpretation of test results;

(I) Quality control and assurance procedures in testing analysis;

(J) Legal liabilities and obligations;

(K) Clearance standards and testing, including random sampling;*

(L) Record keeping; and

(M) Preparation of the final inspection report.*
PURPOSE: This rule delineates the curriculum requirements for a risk assessor training course.

(1) A training provider of a risk assessor training course must ensure that their risk assessor training course curriculum includes, at a minimum, twelve (12) training hours of classroom training and four (4) training hours of hands-on training.

(2) A lead risk assessor training course shall include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on training as an integral component of the course.

(A) Role and responsibilities of a risk assessor;

(B) Collection of background information to perform a risk assessment, including information on the age and history of the housing and occupancy by children under six (6) years of age and women of child-bearing age;

(C) Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food;

(D) Visual inspection for the purposes of identifying potential sources of lead hazards;*

(E) Lead hazard screen protocol;*

(F) Full risk assessment protocol;

(G) Elevated blood lead level investigations;

(H) Sampling for other sources of lead exposure, including drinking water;*

(I) Interpretation of lead-based paint and other lead sampling results related to Missouri clearance standards;*

(J) Sections 701.300 to 701.338, RSMo, Missouri regulations pertaining to lead licensure, and Missouri Work Practice Standards for Lead-Bearing Substances specific to risk assessment activities;

Current through May 31, 2014
(K) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-bearing substance hazards;

(L) Legal liabilities and obligations specific to a risk assessor; and

(M) Preparation of a final risk assessment report.*

19 Mo. Code of State Regulations 30-70.350

19 CSR 30-70.350 Requirements for a Training Provider of a Lead Abatement Worker Training Course

PURPOSE: This rule delineates the curriculum requirements for a lead abatement worker training course.

(1) A training provider of a lead abatement worker training course must ensure that their lead abatement worker training course curriculum includes, at a minimum, sixteen (16) training hours of classroom training and eight (8) training hours of hands-on training.

(2) A lead abatement worker training course shall include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on training as an integral component of the course—

(A) Role and responsibilities of an abatement worker;

(B) Background information on lead—history of lead use and sources of environmental lead contamination;

(C) Health effects of lead—how lead enters and affects the body; levels of concern; and symptoms, diagnosis and treatments;

(D) Regulatory background and overview of lead in applicable state and federal guidance or regulations pertaining to lead-bearing substances including: 40 CFR part 745; U.S. HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (and its most recent revisions), 29 CFR part 1910.1200; 29 CFR part 1926.62; Title X: Residential Lead-Based Paint Hazard Reduction Act of 1992;

(E) Personal protective equipment information, including respiratory equipment selection, air-purifying respirators, care and cleaning of respirators, respiratory program, protective clothing and equipment, and
(F) Lead hazard recognition and control; site characterization, exposure measurements, medical surveillance, and engineering controls;*

(G) Preabatement set-up procedures, including containments for residential and commercial building, and superstructures;*

(H) Lead abatement and lead hazard reduction methods for residential and commercial buildings, and superstructures, including prohibited practices;*

(I) Sections 701.300 to 701.338, RSMo, Missouri regulations pertaining to lead licensure, Missouri Work Practice Standards for Lead-Bearing Substances specific to lead abatement activities;

(J) Interior dust abatement methods and cleanup techniques;*

(K) Soil and exterior dust abatement methods;* and

(L) Waste disposal techniques.

19 Mo. Code of State Regulations 30-70.360

19 CSR 30-70.360 Requirements for a Training Provider of a Lead Abatement Supervisor Training Course

PURPOSE: This rule delineates the curriculum requirements for a lead abatement supervisor training course.

(1) A training provider of a lead abatement supervisor training course must ensure that their lead abatement supervisor training course curriculum includes, at a minimum, twenty-eight (28) training hours of classroom training and twelve (12) training hours of hands-on training.

(2) A lead abatement supervisor training course shall include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on training as an integral component of the course—

Current through May 31, 2014
(A) Role and responsibilities of a supervisor;

(B) Background information on lead—history of lead use and sources of environmental lead contamination;

(C) Health effects of lead—how lead enters and affects the body, levels of concern, and symptoms, diagnosis and treatments;

(D) Regulatory background and overview of lead in applicable state and federal guidance or regulations pertaining to lead-bearing substances including: 40 CFR part 745; U.S. HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (and its most recent revisions), 29 CFR part 1910.1200; 29 CFR part 1926.62; Title X: Residential Lead-Based Paint Hazard Reduction Act of 1992;

(E) Liability and insurance issues relating to lead abatement;

(F) Cost estimation;*

(G) Risk assessment and inspection report interpretation;*

(H) Development and implementation of an occupant protection plan and preabatement work plan, including containments for residential and commercial buildings, and superstructures;*

(I) Community relations process;

(J) Lead hazard recognition and control;*

(K) Hazard recognition and control techniques: site characterization, exposure measurements, material identification, safety and health planning, medical surveillance, and engineering controls;

(L) Personal protective equipment information regarding respiratory equipment selection, air-purifying respirators, care and cleaning of respirators, respiratory program, protective clothing and equipment, and hygienic practices;*

(M) Lead abatement and lead hazard reduction methods, including prohibited practices, for residential and commercial buildings, and superstructures;...
PURPOSE: This rule delineates the curriculum requirements for a project designer training course.

(1) A training provider of a project designer training course must ensure that their project designer training course curriculum includes, at a minimum, eight (8) training hours of classroom training.

(2) A project designer training course shall include, at a minimum, the following course topics:

(A) Role and responsibilities of a project designer;
(B) Development and implementation of an occupant protection plan for large-scale abatement projects;

(C) Lead abatement and lead hazard reduction methods, including prohibited practices, for large-scale abatement projects;

(D) Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale abatement projects;

(E) Soil and exterior dust abatement methods for large-scale abatement projects;

(F) Clearance standards and testing for large-scale abatement projects; and

(G) Integration of lead abatement methods with modernization and rehabilitation projects for large-scale abatement projects.

19 Mo. Code of State Regulations 30-70.380

19 CSR 30-70.380 Requirements for the Accreditation of Refresher Courses

PURPOSE: This rule delineates the requirements for lead inspector, risk assessor, lead abatement worker, lead abatement supervisor and/or project designer refresher training courses.

(1) Application for Accreditation of a Training Provider for a Refresher Training Course. A training provider may seek accreditation to offer refresher courses in any occupation. To obtain the Office of Lead Licensing and Accreditation (OLLA) accreditation to offer refresher training, a training provider must meet the following minimum requirements:

(A) Each refresher course shall review the curriculum topics of the full-length courses listed under 19 CSR 30-70.330 through 19 CSR 30-70.370 as appropriate. In addition, training providers shall ensure that their courses of study include, at a minimum, the following:

1. An overview of current safety practices relating to lead-bearing substance activities in general, as well as specific information pertaining to the appropriate occupation;

Current through May 31, 2014
2. Current laws and regulations relating to lead-bearing substance activities in general, as well as specific information pertaining to the appropriate occupation; and

3. Current technologies relating to lead-bearing substance activities in general, as well as specific information pertaining to the appropriate occupation;

(B) Each refresher course, except for the project designer course, shall last a minimum of eight (8) training hours. The project designer refresher course shall last a minimum of four (4) training hours;

(C) For each course offered, the training program shall conduct a hands-on assessment (if applicable); and

(D) For each refresher course offered, the training provider shall conduct a course exam at the completion of the course.

(2) A training provider may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding training course as described in 19 CSR 30-70.320 as appropriate. If so, OLLA shall use the procedures and requirements described in 19 CSR 30-70.320 for accreditation of the refresher course and the corresponding training course.

(3) A training provider seeking accreditation to offer refresher courses only, shall submit a written application to OLLA.

(A) Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The application shall include the following:

1. Completed training course accreditation application form provided by OLLA which shall include:

A. The training provider’s name, address, and telephone number;

B. The name and date of birth of the training manager;

C. The name and date of birth of the principal instructor for each course;

Current through May 31, 2014
D. A list of locations at which training will take place;

E. A list of courses for which the training provider is applying for accreditation; and

F. A statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager’s knowledge and understanding, that the training provider will comply with 19 CSR 30-70.310 through 19 CSR 30-70.400, and that the training provider will only conduct lead training in those occupations in which the training provider has received accreditation;

2. A copy of the student and instructor manuals;

3. Course agenda;

4. Course examination blueprint;

5. A copy of the quality control plan as described in 19 CSR 30-70.320(6)(H);

6. A copy of a sample course completion certificate as described in paragraph 19 CSR 30-70.320(6)(G);

7. A description of the facilities and equipment to be used for lecture and hands-on training;

8. A check or money order for the non-refundable fee of two hundred fifty dollars ($250); provided, however, that training providers who are a state, federally recognized Indian tribe, local government or non-profit organization shall be exempt from payment of such fee; and

9. The training manager’s and principal instructor’s qualifications.

(4) The procedures for issuance or denial in 19 CSR 30-70.320(5), and the requirements for accreditation of a training provider for a training course in 19 CSR 30-70.320(6) through 19 CSR 30-70.320(8), shall apply to all training providers applying for the accreditation of refresher training courses.

Current through May 31, 2014
(5) Application for Accreditation of a Training Provider for a Refresher Training Course Under Reciprocity. To obtain OLLA accreditation by reciprocity to offer refresher training in any occupation, a training provider shall submit a completed application to OLLA. Completed applications shall be mailed to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(A) The application shall include the following:

1. Completed training course accreditation application form provided by OLLA which shall include:

   A. The training provider’s name, address, and telephone number;

   B. The name and date of birth of the training manager;

   C. The name and date of birth of the principal instructor for each course;

   D. A list of locations at which training will take place;

   E. A list of courses for which the training provider is applying for accreditation; and

   F. A statement signed by the training manager certifying that the information provided in the application for accreditation, and any additional information included with the application, is true and accurate to the best of the training manager’s knowledge and understanding, that the training provider will comply with 19 CSR 30-70.310 through 19 CSR 30-70.400, and that the training provider will only conduct lead training in those occupations in which the training provider has received accreditation;

2. Course agenda;

3. Course examination blueprint;

4. A copy of the quality control plan as described in 19 CSR 30-70.320(6)(H);
5. A copy of a sample course completion certificate as described 19 CSR 30-70.320(6)(G);

6. A description of the facilities and equipment to be used for lecture and hands-on training;

7. A check or money order for the non-refundable fee of two hundred fifty dollars ($250); provided, however, that training providers who are a state, federally recognized Indian tribe, local government or non-profit organization shall be exempt from payment of such fee; and

8. The training manager’s and principal instructor’s qualifications.

(B) The procedures for issuance or denial in 19 CSR 30-70.320(5), and the requirements for accreditation of a training provider for a training course in 19 CSR 30-70.320(6) through 19 CSR 30-70.320(8), shall apply to all training providers applying for accreditation by reciprocity of refresher training courses as applicable.

19 Mo. Code of State Regulations 30-70.390

19 CSR 30-70.390 Reaccreditation of a Training Course or Refresher Course

PURPOSE: This rule provides the processes and requirements for the reaccreditation of a training course or refresher course.

(1) Unless sooner revoked, a training provider’s accreditation (including refresher training accreditation) shall expire two (2) years after the date of issuance. If a training provider meets the requirements of this section, the training provider shall be re-accredited.

(2) A training provider seeking reaccreditation shall submit an application to the Office of Lead Licensing and Accreditation (OLLA) at least sixty (60) calendar days before its accreditation expires. If a training provider does not submit its application for reaccreditation by that date, OLLA cannot guarantee that the provider will be reaccredited before the end of the accreditation period.

(3) The training provider’s application for reaccreditation shall contain—

(A) Completed training provider course accreditation application form provided by OLLA which shall include:

1. The training provider’s name, address, and telephone number;
2. The name and date of birth of the training manager;

3. The name and date of birth of the principal instructor for each course;

4. A list of locations at which training will take place;

5. A list of courses for which the training provider is applying for reaccreditation; and

6. A statement signed by the training manager certifying that the information provided in the application for reaccreditation, and any additional information included with the application, is true and accurate to the best of the training manager’s knowledge and understanding, that the training provider will comply with 19 CSR 30-70.310 through 19 CSR 30-70.400, and that the training provider will only conduct lead training in those occupations in which the training provider has received accreditation;

(B) A list of courses for which it is applying for reaccreditation;

(C) A description of any changes to the training facility, equipment or course materials since its last application was approved that adversely affects the student’s ability to learn; and

(D) A check or money order made payable to the Missouri Department of Health for the nonrefundable fee of one thousand dollars ($1,000) for the training course and two hundred fifty dollars ($250) for the refresher training course; provided, however that training providers who are a state, federally recognized Indian tribe, local government or nonprofit organization shall be exempt from payment of such fee.

(4) The training provider shall comply with all requirements in 19 CSR 30-70.320 through 19 CSR 30-70.380, as applicable.

(5) If the training provider has allowed its accreditation to expire, and the provider desires to be accredited, it must reapply pursuant to 19 CSR 30-70.320.

19 Mo. Code of State Regulations 30-70.400

19 CSR 30-70.400 Suspension, Revocation, and Restriction of Accredited Training Providers
PURPOSE: This rule provides the processes and reasons for suspension, revocation and restriction of an accredited training provider.

(1) The Office of Lead Licensing and Accreditation (OLLA) may restrict, suspend or revoke training provider accreditation if a training provider, training manager, or other person with supervisory authority over the training provider does any one or any combination of the following:

(A) Provides, offers to provide, or claims to provide OLLA-accredited training courses without such accreditation;

(B) Presents inaccurate information in a training course;

(C) Fails to submit required information or notifications to OLLA in a timely manner;

(D) Falsifies accreditation records, instructor qualifications, or other accreditation-related information or documentation;

(E) Fails to comply with the training standards and requirements in 19 CSR 30-70.320;

(F) Has history of citations or violations of existing local, state and federal regulations or standards;

(G) Has been convicted of a felony under any state or federal law or has entered a plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or of the United States;

(H) Fails to comply with federal, state or local lead statutes or regulations;

(I) Makes false or misleading statements to OLLA in its application for accreditation or reaccreditation which OLLA relied upon in approving the application; or

(J) Final disciplinary action against a training provider by another state, territory, federal agency or country, whether or not voluntarily agreed to by the training provider, including, but not limited to, the denial of accreditation, surrender of the accreditation, allowing the accreditation to expire or lapse, or discontinuing or restricting the accreditation while subject to investigation or while actually under investigation by another state, territory, or federal agency or country.
(2) Prior to restricting, suspending, or revoking a training provider’s accreditation, a training provider shall be given written notice of the reasons for the restriction, suspension and/or revocation. The training provider may request a hearing by the department according to Chapter 536 of Administrative Procedures Act.

19 Mo. Code of State Regulations 30-70.510
19 CSR 30-70.510 Standard of Professional Conduct

PURPOSE: This rule establishes a professional standard of conduct for licensed lead abatement workers, licensed lead abatement supervisors, licensed project designers, licensed lead inspectors, licensed risk assessors, licensed lead abatement contractors and training instructors and training managers of accredited lead training providers.

(1) In performing lead-bearing substance activities, licensees shall act with reasonable care and competence in applying the technical knowledge and skill as required by sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.600 through 19 CSR 30-70.630 for the conduct of lead-bearing substance activities.

(2) In performing lead-bearing substance activities and training, licensees and accredited entities shall be cognizant that their primary responsibility is to conduct these activities safely, reliably, and effectively to protect human health and the environment. This shall not be compromised by any self-interest of the client, licensee or accredited entity.

(3) In performing lead-bearing substance activities and training, licensees and accredited entities shall not knowingly violate any local, state or federal laws. Licensees and accredited entities shall comply with state laws and regulations governing their practice.

(4) In instances where a licensee’s or an accredited entity’s professional judgment is overruled to the extent that it may endanger the health or welfare of the public or the environment, they shall notify their employer or client, the Office of Lead Licensing and Accreditation (OLLA), and/or other authority, as may be appropriate.

(5) Licensees and accredited entities shall not misrepresent or exaggerate the scope or the purpose for which they are licensed or accredited.

(6) Professional Responsibility.

(A) The licensee or accredited training provider shall, upon request or demand, produce to OILLA, or any of its representatives, any plan, document, book, record or copy thereof concerning a transaction covered by these regulations, and shall cooperate in the investigation of a complaint filed with OILLA.

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(B) A licensee shall not use the design, plans or work of another person without that person’s knowledge and consent. After consent, the licensee shall conduct a thorough review to the extent that he or she assumes full responsibility for the use of such design, plan or work of the other person.

(7) Good Standing in Other Jurisdictions.

(A) Persons licensed to design lead abatement projects, supervise lead abatement projects, conduct lead inspections and/or lead risk assessments, perform lead abatement work and training providers accredited to provide lead training in other jurisdictions shall be in good standing in every jurisdiction where licensed, certified, or accredited and shall not have had a license, certification or accreditation suspended, revoked or surrendered in connection with a disciplinary action.

(B) Licensees and accredited lead training providers shall notify OLLA in writing no later than ten (10) days after the final disciplinary action taken by another jurisdiction against their license or certification to conduct lead-bearing substance activities or against their accreditation to provide lead training.

PURPOSE: This rule establishes procedures for the handling and disposition of public complaints received by the Office of Lead Licensing and Accreditation concerning alleged violations of sections 701.300 through 701.338, RSMo.

(1) Public complaints concerning alleged violations of sections 701.300 through 701.338, RSMo, shall be handled as follows:

(A) Any person may make a complaint alleging acts or practices which may constitute a violation of any provision of sections 701.300 through 701.338, RSMo, or 19 CSR 30-70.600 through 19 CSR 30-70.630 with the Office of Lead Licensing and Accreditation (OLLA) based upon personal knowledge or upon information received from other sources. The complaint may be made against a licensed or unlicensed individual, against an accredited or non-accredited training provider or against an owner of a dwelling or child-occupied facility; and

(B) Complaints may be oral or written. Written complaints shall be mailed to: Missouri Department of Health, Office of Lead Licensing and Accreditation, P.O. Box 570, Jefferson City, MO 65102-0570.
PURPOSE: This rule provides definitions and acronyms to be used in the interpretation and enforcement of 19 CSR 30-70.600 through 19 CSR 30-70.640.

(1) Adequate quality control—a plan or design which ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or paint film samples. Adequate quality control also includes provisions for representative sampling.

(2) Authorized personnel—licensed lead workers, licensed lead risk assessors, licensed lead supervisors, licensed lead contractors, licensed project designers, representatives of the department and any persons authorized by the department to enter regulated areas.

(3) Bare soil area—any continuous three (3) square foot area or more of soil that has no or little plant growth or other covering, and that may be accessible to a child or may provide a source of airborne lead-bearing dust, including the sand in sandboxes.

(4) Clearance level—values that indicate the maximum concentration of lead allowed in surface dust, soil or water following an abatement activity.

(5) Common area—a portion of a building that is generally accessible to all occupants including, but not limited to, hallways, garages, laundry rooms, community centers, boundary fences, stairways, playgrounds and recreational rooms.

(6) Component or building component—a specific design, structural element or fixture of a building, dwelling or child-occupied facility that can be distinguished from each other by form, function and location.

(7) Containment—the structural system for protecting residents, the general public and the environment by controlling exposure to lead dust and debris created during a lead abatement project.

(8) Critical barrier containment—two (2) or more layers of six (6)-mil poly, or thicker, sealed over the entrance into a work area to prevent lead dust and debris from migrating outside of a regulated area.

(9) Disposal—the depositing or placing of lead-bearing components or a lead-bearing substance as waste.

(10) Distinct painting history—the application history, as indicated by its visual appearance or a record of
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Division 30 - Division of Regulation and Licensure_Special Notice_Chapter 70 - Lead Abatement and
Assessment Licensing, Training Accreditation
application, over time, of paint or other surface coatings to a component or room.

(11) Documented methodologies—methods or protocols used to sample for the presence of lead in paint, dust, soil and water while incorporating adequate quality control.

(12) Elevated blood lead level (EBL)—an excessive absorption of lead that is a confirmed concentration of lead in whole blood of greater than or equal to ten micrograms per deciliter (≥10 μg/dL) in persons under age eighteen (<18).

(13) Emergency situation—any lead abatement project that results from a sudden, unexpected event which poses an immediate threat to human health or the environment.

(14) EPA—United States Environmental Protection Agency.

(15) Hazardous waste—any waste designated as hazardous by 10 CSR 25-4.261 and/or 40 CFR 261.

(16) High efficiency particulate air (HEPA) filter—a filter capable of removing particles of 0.3 microns or larger from air at 99.97 percent or greater efficiency.

(17) HUD—United States Department of Housing and Urban Development.

(18) HUD guidelines—the most recent version of the “Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing,” published by HUD.

(19) Industrial lead abatement—a lead abatement project performed on a structure not defined as a dwelling or child-occupied facility which includes, but is not limited to, bridges, water towers, holding tanks and other superstructures. Industrial lead abatement does not include abatement of a de minimis surface area of less than fifty (50) square feet of a lead-bearing substance per lead abatement project.

(20) Intact paint surface—any painted surface that is not chipped, chalked, peeled, flaked or otherwise separated from its substrate or that is not attached to a damaged substrate.

(21) Lead hazard screen—a risk assessment activity that involves limited paint and dust sampling as described in 19 CSR 30-70.620(7).

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(22) Living area—any area of a residential dwelling used by one (1) or more children age six (6) and under, including, but not limited to, living rooms, kitchen areas, dens, play rooms and children’s bedrooms.

(23) Multi-family dwelling—a structure that contains more than one (1) separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one (1) or more persons.

(24) NLLAP—National Lead Laboratory Accreditation Program.

(25) OLLA—Missouri Department of Health Office of Lead Licensing and Accreditation, or subsequent designations of such office.

(26) Permanent—an activity that is designed to eliminate exposure to lead hazards for at least twenty (20) years, under typical conditions, from the date of application.

(27) Poly—polyethylene sheeting.


(29) Regulated area—an area where a lead-bearing substance activity is being conducted.

(30) Room equivalent—an identifiable part of a residence, such as a room, a house exterior, a foyer, staircase, hallway or an exterior area (i.e., play areas, painted swing sets, painted sandboxes, etc.).

(31) Structural integrity—a professional judgment as to the condition of a substrate, component or structure itself.

(32) Substrate—a surface to which a surface coating has been or may be applied. Examples of substrates are wood, metal, plaster, gypsum, concrete and brick.

(33) Surface coating integrity—a professional judgment as to whether a surface coating is cracked, chipped, peeling, blistering, flaking or otherwise deteriorated in any way.

Current through May 31, 2014
PURPOSE: This rule delineates the standards to be followed by licensed lead inspectors and licensed risk assessors to conduct lead inspections in target housing and child-occupied facilities in accordance with standards set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.600 through 19 CSR 30-70.630.

(1) Licensure. All persons conducting lead inspections shall be licensed by the Office of Lead Licensing and Accreditation (OLLA) as set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.110 through 19 CSR 30-70.200 as a lead inspector or risk assessor. Licensed lead inspectors and risk assessors shall present, upon request, proof of licensure in the form of the photo identification badge issued by OLLA.

(2) Conflict of Interest. OLLA recommends that licensed lead inspectors and risk assessors conducting lead inspection activities should avoid potential conflicts of interest by not being contracted, subcontracted or employed by a lead abatement contractor performing lead abatement activities on the same lead abatement project.

(3) Documented Methodologies for Conducting Lead Inspections.

(A) Licensed lead inspectors and risk assessors shall use the following documented methodologies as referenced in this regulation for conducting lead inspections:

1. The U.S. Department of Housing and Urban Development publication entitled, “Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing” (HUD Guidelines); and

2. The U.S. Environmental Protection Agency publications entitled “EPA Lead-Based Paint Inspector Model Curriculum”; “Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust and Lead-Contaminated Soil”; and “Residential Sampling for Lead: Protocols for Dust and Soil Sampling.” (B)
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Division 30 - Division of Regulation and Licensure _Special Notice _Chapter 70 - Lead Abatement and Assessment Licensing, Training Accreditation

Where a conflict exists between any of the aforementioned methodologies and any federal or state statute or regulation, or any city or county ordinance, the most stringent of these shall be adhered to by the licensed lead inspector or risk assessor.

(4) Sample Forms and Questionnaires. Sample forms and questionnaires may be found within the documented methodologies listed in section (3) of this regulation. These sample forms and questionnaires may be used as a guide by licensed lead inspectors or risk assessors.

(5) Any paint chip, dust, or soil samples collected pursuant to these work practice standards shall be—

(A) Collected by persons licensed by OLLA as a lead inspector or risk assessor; and

(B) Analyzed by a laboratory recognized by EPA pursuant to section 405(b) of TSCA as being capable of performing analyses for lead compounds in paint chip, dust, and soil samples.

(6) Lead Inspection.

(A) When conducting a lead inspection, the following locations shall be selected according to the documented methodologies referenced in section (3) of this regulation and tested for the presence of lead-bearing substances:

1. In dwellings and child-occupied facilities, surface-by-surface sampling by paint chip collection and/or X-ray fluorescence (XRF) analysis shall be conducted on components with distinct painting histories, including those components that are stained, shellacked, varnished or covered with wallpaper; and

2. For multi-family dwellings and child-occupied facilities, the samples required in paragraph (6)(A)1. of this regulation shall be taken. In addition, surface-by-surface sampling by paint chip collection and/or XRF analysis shall be conducted in common areas on components with distinct painting histories, including those components that are stained, shellacked, varnished or covered with wallpaper.

(B) Paint and other surface coatings shall be sampled according to the documented methodologies referenced in section (3) of this regulation.

(7) Lead Inspection Report. The inspection report shall be prepared by the OLLA-licensed lead inspector or risk assessor that performed the lead inspection and shall include the following:

Current through May 31, 2014
(A) Date of inspection;

(B) Address of dwelling or child-occupied facility;

(C) Date dwelling or child-occupied facility was constructed;

(D) Apartment numbers (if applicable);

(E) Name, address and telephone number of the owner or owners of each residential dwelling or child-occupied facility;

(F) Name, signature and license number of each licensed inspector and/or risk assessor conducting lead inspection;

(G) Name, address and telephone number of the firm employing each inspector and/or risk assessor;

(H) XRF results including the following (if applicable):

1. XRF manufacturer and model;

2. Serial number of XRF device used during the inspection;

3. Calibration verification from the beginning and end of each dwelling unit;

4. A copy of the XRF device user’s certificate of training provided by the equipment manufacturer;

5. License or registration number of the instrument;

6. A summary that categorizes the XRF results into one (1) of three (3) categories: positive, negative or inconclusive; and
7. Recommendations for addressing inconclusive XRF results;

(I) A summary of laboratory results categorized as positive or negative and the name of each accredited laboratory that conducted the analysis (if applicable);

(J) Floor plans or sketches of the units inspected showing approximate test locations and any identifying number systems;

(K) A summary of the substrates tested including identification of component, component integrity, paint condition and color, and test identification numbers associated with the results; and

(L) The results of the inspection expressed in terms appropriate to the sampling method used.

(8) Time Frame for Submission of Reports. The inspection report shall be provided to the owner of the property within twenty (20) business days of lead inspection completion.

(9) Report Records Retention. All lead inspection reports shall be maintained by the licensed lead inspector or risk assessor who prepared the report for no fewer than three (3) years. The licensed lead inspector or risk assessor shall make copies of lead inspection reports available to OLLA upon request.

19 Mo. Code of State Regulations 30-70.620

19 CSR 30-70.620 Work Practice Standards for a Lead Risk Assessment

PURPOSE: This rule delineates the standards to be followed by licensed risk assessors to conduct risk assessments in target housing and child-occupied facilities in accordance with standards set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.600 through 19 CSR 30-70.630.

(1) Licensure. All persons conducting risk assessments shall be licensed by the Office of Lead Licensing and Accreditation (OLLA) as set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.110 through 19 CSR 30-70.200. Licensed risk assessors must present, upon request, proof of licensure in the form of the photo identification badges issued by OLLA.

(2) Conflict of Interest. OLLA recommends that licensed risk assessors conducting risk assessments for dwellings or child-occupied facilities should avoid potential conflicts of interest by not being contracted, subcontracted, or employed by a lead abatement contractor performing abatement activities on the same lead abatement project.

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(3) Documented Methodologies for Conducting Risk Assessments.

(A) Licensed risk assessors shall use the following documented methodologies as referenced in this regulation for conducting risk assessments:

1. The U.S. Department of Housing and Urban Development (HUD) publication entitled, “Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing” (HUD Guidelines); and

2. The U.S. Environmental Protection Agency (EPA) publications entitled, “EPA Lead-Based Paint Risk Assessment Model Curriculum” (EPA Model Training); “Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust and Lead-Contaminated Soil”; and “Residential Sampling for Lead: Protocols for Dust and Soil Sampling.”

(B) Where a conflict exists between any of the aforementioned methodologies and any federal or state statute or regulation, or any city or county ordinance, the most stringent of these shall be adhered to by the licensed risk assessor.

(4) Collection and Laboratory Analysis of Samples. Any paint chip, dust, or soil samples collected pursuant to these work practice standards shall be—

(A) Collected by persons licensed by OLLA as a lead inspector or risk assessor; and

(B) Analyzed by a laboratory recognized by EPA pursuant to section 405(b) of TSCA as being capable of performing analyses for lead compounds in paint chip, dust, and soil samples.

(5) Sample Forms and Questionnaires. Sample forms and questionnaires may be found within the documented methodologies referenced in section (3) of this regulation. These samples may be used as a guide by Missouri licensed risk assessors.

(6) Lead Risk Assessment.

(A) A visual inspection for risk assessment of the dwelling or child-occupied facility shall be conducted to locate the existence of deteriorated lead-bearing substances, assess the extent and causes of the deterioration, and other potential lead hazards.

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(B) Background information regarding the physical characteristics of the dwelling or child-occupied facility and occupant use patterns that may cause lead-bearing substance exposure to one (1) or more children age six (6) years and under shall be collected.

(C) Each surface with deteriorated lead-bearing surface coatings, which is determined using documented methodologies referenced in section (3) of this regulation, and a distinct painting history, shall be tested for the presence of lead. Each other surface determined, using documented methodologies, to be a potential lead hazard and having a distinct painting history, shall also be tested for the presence of lead.

(D) In dwellings, dust samples (either composite or single-surface samples) from the window troughs, sills, and floors near friction or impact spots or in areas with deteriorated surface coatings shall be collected in all living areas where one (1) or more children age six (6) and under is most likely to come into contact with dust (i.e., children’s play-room, kitchen, bedrooms, and bathrooms).

(E) For multi-family dwellings and child-occupied facilities, the samples required in subsection (6)(D) shall be taken. In addition, window and floor samples shall be collected in the following locations:

1. Common areas adjacent to the sampled residential dwelling or child-occupied facility; and

2. Other common areas in the building where the risk assessor determines that one (1) or more children age six (6) and under is likely to come into contact with dust.

(F) For child-occupied facilities, window and floor dust samples (either composite or single-surface samples) shall be collected in each room, hallway, or stairwell utilized by one (1) or more children age six (6) and under and in other common areas in the child-occupied facility where the risk assessor determines that one (1) or more children age six (6) and under is likely to come into contact with dust.

(G) Soil samples shall be collected and analyzed for lead concentrations in exterior play areas where bare soil is present and at dripline/foundation areas where bare soil is present.

(H) Any paint, dust, or soil sampling or testing shall be conducted using the documented methodologies referenced in section (3) of this regulation.

(I) The risk assessor shall prepare a risk assessment report as described in section (11) of this regulation.

(7) Lead Hazard Screen Risk Assessments.

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(A) Background information regarding the physical characteristics of the dwelling or child-occupied facility and occupant use patterns that may cause lead-bearing substance exposure to one (1) or more children age six (6) years and under shall be collected.

(B) A visual inspection of the dwelling or child-occupied facility shall be conducted to—

1. Determine if any deteriorated lead-bearing substance is present; and

2. Locate at least two (2) dust sampling locations.

(C) If deteriorated paint is present, each surface with deteriorated paint and a distinct painting history shall be tested for the presence of lead.

(D) In dwellings, two (2) composite dust samples shall be collected, one from the floors and the other from the windows in rooms, hallways, or stairwells where one (1) or more children age six (6) and under is most likely to come in contact with dust.

(E) In multi-family dwellings and child-occupied facilities, in addition to the floor and window samples required in (7)(D), the risk assessor shall also collect composite dust samples from common areas where one (1) or more children age six (6) and under is most likely to come into contact with dust.

(F) Dust, paint, and soil sampling shall be conducted using the documented methodologies referenced in section (3) of this regulation.

(G) The risk assessor shall prepare a risk assessment report as required in section (11) of this regulation.

(8) Elevated Blood Lead Level (EBL) Investigation Risk Assessments.

(A) The risk assessor shall have the parents or guardians of the EBL child fill out a questionnaire (see HUD guidelines Table 16.2) prior to sampling. Environmental testing should be linked to the child’s history and may include a prior residence or other areas frequented by the child.

(B) Background information regarding the physical characteristics of the dwelling or child-occupied facility
(C) Each surface on the dwelling itself, furniture, or play structures frequented by the child that has deteriorated surface coatings shall be tested for the presence of lead.

(D) Each chewable, impact, and friction surface shall be tested for the presence of lead-bearing substances.

(E) Dust samples from areas frequented by the child, including play areas, porches, kitchens, bedrooms, and living and dining rooms shall be collected. Dust samples shall also be collected from automobiles, work shoes, and laundry rooms if occupational lead exposure is a possibility.

(F) Soil samples shall be collected from bare soil areas of play areas, areas near the foundation of the house, and areas from the yard. If the child spends significant time at a park or other public play area, samples should be collected from these areas, unless the area has already been sampled and documented.

(G) If necessary, water samples of the first-drawn water from the tap most commonly used for drinking water, infant formula, or food preparation shall be collected.

(H) All paint, dust, or soil collection and testing shall be conducted using the documented methodologies referenced in section (3) of this regulation.

(I) The risk assessor shall prepare a risk assessment report as required in section (11) of this regulation.

(9) Composite Dust Sampling. Composite dust sampling may only be conducted in the situations specified in sections (6) and (7) of this regulation. If such sampling is conducted, the following conditions shall apply:

(A) Composite dust samples shall consist of at least two (2) samples;

(B) Every component that is being tested shall be included in the sampling; and

(C) Composite dust samples shall not consist of subsamples from more than one (1) type of component.

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(10) Sampling Results. Analytical sampling results which are received as a result of having conducted a risk assessment, an EBL investigation risk assessment, or lead hazard screen risk assessment shall be interpreted in accordance with the following for the matrices indicated:

(A) Paint. A paint chip sample which has a lead concentration that exceeds the values indicated below is considered to be a lead-bearing substance.

XRF—1.0 milligrams per square centimeter (mg/cm²)

Laboratory—1.0 mg/cm² or 0.5% by weight (or 5,000 parts per million (PPM))

(B) Dust. A dust sample which has a lead concentration that exceeds the values indicated below is considered to be a lead-bearing substance.

Floors—40 micrograms per square foot (μg/ft²)

Window Sills—250 μg/ft² for interior window sills

Window Troughs—400 μg/ft² for window troughs

(C) Soil. A soil sample which has a lead concentration that exceeds the values indicated below is considered to be a lead-bearing substance.

Bare soil areas when children have access to the site, 400 PPM

Bare soil areas when children do not have access to the site, 2,000 PPM

(D) Water. A water sample which has a lead concentration that exceeds the value indicated below is considered to be a lead-bearing substance.

15 parts per billion (PPB) or 15 μg/L

(11) Reporting and Documentation. The licensed risk assessor shall prepare a risk assessment report which shall include the following information:

(A) Date of risk assessment;

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(B) Address of each dwelling or child-occupied facility;

(C) Date dwelling or child-occupied facility was constructed;

(D) Apartment number, if applicable;

(E) Name, address, and telephone number of each owner of each dwelling or child-occupied facility;

(F) Name, signature, and license number of the licensed risk assessor conducting the assessment;

(G) Name, address, and telephone number of the firm employing each licensed risk assessor, if applicable;

(H) Name, address, and telephone number of each recognized laboratory conducting analysis of collected samples;

(I) Results of the visual inspection;

(J) Testing method and sampling procedure for paint analysis employed;

(K) Specific locations of each painted component tested for the presence of lead;

(L) All data collected from on-site testing, including quality control data;

(M) X-ray fluorescence (XRF) results, including the following (if applicable):

1. XRF manufacturer and model;

2. Serial number of XRF device used during the inspection;

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3. Calibration verification from the beginning and end of each residential unit;

4. A copy of the XRF device user’s certificate of training provided by the equipment manufacturer;

5. License or registration number of the XRF instrument;

6. A summary that categorizes the XRF results into one (1) of three (3) categories: positive, negative, or inconclusive; and

7. Recommendations for addressing inconclusive XRF results;

   (N) All results of laboratory analysis on collected paint, soil, and dust samples and the name of each accredited laboratory that conducted the analysis;

   (O) Any other sampling results;

   (P) Any background information collected pursuant to subsections (6)(B), (7)(A), and (8)(B) of this regulation;

   (Q) To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-bearing substance hazards;

   (R) A description of the location, type, and severity of identified lead-bearing substance hazard and any other potential lead hazards; and

   (S) A description of interim controls and/or abatement options for each identified lead hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

   (12) Time Frame for Submission of Reports. The risk assessment report shall be provided to the owner of the property within twenty (20) business days of risk assessment completion.

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PURPOSE: This rule delineates the criteria for conducting lead abatement projects in target housing and child-occupied facilities in accordance with standards set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.600 through 19 CSR 30-70.630.

(1) Licensure. All persons conducting lead abatement shall be licensed as set forth in sections 701.300 through 701.338, RSMo, and 19 CSR 30-70.110 through 19 CSR 30-70.200. Licensed lead abatement professionals must present, upon request, proof of licensure in the form of the photo identification badge issued by the Office of Lead Licensing and Accreditation (OLLA).

(2) Conflict of Interest. OLLA recommends that any person or firm conducting a lead abatement project should avoid potential conflicts of interest by not providing clearance sampling services, inspection, or risk assessment services for that same abatement project.

(3) Documented Methodologies for Conducting Lead Abatement Projects.

(A) All licensed lead abatement workers and supervisors may use the following documented methodologies, but shall, at a minimum, follow the work practice standards presented in this regulation for conducting lead abatement projects:

1. The U.S. Department of Housing and Urban Development (HUD) publication entitled, “Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing” (HUD Guidelines); and


(B) Where a conflict exists between any of the aforementioned informational resources and any federal or state statute or regulation, or any city or county ordinance, the most stringent of these shall be adhered to by licensed lead abatement workers and supervisors.
(4) Notification. Any person or lead abatement contractor conducting a lead abatement project in target housing or in any child-occupied facility shall submit a notification to the department at least ten (10) business days prior to the onset of the lead abatement project.

(A) The notification shall be mailed with a check or money order made payable to the Missouri Department of Health for the non-refundable fee of twenty-five dollars ($25) to the Missouri Department of Health, Attention: Fee Receipts, PO Box 570, Jefferson City, MO 65102-0570.

(B) The notification form provided by the department shall include the following:

1. The street address, city, state, zip code, and county of each location where lead abatement will occur;

2. The name, address, and telephone number of the property owner;

3. An indication of the type of structure being abated (i.e., single-family or multi-family dwelling and/or child-occupied facility);

4. The date of the onset of the abatement project;

5. The estimated completion date of the abatement project;

6. The work days and hours of operation that the abatement project will be conducted;

7. The name, address, telephone number, and license number of the lead abatement contractor;

8. The name and license number of each lead abatement supervisor;

9. The name and license number of each lead abatement worker;

10. The type(s) of abatement strategy(ies) that will be utilized (i.e., encapsulation, replacement, and/or removal); and
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11. The signature of each lead abatement supervisor which certifies that all information provided in the  
project notification is complete and true to the best of the supervisor’s knowledge.

(5) Emergency Notification. If the lead abatement contractor is unable to comply with the ten (10)-day notification  
period in the event of an emergency situation as defined in 19CSR 30-70.600, the lead abatement contractor shall—  

(A) Notify OLLA by telephone, facsimile, or electronic mail within twenty-four (24) hours of the onset of the  
lead abatement project; and

(B) Submit the written notification and notification fee as prescribed in section (4) of this regulation no more  
than five (5) business days after the onset of the lead abatement project.

(6) Renotification. A renotification shall be submitted to OLLA at least twenty-four (24) hours prior to any changes  
from the original project notification.

(A) A renotification form shall be mailed to the Missouri Department of Health, Office of Lead Licensing and  
Accreditation, PO Box 570, Jefferson City, MO 65102-0570.

(B) The renotification form provided by the department shall include the following:

1. The street address, city, state, zip code, and county of each location where abatement will occur;

2. The name, address, and telephone number of the property owner;

3. An indication of the type of structure being abated (i.e., single-family or multi-family dwelling and/or  
child-occupied facility);

4. The name, address, telephone number, and license number of the lead abatement contractor;

5. A list of changes to the original notification which may include the following:

A. The date of the onset of the abatement project;

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B. The estimated completion date of the abatement project;

C. The work days and hours of operation that the abatement project will be conducted;

D. The name, address, telephone number, and license number of the lead abatement contractor;

E. The name and license number of each lead abatement supervisor;

F. The name and license number of each lead abatement worker; and

G. The type(s) of abatement strategy(ies) that will be utilized (i.e., encapsulation, replacement, and/or removal); and

6. The signature of the lead abatement supervisor which certifies that all information provided in the project renotification is complete and true to the best of the supervisor’s knowledge.

(7) Occupant Protection Plan.

(A) General Scope. Occupants of dwelling units undergoing lead abatement activities shall be protected from exposure to lead hazards while lead abatement work is being performed. If occupants remain in the dwelling during a lead abatement project, the lead abatement supervisor shall ensure that occupants have safe, uncontaminated access to nonregulated areas. To ensure occupant safety, a written occupant protection plan shall be developed for all abatement projects. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead hazards. The purpose of occupant protection planning is to—

1. Evaluate the necessity of removing occupants from the residence during lead abatement activities;

2. Prevent uncontrolled release of dust and debris beyond the abatement work area;

3. Prevent entry of unlicensed individuals into the regulated area; and

4. Ensure that clearance levels have been met prior to reoccupancy by building residents.

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(B) The occupant protection plan shall meet the following requirements:

1. Be unique to each lead abatement project;

2. Be developed and implemented prior to commencement of the lead abatement project;

3. Describe the work practices and strategies that will be taken during the lead abatement project to protect the building occupants from exposure to any lead hazards;

4. Be written by the licensed lead abatement supervisor responsible for the project;

5. Include the results of any lead inspections or risk assessments completed prior to the commencement of the lead abatement project;

6. The occupant protection plan shall be provided to an adult occupant of each dwelling or dwelling unit being abated, and the property owner, or property owner’s designated representative, prior to the commencement of the lead abatement project; and

7. The occupant protection plan shall be submitted to OLLA with the lead abatement project notification.

(8) Post-Abatement Project Report. A post-abatement project report shall be prepared by a licensed lead abatement supervisor or licensed project designer and shall be provided to the property owner within twenty (20) business days of the abatement project completion. The licensed supervisor or project designer shall make copies of the report available to OLLA upon request. The report shall include the following information:

(A) The project location and address;

(B) The actual start and completion dates of the abatement project;

(C) The name, address, telephone number, and license number of the contractor conducting the lead abatement project;
(D) The name and license number of each lead abatement supervisor and/or project designer;

(E) The name and license number of each lead abatement worker;

(F) The name and license number of each lead inspector or risk assessor responsible for clearance testing;

(G) The date and the results of clearance testing, and the name of each National Lead Laboratory Accreditation Program (NLLAP)-accredited laboratory that conducted the analyses; and

(H) A detailed written description of the lead abatement project, including abatement methods used, locations of rooms and/or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulant or enclosure.

(9) Lead Abatement Project Requirements.

(A) General.

1. A licensed lead abatement supervisor is required for each abatement project and shall be on-site during all work site preparation and during the post-abatement cleanup of work areas. At all other times when abatement activities are being conducted, the licensed supervisor shall be on-site or available by telephone, pager, or answering machine and able to be present at the work site in no more than two (2) hours.

2. The lead abatement supervisor, as well as the lead abatement contractor employing that lead abatement supervisor, shall ensure that all abatement project activities are conducted according to the requirements of these work practice standards for conducting lead-bearing substance activities (19 CSR 30-70.600 through 19 CSR 30-70.630) and all federal, state, and local laws, regulations, or ordinances pertaining to lead-bearing substance activities.

3. The lead abatement supervisor shall have on-site a list of all licensed lead abatement workers, which shall include their names and license numbers, working on the current project.

4. All abatement project activities shall be performed by persons currently licensed by OLLA as lead abatement workers and/or lead abatement supervisors. These people shall present, upon request, proof of licensure in the form of the photo identification badge issued by OLLA.

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5. A written occupant protection plan shall be developed prior to all abatement projects according to section (7) of this regulation.

6. Access to the regulated area shall be limited to OLLA-licensed lead professionals or department-authorized persons.

7. All waste generated from a lead-based paint abatement project shall be disposed of in accordance with the requirements of Environmental Protection Agency (EPA), Missouri Department of Natural Resources, and any other applicable federal, state, and local laws.

(B) Prohibited Lead Abatement Project Strategies. The following lead abatement project strategies are prohibited:

1. Open-flame burning or torching of lead-bearing substances;

2. Machine sanding or grinding or abrasive blasting or sandblasting of lead-bearing substances without containment and high efficiency particulate air (HEPA)-vacuum exhaust control;

3. Hydroblasting or pressurized water washing of lead-bearing substances without containment and water collection and filtering;

4. Heat guns operating above one thousand one hundred degrees Fahrenheit (1,100°F);

5. Methylene chloride based chemical strippers;

6. Solvents that have flashpoints below one hundred forty degrees Fahrenheit (140°F);

7. Dry scraping strategies unless in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two (2) square feet in any one room, hallway, or stairwell or totaling no more than twenty (20) square feet on exterior surfaces;

8. Enclosure strategies where the barrier is not warranted by the manufacturer to last at least twenty (20)
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years under normal conditions, or where the primary barrier is not a solid barrier; and

9. Encapsulation strategies where the encapsulant is not warranted by the manufacturer to last at least twenty (20) years under normal conditions, or where the encapsulant has been improperly applied.

(C) Permissible Lead Abatement Project Strategies. Strategies that are permissible for lead abatement projects are as follows: replacement, enclosure, encapsulation, or removal. Any abatement strategy not specified herein shall be submitted to the Missouri Department of Health, Office of Lead Licensing and Accreditation, PO Box 570, Jefferson City, MO 65102-0570 for evaluation and approval prior to use.

1. Replacement.

A. Non-window component replacement. When conducting non-window component replacement, these minimum requirements shall be met—

(I) The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other appropriate barriers. The regulated area shall be defined to prevent unlicensed and/or unauthorized personnel from approaching closer than twenty feet (20') to the replacement operation;

(II) Signs shall be posted at all entrances to the regulated area, and shall include the words “WARNING: LEAD AREA, POISON-NO SMOKING OR EATING” in bold lettering not smaller than two (2”) inches tall with additional language prohibiting entrance to the regulated area by unauthorized personnel;

(III) Any heating and cooling systems within the regulated area shall be shutdown and the vents sealed with six (6)-mil poly to prevent lead dust accumulation within the system;

(IV) All items shall be cleaned within the regulated area by HEPA vacuuming and/or wet wiping with a cleaning solution. Items shall then be removed from the area, or covered with six (6)-mil poly and sealed with duct tape;

(V) At least one layer of six (6)-mil, or thicker, poly shall be placed on the floor at the base of the component and extend at least ten feet (10’) beyond the perimeter of the component to be replaced;

(VI) The component, and the area immediately adjacent to the component, shall be thoroughly wetted using a garden sprayer, airless mister, or other appropriate means to reduce airborne dust;

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(VII) After removal of the component, the surface behind the removed component shall be thoroughly wetted to reduce air-borne dust;

(VIII) The component shall be wrapped or bagged completely in six (6)-mil poly and sealed with duct tape to prevent loss of debris or dust; and

(IX) Prior to installing a new component, the area of replacement shall be cleaned by HEPA vacuuming. After replacement is complete, the regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again.

B. Window replacement. When conducting window replacement, these minimum requirements shall be met—

(I) The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other appropriate barriers. The regulated area shall be defined to prevent unlicensed and/or unauthorized personnel from approaching closer than twenty feet (20’) to the replacement operation;

(II) Signs shall be posted at all entrances to the regulated area, and shall include the words “WARNING: LEAD AREA, POISON—NO SMOKING OR EATING” in bold lettering not smaller than two (2”) inches tall with additional language prohibiting entrance to the regulated area by unauthorized personnel;

(III) If replacing window from the inside—

(a) Critical barrier containment shall be established covering the window on the exterior;

(b) A perimeter of five feet (5’) shall be established extending from the base of the interior window to be replaced;

(c) Items within the perimeter shall be removed. Items too large to remove shall be covered with poly sheeting and sealed with duct tape and left in the perimeter; and

(d) At least one layer of six (6)-mil poly, or thicker, shall be placed on the ground and extend five feet (5’) out from the base of the window;

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(IV) If replacing window from the exterior—

(a) Critical barrier containment shall be established covering the window on the interior;

(b) A perimeter of five feet (5') shall be established extending from the base of the exterior window to be replaced;

(c) Items within the perimeter shall be removed. Items too large to remove shall be covered with poly sheeting and sealed with duct tape; and

(d) At least one layer of six (6)-mil poly, or thicker, shall be placed on the ground and extend five feet (5') out from the base of the window ensuring that all ground plants and shrubs in the perimeter are covered;

(V) The component, and the area immediately adjacent to the component, shall be thoroughly wetted using a garden sprayer, airless mister, or other appropriate means to reduce airborne dust;

(VI) After removal of the component, the surface behind the removed component shall be thoroughly wetted to reduce airborne dust;

(VII) The component shall be wrapped or bagged completely in six (6)-milpoly and sealed with duct tape to prevent loss of debris or dust; and

(VIII) Prior to installing a new component, the area of replacement shall be cleaned by HEPA vacuuming. After replacement is complete, the regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again.

2. Enclosure. When conducting a lead abatement project using the enclosure strategy, these minimum requirements shall be met—

A. The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other appropriate barriers. The regulated area shall be defined to prevent unlicensed and/or unauthorized personnel from approaching closer than twenty feet (20') to the enclosure operation;

B. Signs shall be posted at all entrances to the regulated area, and shall include the words
“WARNING: LEAD AREA, POISON-NO SMOKING OR EATING” in bold lettering not smaller than two inches (2”) tall with additional language prohibiting entrance to the regulated area by unauthorized personnel;

C. Any heating and cooling systems within the regulated area shall be shut down and the vents sealed with six (6)-mil poly to prevent lead dust accumulation within the system;

D. All items shall be cleaned within the regulated area by HEPA vacuuming and/or wet wiping with a cleaning solution. Items shall then be removed from the area or covered with six (6)-mil poly and sealed with duct tape;

E. At least one layer of six (6)-mil, or thicker, poly shall be placed on the floor at the base of the component and extend at least ten feet (10’) beyond the perimeter of the component to be enclosed;

F. The surface to be enclosed shall be labeled (behind the enclosure), horizontally and vertically, approximately every two feet (2’) with a warning, “Danger: Lead-Based Paint,” in permanent ink;

G. The enclosure material shall be applied directly onto the painted surface, or a frame shall be constructed of wood or metal, using nails, staples, or screws. Glue may be used in conjunction with the aforementioned fasteners, but not alone;

H. The material used for the enclosure barrier shall be solid and rigid enough to provide adequate protection. Materials including, but not limited to, wall papers, contact paper, films, folding walls, and drapes do not meet this requirement;

I. Enclosure systems and their adhesives shall be designed to last at least twenty (20) years;

J. The substrate or building structure to which the enclosure is fastened shall be sufficient structurally to support the enclosure barrier for at least twenty (20) years. Deterioration such as mildew, water damage, dry rot, termite damage, or any significant structural damage may impair the enclosure from remaining dust tight;

K. Preformed steel, aluminum, vinyl, or other construction material may be used for window frames, exterior siding, trim casings, column enclosures, moldings, or other similar components if they can be sealed dust tight;

L. A material equivalent to one-fourth inch (1/4”) rubber or vinyl may be used to enclose stairs;

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M. The seams, edges, and fastener holes shall be sealed with caulk or other sealant, providing a dust-tight system;

N. All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution and/or vacuumed with a HEPA vacuum prior to removal from the regulated area;

O. Prior to clearance, the installed enclosure and surrounding regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the main entrance to the area and from the top to the bottom of the regulated area; and

P. It is recommended that a visual evaluation of the enclosure’s integrity be conducted and documented by the building owner or the building owner’s representative at least every year or immediately after any fire, water, or structural damage. In child-occupied facilities, it is recommended that a licensed risk assessor inspect all enclosures every three (3) years, or whenever the owner’s visual evaluation indicates a potential for increased lead hazard exposure.

3. Encapsulation.

A. The encapsulation strategy of lead abatement shall not be used on the following:

   (I) Friction surfaces—such as window sashes and parting beads, door jambs and hinges, floors, and door thresholds;

   (II) Deteriorated components—including rotten wood, rusted metal, spalled or cracked plaster, or loose masonry;

   (III) Impact surfaces, such as door stops, window wells, and headers;

   (IV) Deteriorated surface coatings such that the adhesion or cohesion of the surface coating is uncertain or indeterminable; and

   (V) Incompatible coatings.
B. When conducting a lead abatement project using the encapsulation strategy, these minimum requirements shall be met—

(I) Encapsulant selection shall be limited to those that are warranted by the manufacturer to last for at least twenty (20) years and comply with fire, health, and environmental regulations;

(II) Surfaces to be encapsulated shall have sound structural integrity with no loose, chipping, peeling, or chalking paint and no dust accumulation that cannot be cleaned, and shall be prepared and applied according to the manufacturer’s recommendations;

(III) The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other appropriate barriers. The regulated area shall be designated as to prevent unlicensed and/or unauthorized personnel from approaching closer than twenty feet (20’) to the encapsulation operation;

(IV) Signs shall be posted at all entrances to the regulated area, and shall include the words “WARNING: LEAD AREA, POISON—NO SMOKING OR EATING” in bold lettering not smaller than two inches (2”) tall with additional language prohibiting entrance to the regulated area by unauthorized personnel;

(V) Any heating and cooling systems within the regulated area shall be shut down and the vents sealed with six (6)-mil poly to prevent lead dust accumulation within the system;

(VI) All items shall be cleaned within the regulated area by HEPA vacuuming and/or wet wiping with a cleaning solution. Items shall then be removed from the area, or covered with six (6)-mil poly sheeting and sealed with duct tape;

(VII) At least one layer of six (6)-mil, or thicker, poly shall be placed on the ground at the base of the component and extend at least ten feet (10’) beyond the perimeter of the component to be encapsulated;

(VIII) A patch test shall be conducted prior to general application to determine the adhesive and cohesive properties of the encapsulant on the surface to be encapsulated (see the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, Chapter 13);

(IX) After the manufacturer’s recommended curing time, the entire encapsulated surface shall be inspected by a licensed lead abatement supervisor or a licensed project designer. Any unacceptable areas shall be evaluated to determine if a complete failure of the system is indicated, or whether the system can be patched or repaired. Unacceptable areas are evidenced by delamination, wrinkling,
(X) After the encapsulation is complete, the regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the main entrance to the area and from the top to the bottom of the regulated area;

(XI) All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution and/or vacuumed with a HEPA vacuum prior to removal from the regulated area; and

(XII) It is recommended that a visual evaluation of the encapsulant’s integrity be conducted and documented by the building owner or the building owner’s representative at least every year or immediately after any fire, water, or structural damage. In child-occupied facilities, it is recommended that a licensed risk assessor inspect all encapsulations every three (3) years, or whenever the owner’s visual evaluation indicates a potential for increased lead hazard exposure.

4. Removal.

A. Acceptable removal strategies include:

(I) Manual wet strategies—Manual wet scraping or manual wet sanding is acceptable for removal of lead surface coatings;

(II) Mechanical removal strategies—Power tools that are HEPA-shrouded or locally exhausted are acceptable removal strategies for lead surface coatings. HEPA-shrouded or exhausted mechanical abrasion devices such as sanders, saws, drills, roto-peens, vacuum blasters, and needle guns are acceptable;

(III) Chemical removal strategies—Chemical strippers shall be used in compliance with manufacturer’s recommendations; and

(IV) Soil abatement—When soil abatement is conducted, the lead-bearing soil shall be removed, tilled, or permanently covered in place as indicated in the following subparts:

(a) Removed soil shall be replaced with fill material containing no more than one hundred parts per million (100 ppm) of total lead. If the fill material exceeds one hundred (100) ppm total lead, the fill material will be acceptable only if the lead solubility is less than five (5) ppm. Soil that is removed shall not be reused as topsoil in another residential yard or child-occupied facility;
(b) If tilling is selected, soil in a child-accessible area shall be tilled to a depth which results in no more than four hundred (400) ppm total lead of the homogenized soil, or other concentrations approved by the department. Soil in an area not accessible to children shall be tilled to a depth which results in no more than two thousand (2,000) ppm total lead of the homogenized soil or other concentrations approved by the department;

(c) Permanent soil coverings include solid materials such as pavement or concrete, which separate the soil from human contact. Grass, mulch, and other landscaping materials are not considered permanent soil covering; and

(d) Soil abatement shall be conducted to prevent lead contaminated soil from being blown from the site and/or from being carried away by water run-off or through percolation to groundwater.

B. Interior removal. When conducting a lead abatement project using the removal strategy on interior surfaces, these minimum requirements shall be met—

(I) The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other appropriate barriers. The regulated area shall be defined to prevent unlicensed and/or unauthorized personnel approaching closer than twenty feet (20’) to the removal operation;

(II) Signs shall be posted at all entrances to the regulated area, and shall include the words “WARNING: LEAD AREA, POISON-NO SMOKING OR EATING” in bold lettering not smaller than two inches (2”) tall with additional language prohibiting entrance to the regulated area by unauthorized personnel;

(III) Any heating and cooling systems within the regulated area shall be shut down and the vents sealed with six (6)-mil poly to prevent lead dust accumulation within the system;

(IV) All items within the regulated area shall be cleaned by HEPA vacuuming and/or wet wiping with a cleaning solution. Items shall then be removed from the area, or covered with six (6)-mil poly and sealed with duct tape;

(V) All windows below and within the regulated area shall be closed;

(VI) Critical barrier containment shall be constructed;
(VII) At least two (2) layers of six (6)-mil, or thicker, poly shall be placed on the floor at the base of the component and extend at least ten feet (10’) beyond the perimeter of the component being abated (removal by the chemical strategy may require chemical resistant floor cover; follow manufacturer’s recommendations);

(VIII) All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution and/or vacuumed with a HEPA vacuum prior to removal from the regulated area;

(IX) At the end of each work shift, the top layer of six (6)-mil poly shall be removed and used to wrap and contain the debris generated by the shift. The six (6)-mil poly shall then be sealed with duct tape and kept in a secured area until final disposal. The second layer of six (6)-mil poly shall be HEPA vacuumed, left in place and used during the next shift. A single layer of six (6)mil poly shall be placed on this remaining poly before abatement resumes; and

(X) After the removal is complete, the regulated area shall be cleaned by vacuuming with a HEPA vacuum, wiping down all surfaces with a cleaning solution, rinsing all surfaces, and then HEPA vacuuming the area again. Cleaning shall begin at the end of the work area farthest from the entrance to the area and from the top to the bottom of the regulated area.

C. Exterior removal. When conducting a lead abatement project using the removal strategy on exterior surfaces, these minimum requirements shall be met—

(I) The site shall be prepared by first establishing a regulated area using fencing, barrier tape, or other appropriate barriers. The regulated area shall be designated as to prevent unlicensed and/or unauthorized personnel from approaching closer than twenty feet (20’) to the removal operation;

(II) Signs shall be posted at all entrances to the regulated area, and shall include the words “WARNING: LEAD AREA, POISON—NO SMOKING OR EATING” in bold lettering not smaller than two inches (2”) tall with additional language prohibiting entrance to the regulated area by unauthorized personnel;

(III) All movable items shall be moved twenty feet (20’) from working surfaces. Items that cannot be readily moved twenty feet (20’) from working surfaces shall be covered with six (6)-mil poly and sealed with duct tape;

(IV) At least one layer of six (6)-mil, or thicker, poly shall be placed on the ground and extend at least ten feet (10’) from the abated surface plus another five feet (5’) out for each additional ten feet (10’) in surface height over twenty feet (20’). In addition, the poly shall—
(a) Be securely attached to the side of the building with cover provided to all ground plants and shrubs in the regulated area;

(b) Be protected from tearing or perforating;

(c) Contain any water, including rainfall, which may accumulate during the abatement; and

(d) Be weighted down to prevent disruption by wind gusts;

(V) All windows in the regulated area and all windows below and within twenty feet (20') of working surfaces shall be closed. It is recommended that the windows of adjacent structures within twenty feet (20') also be closed;

(VI) Work shall cease if constant wind speeds are greater than ten (10) miles per hour;

(VII) Work shall cease and cleanup shall occur if rain begins;

(VIII) All equipment used in the regulated area shall be thoroughly cleaned with a cleaning solution and/or vacuumed with a HEPA vacuum prior to removal from the regulated area; and

(IX) The regulated area shall be HEPA vacuumed and cleaned of lead-based paint chips, poly and other debris generated by the abatement project work at the end of each workday. Debris shall be kept in a secured area until final disposal.

(10) Post-Abatement Clearance Procedures. The following post-abatement clearance procedures shall be performed only by a licensed lead inspector or risk assessor:

(A) Following abatement, a visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris, or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris, or residues are present, these conditions must be eliminated prior to the continuation of the clearance procedures;

(B) Following the visual inspection and any post-abatement cleanup required by subsection (10)(A) of this
(C) Dust and soil sampling shall be conducted using the documented methodologies referenced in section (3) of this regulation;

(D) Dust samples for clearance purposes shall be taken a minimum of one (1) hour after completion of final post-abatement cleanup activities;

(E) The licensed lead inspector or risk assessor shall compare the residual lead level from each dust and/or soil sample with clearance levels specified in section (11) of this regulation for lead in dust on floors, windows, and soil;

(F) If the lead levels in a clearance dust sample exceed the clearance levels, all the components represented by the failed dust sample shall be recleaned and tested until clearance levels are met;

(G) If the lead levels in a soil clearance sample exceed the clearance levels, the soil shall be abated until a composite soil sample meets clearance levels; and

(H) In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided—

1. The licensed individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample;

2. A sufficient number of residential dwellings are selected for dust sampling to provide a ninety-five percent (95%) level of confidence that no more than five 5 percent (5%) or fifty (50) of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels; and

3. The randomly selected residential dwellings shall be sampled and evaluated for clearance according to the procedures found in subsections (10)(A) through (10)(G) of this regulation.

(11) Clearance Levels. For each respective media, the following clearance levels shall be met for a lead-abatement project to be considered complete (if background lead levels are lower than the following clearance levels, clearance is not complete until background values are met):

Current through May 31, 2014
Missouri Code of State Regulations Currentness — Title 19 - Department of Health and Senior Services Division 30 - Division of Regulation and Licensure _Special Notice_ Chapter 70 - Lead Abatement and Assessment Licensing, Training Accreditation

(A) Dust samples—

<table>
<thead>
<tr>
<th>Media</th>
<th>Clearance Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Floors</td>
<td>40 μg/ft²</td>
</tr>
<tr>
<td>Interior window sills</td>
<td>250 ug/ft²</td>
</tr>
<tr>
<td>Window troughs</td>
<td>400 ug/ft²</td>
</tr>
</tbody>
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19 Mo. Code of State Regulations 30-70.640
19 CSR 30-70.640 Project Notification for Industrial Lead Abatement Projects

PURPOSE: This rule delineates the procedure for filing an industrial lead abatement project notification with the Missouri Department of Health, Office of Lead Licensing and Accreditation.

(1) Notification. Any person or entity conducting an industrial lead abatement project shall submit a notification to the department at least ten (10) business days prior to the onset of the lead abatement project.

(A) The notification shall be mailed with a check or money order made payable to the Missouri Department of Health for the non-refundable fee of twenty-five dollars ($25) to the Missouri Department of Health, Attention: Fee Receipts, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The notification form provided by the department shall include the following:

Current through May 31, 2014
1. The street address, city, state, zip code and county of each location where abatement will occur;

2. The name, address and telephone number of the property owner;

3. An indication of the type of structure being abated (i.e., bridge, superstructure or other structure that is not a dwelling or child-occupied facility);

4. The date of the onset of the abatement project;

5. The estimated completion date of the abatement project;

6. The work days and hours of operation that the abatement project will be conducted;

7. The name, address, telephone number and license number of the lead abatement contractor;

8. The name and license number of each lead abatement supervisor;

9. The name and license number of each lead abatement worker;

10. The type(s) of abatement strategy(ies) that will be utilized (i.e., encapsulation, replacement, and/or removal); and

11. The signature of each lead abatement supervisor which certifies that all information provided in the project notification is complete and true to the best of the supervisor’s knowledge.

(2) Emergency Notification. If the lead abatement contractor is unable to comply with the ten (10)-day notification period in the event of an emergency situation as defined in 19 CSR 30-70.600, the lead abatement contractor shall—

(A) Notify the Office of Lead Licensing and Accreditation (OLLA) by telephone, facsimile, or electronic mail within twenty-four (24) hours of the onset of the lead abatement project; and
(B) Submit the written notification and notification fee as prescribed in section (1) of this regulation no more than five (5) business days after the onset of the lead abatement project.

(3) Renotification. A renotification shall be submitted to OLLA at least twenty-four (24) hours prior to any changes from the original project notification.

(A) A renotification form shall be mailed to the Missouri Department of Health, Office of Lead Licensing and Accreditation, P.O. Box 570, Jefferson City, MO 65102-0570.

(B) The renotification form provided by the department shall include the following:

1. The street address, city, state, zip code and county of each location where abatement will occur;

2. The name, address and telephone number of the property owner;

3. An indication of the type of structure being abated (i.e., bridge, superstructure or other structure that is not a dwelling or child-occupied facility);

4. The license number of the lead abatement contractor;

5. A list of changes to the original notification which may include the following:

   A. The date of the onset of the abatement project;

   B. The estimated completion date of the abatement project;

   C. The work days and hours of operation that the abatement project will be conducted;

   D. The name, address, telephone number and license number of the lead abatement contractor;

   E. The name and license number of each lead abatement supervisor;

Current through May 31, 2014
F. The name and license number of each lead abatement worker; and

G. The type(s) of abatement strategy(ies) that will be utilized (i.e., encapsulation, replacement, and/or removal); and

6. The signature of the lead abatement supervisor which certifies that all information provided in the project notification is complete and true to the best of the supervisor’s knowledge.

19 Mo. Code of State Regulations 30-70.650

19 CSR 30-70.650 Administrative Penalties

PURPOSE: This rule establishes the procedures for issuance and methods for calculation of administrative penalties by the department.

(1) Applicability. This rule applies to any licensed lead professional who violates the provisions of 19 CSR 30-70.630, Lead Abatement Work Practice Standards.

(2) Definitions.

(A) Adjustments: Those factors related to a violator or violation, which are not reflected in the gravity-based assessment but which distinguish legitimate differences between separate violations of the same provision.

(B) Compliance: A regulated entity or individual’s meeting or conformity with applicable regulations, notifications, licensure requirements, and laws.

(C) Department: Shall refer to the Missouri Department of Health and Senior Services.

(D) Enforcement: A formal action taken against the regulated entity or individual for violating applicable regulations, notifications, licensure requirements, and laws. Such actions include, but are not limited to, Notice of Violation (NOV), warning letters, administrative penalties, cease and desist order, and/or licensure restriction, revocation, suspension, and/or denial.

Current through May 31, 2014
(E) Gravity-based assessment: The degree of seriousness of a violation taking into consideration the risk to public health and/or the environment posed by the violation and considering the extent of deviation from sections 701.300-701.338, RSMo.

(F) Identified offense: A violation meeting the requirements specified in subsection (3)(B) of this rule in which administrative penalties may be assessed by the department.

(G) Lead abatement project: The replacement, encapsulation, enclosure, or removal of a lead-bearing substance on a particular component within a particular location, which will remove or remediate the lead hazard(s) for at least twenty (20) years.

(H) Multiple violation penalty: The sum of individual administrative penalties assessed when two (2) or more violations are included in the same complaint or enforcement action.

(I) Multi-day penalty: The sum of each day’s administrative penalties assessed when the same violation has occurred on or continued for two (2) or more consecutive or nonconsecutive days.

(J) Multi-day violation: A violation which has occurred on or continued for two (2) or more consecutive or nonconsecutive days.

(K) Noncompliance: Deviation from or failure to meet applicable regulations, notifications, licensure requirements, and laws. Noncompliance can range from a single incident to chronic conduct. Noncompliance may result in a negative impact to public health and/or the environment.

(L) Notice of violation (NOV): The formal written documentation that reflects the deviation from or failure of the lead abatement contractor, supervisor, or worker to meet applicable regulations, notifications, licensure requirements, and laws. A notice of violation shall include the corrective action(s) to be performed to achieve compliance.

(M) Notification: A required package of information submitted to the department by the lead supervisor at least ten (10) days prior to the onset of a lead abatement project. The notification shall include a completed Lead Abatement Project Notification form, as required by the department; full payment of the notification fee prior to starting the lead abatement project; and disclosure of any potential lead hazards to the owners and tenants of a dwelling by the Missouri licensed risk assessor who conducted the initial risk assessment (occupant protection plan). The Lead Abatement Project Notification form, MO 580-2365 (1-05), is incorporated by reference in this rule and is available on the web at www.dhss.mo.gov or by contacting the department at PO Box 570, Jefferson City, MO 65102-0570, (573) 751-6111. This rule does not incorporate any subsequent amendments or additions.
(N) Violation: The deviation from or failure of the licensed lead professional to meet applicable regulations, notifications, licensure requirements, and laws which require corrective action(s).

(3) General Provisions.

(A) Pursuant to section 701.317, RSMo, and in addition to any other remedy provided by law, upon determination by the department that any provision of sections 701.300-701.338, RSMo, or a standard, limitation, order, rule, or regulation promulgated pursuant thereto, or a term or condition of any license has been violated, the department may issue an order assessing an administrative penalty upon the violator.

(B) An administrative penalty shall not be imposed until the department has issued a notice of violation pursuant to section 701.311, RSMo, to the violator regarding the same type of violation within the calendar year except a failure to provide written notification prior to the onset of a lead abatement project according to section 701.309.3, RSMo. An order assessing an administrative penalty shall state that an administrative penalty is being assessed under section 701.317, RSMo, the manner of collection and rights of appeal.

(C) An order assessing an administrative penalty shall describe the nature of the violation(s), the amount of the administrative penalty being assessed, and the basis of the penalty calculation.

(D) An order assessing an administrative penalty shall be served upon the licensee through the United States Postal Service certified mail, return receipt requested. An order assessing an administrative penalty shall be considered served if the licensee verifies receipt. A refusal to accept an order assessing an administrative penalty, or a rejection of certified mail, constitutes service of the order.

(E) The department may, at any time, withdraw without prejudice any administrative penalty order.

(4) Calculation of Penalties. The calculation of administrative penalties may include any of the following four (4) factors: gravity-based assessment, multiple violation penalties, multi-day penalties, and adjustments.

(A) Gravity-Based Assessment. The gravity-based assessment is determined by evaluating the potential for harm posed by the violation and the extent to which the violation deviates from the requirements of the law, associated rules, or licenses.

1. Potential for or actual harm. The potential for harm posed by a violation is based on the risk to public health, safety, or the environment and the degree that the violation undermines the purposes of or procedures for implementing the law, associated rules, or licenses.

A. The risk of exposure is dependent on both the likelihood that humans or the environment may be exposed to lead...
hazards and the degree of potential exposure. Penalties will reflect the probability that the violation either did result in or could have resulted in a release of lead contamination in the environment and the harm, which either did or would have happened if the release had in fact occurred.

(I) Acute—

(a) The violation poses or may pose an immediate or imminent risk to public health and/or the environment; or

(b) Is a violation specified in the Department of Health and Senior Services Lead Abatement Work Practice Standards Enforcement Manual as Acute Noncompliance. The manual is incorporated by reference in this rule as published May 1, 2009, by the Department of Health and Senior Services and is available on the web at www.dhss.mo.gov or by contacting the department at PO Box 570, Jefferson City, MO 65102-0570, (573) 751-6111. This rule does not incorporate any subsequent amendments or additions.

(II) Significant—

(a) The violation poses or may pose a considerable risk to public health and/or the environment;

(b) The violation has or may have a substantial adverse effect on the purposes of or procedures for implementing sections 701.300-701.338, RSMo; or

(c) Is a violation specified in the Department of Health and Senior Services Lead Abatement Work Practice Standards Enforcement Manual as Significant Noncompliance. The manual is incorporated by reference in this rule as published May 1, 2009, by the Department of Health and Senior Services and is available on the web at www.dhss.mo.gov or by contacting the department at PO Box 570, Jefferson City, MO 65102-0570, (573) 751-6111. This rule does not incorporate any subsequent amendments or additions.

B. Violations which may or may not pose a potential threat to public health or the environment, but which have an adverse effect upon the purposes of or procedures for implementing the law, associated rules, or licenses, may warrant the assessment of penalties.

(I) Minor—

(a) The violation poses a low or minimal risk to public health and/or the environment;
(b) The violation has or may have an adverse effect on the purposes of or procedures for implementing sections 701.300-701.338, RSMo; or

(c) Is a violation specified in the Department of Health and Senior Services Lead Abatement Work Practice Standards Enforcement Manual as Minor Noncompliance. The manual is incorporated by reference in this rule as published May 1, 2009, by the Department of Health and Senior Services and is available on the web at www.dhss.mo.gov or by contacting the department at PO Box 570, Jefferson City, MO 65102-0570, (573) 751-6111. This rule does not incorporate any subsequent amendments or additions.

2. Extent of deviation. The extent of deviation may range from slight to total disregard of the requirements of the law, associated rules, or licenses. The extent of deviation shall be evaluated according to the degree of severity.

3. Gravity-based penalty assessment. Administrative penalties will be assessed based on significance, acuity, and extent of deviation. The penalty range selected may be adapted to the circumstances of a particular violation.

(B) Penalties for Multiple Violations. Penalties for multiple violations may be determined when a violation is independent of or substantially different from any other violation. The department may order a separate administrative penalty for that violation as set forth in this rule.

(C) Penalties for Multi-Day Violations. Penalties for multi-day violations may be determined when the department has concluded that a violation(s) has continued or occurred for more than one (1) day. Each day shall be a separate offense.

(D) Adjustments. The department may adjust the penalty after consideration of the following:

1. Good faith efforts to comply. The department may decrease a penalty amount if the violator has adequately documented good faith efforts taken prior to a compliance inspection and the discovery of the violation;

2. The amount of control the violator had over the events constituting the violation;

3. The foreseeability of the events constituting the violation;
4. Whether the violator took reasonable precautions against the events constituting the violation; and

5. History of noncompliance.

(E) Payment. Administrative penalties shall be made payable to the Missouri Department of Health and Senior Services in the form of a cashier’s check or money order and mailed to the Missouri Department of Health and Senior Services, Attention: Fee Receipts Unit, PO Box 570, Jefferson City, MO 65102. The department may negotiate a delayed payment schedule, installment plan, or penalty reduction with stipulated penalties.

(5) Penalties Assessed. The department shall only impose an administrative penalty, after a notice of violation has been issued pursuant to section 701.311, RSMo, against the violator who has conducted the same type of violation within the calendar year, except a failure to provide written notification prior to the onset of a lead abatement project according to 701.309.3, RSMo. Failure to notify the department prior to the onset of a lead abatement project shall result in a fine of two hundred fifty dollars ($250) imposed against the lead abatement contractor for the first identified offense, five hundred dollars ($500) for the second identified offense, and, thereafter, fines shall be doubled up to two thousand dollars ($2,000) for each additional identified offense within the calendar year.

(A) Acute. Acute violations shall result in a notice of violation and no administrative penalty for the first identified offense, a notice of violation and an administrative penalty of two hundred fifty dollars ($250) imposed against the regulated entity or individual for the second identified offense, a notice of violation and an administrative penalty of five hundred dollars ($500) for the third identified offense, and, thereafter, a notice of violation and an administrative penalty of one thousand dollars ($1,000) for each additional identified offense within the calendar year.

(B) Significant. Significant violations shall result in a notice of violation with no administrative penalty for the first identified offense, a notice of violation and administrative penalties ranging from one hundred to two hundred fifty dollars ($100-$250) imposed against the regulated entity or individual for the second identified offense, a notice of violation and an administrative penalty of two hundred to five hundred dollars ($200-$500) for the third identified offense, and, thereafter, a notice of violation and an administrative penalty of five hundred dollars ($500) for each additional identified offense within the calendar year.

(C) Minor. Minor violations shall result in a written warning and no administrative penalty for the first identified offense, a notice of violation and no administrative penalty for the second identified offense, a notice of violation and an administrative penalty of twenty-five dollars ($25) imposed against the regulated entity or individual for the third identified offense, a notice of violation and an administrative penalty of fifty dollars ($50) for the fourth identified offense, and, thereafter, a notice of violation and an administrative penalty of one hundred dollars ($100) for each additional identified offense within the calendar year.

(6) Suspended or Revoked License Penalties. Any lead inspector, risk assessor, lead abatement supervisor, lead abatement worker, project designer, or lead abatement contractor who engages in a lead abatement project while such person’s license, issued under section 701.312, RSMo, is under suspension or revocation is guilty of a class D
(7) Other Penalties. Except as otherwise provided, violation of the provisions of sections 701.309, 701.311, and 701.316, RSMo, can be referred by the department for prosecution.

(8) Proceeds From Administrative Penalties. The penalties collected pursuant to section 701.317(7), RSMo, shall be deposited in the Missouri Lead Abatement Loan Fund as established in section 701.337, RSMo. Such penalties shall not be considered charitable contributions for tax purposes.

(9) This rule may be used as guidance in assessing civil and criminal penalties.

19 Mo. Code of State Regulations 30-80.010

19 CSR 30-80.010 Definitions

PURPOSE: This rule provides definitions to be used in the interpretation and enforcement of 19 CSR 30-80.010 through 19 CSR 30-80.040.

(1) “Access line,” toll-free telephone service established and maintained by the department in accordance with section 210.918, RSMo for the purpose of promoting family and community safety by allowing access to certain information recorded in the Family Care Safety Registry, as provided in section 210.921, RSMo.

(2) “Agency of record,” the state agency that has program control over maintaining or updating one or more of the sources of background information listed in section 210.909, subsection 1, subdivisions (1) through (5), RSMo.

(3) “Department,” the Missouri Department of Health.

(4) “Family Care Safety Registry workers,” a current listing of child-care and elder-care workers who have completed application for registration with the department pursuant to section 210.906, subsections 1 through 2, RSMo, or persons who have voluntarily completed application for registration pursuant to section 210.906, subsection 4, RSMo, including limited available information on workers’ background pursuant to section 210.909, subsection 1, subdivisions (1) through (5), RSMo.

(5) “Family Care Safety Registry providers,” a current listing of child-care and elder-care providers, pursuant to section 210.909, subsections (2) and (5), RSMo, who have been refused licensure or have experienced licensure suspension or revocation pursuant to sections 210.481 through 210.536, RSMo, sections 210.201 to 210.259, RSMo, or Chapter 198, RSMo.

Current through May 31, 2014
PURPOSE: This rule provides sources to contact to obtain registration forms and outlines specific responsibilities that apply to all registrants in the Family Care Safety Registry.

(1) Registration forms used for the purpose of registering in the Family Care Safety Registry may be obtained by contacting one of the following sources:

(A) The Family Care Safety Registry toll-free access line;

(B) The local Department of Health office;

(C) The local Division of Aging office;

(D) The local Division of Family Services office; or by

(E) Accessing the Department of Health website (www.health.state.mo.us).

(2) Completed applications for registration in the Family Care Safety Registry shall be mailed to the Missouri Department of Health, Fee Receipts Unit, PO Box 570, Jefferson City, MO 65102.

Current through May 31, 2014
PURPOSE: This rule establishes procedures for submitting completed applications for registration in the Family Care Safety Registry.

(1) Application for Registration.

(A) The application for registration in the Family Care Safety Registry shall include the following:

1. A completed Child-Care and Elder-Care Worker Registration Form, provided by the department, shall be typewritten or printed in ink. The application shall include the following:

   A. Applicant’s valid Social Security number;

   B. Information on applicant’s right to appeal the information contained in the registry pursuant to section 210.912, RSMo;

   C. Signed consent of the applicant for the background checks pursuant to section 210.906, RSMo;

   D. Signed consent of the applicant for the release of information contained in the background check for employment purposes only;

   E. Worker category;
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F. Applicant’s last name, first name, middle name;

G. Prior names used by applicant;

H. Applicant’s home address;

I. Applicant’s current mailing address, if different than home address;

J. Applicant’s county of residence;

K. Applicant’s date of birth;

L. Applicant’s gender;

M. Name, address and county of applicant’s current employer (if applicable); and

N. Signature of the applicant and date of signature, in ink, which certifies that all information in the registration form is complete and true to the best of the applicant’s knowledge;

2. A photocopy of applicant’s Social Security card; and

3. A check, money order, or electronic payment for a nonrefundable fee made payable to the Missouri Department of Health and Senior Services in an amount equal to that charged by the Missouri Department of Public Safety pursuant to Chapter 43, Revised Statutes of Missouri, and Title 11 Code of State Regulations, Chapter 30 for disseminating criminal history information to noncriminal justice agencies which is currently set forth in section 43.530, RSMo, and 11 CSR 30-4.070.

(B) If the department receives an incomplete application, it will request the required information from the applicant before the application is processed. If the department does not receive the required information within sixty (60) days from the date of the certified mailing of the request, the application shall be void and another application shall be filed. If a subsequent application is filed, it shall be filed pursuant to 19 CSR 30-80.030(1)(A)-(B).

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(C) Applications for registration may be submitted to the Family Care Safety Registry by the individual applicant or their employer or prospective employer. An employer or prospective employer may submit completed registration forms using a batch processing form, provided by the department, that will also serve as a request for background screening information.

(D) A batch processing form, provided by the department, shall include the employer’s or prospective employer’s name and address, a listing of applicants for whom applications for registration are attached, and the employer’s or prospective employer’s signature that certifies the requested information is for employment purposes only and will not be used for any other purpose. Once the application process has been completed and background checks conducted the Family Care Safety Registry will notify the worker and the employer or prospective employer, whose name and signature appears on the batch processing form, of the results of the determination recorded on the registry.

19 Mo. Code of State Regulations 30-81.010

19 CSR 30-81.010 General Certification Requirements

PURPOSE: This rule sets forth application procedures and general certification requirements for nursing facilities certified under the Title XIX (Medicaid) program and skilled nursing facilities under Title XVIII (Medicare), and procedures to be followed by nursing facilities when requesting a nurse staffing waiver.

(1) Definitions.

(A) Certification shall mean the determination by the Missouri Department of Health and Senior Services, or the Centers for Medicare and Medicaid Services, that a licensed skilled nursing or intermediate care facility (SNF/ICF) licensed under Chapter 198, RSMo, or an ICF for person with mental retardation (ICF/MR), is in substantial compliance with all federal requirements and is approved to participate in the Medicaid or Medicare programs.

(B) CMS shall mean the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

(C) Cost reporting year shall mean the facility’s twelve (12)-month fiscal reporting period covering the same twelve (12)-month period that the facility uses for its federal income tax reporting.

(D) Distinct part shall mean a portion of an institution or institutional complex that is certified to provide SNF or NF services. A distinct part must be physically distinguishable from the larger institution and must consist of all beds within the designated area. The distinct part may be a separate building, floor, wing, ward, hallway or several rooms at one end of a hall or one side of a corridor.
(E) Department shall mean the Missouri Department of Health and Senior Services.

(F) ICF/MR shall mean intermediate care facility for persons with mental retardation.

(G) Medicaid shall mean Title XIX of the federal Social Security Act.

(H) Medicare shall mean Title XVIII of the federal Social Security Act.

(I) Nursing facility (NF) shall mean an SNF or ICF licensed under Chapter 198, RSMo which has signed an agreement with the Department of Social Services to participate in the Medicaid program and which is certified by the department. As used within the contents of this rule, licensed SNFs, SNF/ICF and ICFs participating in the Medicaid program are subject to state and federal laws and regulations for participation as an NF.

(J) Section for Long Term Care (SLTC) shall mean that section of the department responsible for licensing and regulating long-term care facilities licensed under Chapter 198, RSMo.

(K) Skilled nursing facility (SNF) shall mean an SNF licensed under Chapter 198, RSMo which has a signed agreement with the CMS to participate in the Medicare program and which has been recommended for certification by the department.

(L) Title XVIII shall mean the Medicare program as provided for in the federal Social Security Act.

(M) Title XIX shall mean the Medicaid program as provided for in the federal Social Security Act.

(2) An operator of an SNF or ICF licensed by the department electing to be certified as a provider of skilled nursing services under the Title XVIII (Medicare) or NF services under the Title XIX (Medicaid) program of the Social Security Act; or an operator of a facility electing to be certified as an ICF/MR facility under Title XIX shall submit application materials to the department as required by federal law and shall comply with standards set forth in the Code of Federal Regulations (CFR) of the United States Department of Health and Human Services in 42 CFR chapter IV, part 483, subpart B for nursing homes and 42 CFR chapter IV, part 483, subpart I for ICF/MR facilities, as appropriate.

(A) For Medicaid, the application shall include:

1. Long Term Care Facility Application for Medicare and Medicaid, Form CMS-671 (12/02), incorporated
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Division 30 - Division of Regulation and Licensure _Special Notice _Chapter 70 - Lead Abatement and
Assessment Licensing, Training Accreditation

by reference in this rule and available through the Centers for Medicare and Medicaid website:
http://www.cms.hhs.gov/forms/, or by mail at: Centers for Medicare and Medicaid Services, 7500 Security
Boulevard, Baltimore, MD 21244-1850;

2. Form DA-113, Bed Classification for Licensure and Certification by Category (8-05), incorporated by
reference in this rule and available through the department’s web-site: www.dhss.mo.gov, or by mail at:
Department of Health and Senior Services Warehouse, Attention General Services Warehouse, PO Box
570, Jefferson City, MO 65102-0570, telephone: (573) 526-3861.

(B) For Medicare, the application shall include:

1. Long Term Care Facility Application for Medicare and Medicaid;

2. Expression of Intermediary Preference Form (8-05), incorporated by reference in this rule and avail-
able through the departments website: www.dhss.mo.gov, or by mail at: Department of Health and Senior
Services Warehouse, Attention General Services Warehouse, PO Box 570, Jefferson City, MO 65102-
0570, telephone: (573) 526-3861;

3. Form DA-113, Bed Classification for Licensure and Certification by Category;

4. Three (3) copies of Health Insurance Benefit Agreement, Form CMS-1561 (07/01), incorporated by
reference in this rule and available through the Centers for Medicare and Medicaid website:
http://www.cms.hhs.gov/forms/, or by mail at: Centers for Medicare and Medicaid Services, 7500 Security
Boulevard, Baltimore, MD 21244-1850;

5. Three (3) copies of Assurance of Compliance, Form HHS-690 (5/97), incorporated by reference in this
rule and available through the Centers for Medicare and Medicaid website: http://www.cms.hhs.gov/forms, or by mail at the U.S. Department of Health and Human Services, 200
Independence Avenue, SW, Washington, DC 20201, telephone: (202) 619-0257; Toll Free: 1 (877) 696-
6775.

6. The forms incorporated by reference subsections (2)(A) and (B) do not include any later amendments or
additions.

(C) SNFs or NFs which are newly certified or which are undergoing a change of ownership shall submit an
initial certification fee in the amount up to one thousand dollars ($1,000) as stipulated by the department in
writing to the operator following receipt of the properly completed application material referenced in section
(2). The amount for the initial certification fee shall be the prorated portion of one thousand dollars ($1,000)
with prorating based on the month of receipt of the application in relation to the beginning of the next federal

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fiscal year. This initial certification fee shall be nonrefundable and a facility shall not be certified until the fee has been paid.

(D) All SNFs or NFs certified to participate in the Medicaid or Medicare program(s) shall submit to the department an annual certification fee of one thousand dollars ($1,000) prior to October 1 of each year. If the fee is not received by that date each year, a late fee of fifty dollars ($50) per month shall be payable to the department. If payment of any fees due is not received by the department by the time the facility license expires or by December 31 of that year, whichever is earlier, the department shall notify the Division of Medical Services and the CMS recommending termination of the Medicaid or Medicare agreement as denial of license will occur as provided in 19 CSR 30-82.010 and section 198.022, RSMo.

(3) Application material shall be signed and dated and submitted to the department’s SLTC licensure unit at least fourteen (14) working days prior to the date the facility is ready to be surveyed for compliance with federal regulations (Initial Certification Survey). The operator or authorized representative shall notify the appropriate department regional office by letter or by phone as to the date the facility will be ready to be surveyed. There shall be at least two (2) residents in the facility before a survey can be conducted. The facility shall already be licensed or with licensure in process shall be in compliance with all state rules.

(4) Any facility certified for participation as an NF in the Title XIX Medicaid program electing to participate in the Title XVIII Medicare program shall submit an application signed and dated by the operator or his or her authorized representative to the department’s SLTC central office licensure unit. The department will recommend Medicare certification to the CMS effective the date the application material is received by the department or a subsequent date if requested by the provider, provided the facility was in compliance with all federal and state regulations for SNFs at the last survey conducted by the department and provided the facility’s application is complete and has been approved by the Medicare fiscal intermediary.

(5) Any facility certified for participation in the Medicare program wishing to participate in the Medicaid program shall submit a signed and dated application to the department central office. The department will certify the facility for Medicaid participation effective the date the application is received by the department or a subsequent date requested by the provider, provided the facility was in compliance with all federal regulations at the last survey conducted by the department and the application is complete.

(6) For newly certified facilities, the facility will be certified for either Medicare or Medicaid participation effective the date the facility receives a license at the proper level or the date the facility achieves substantial compliance with the federal participation requirements, whichever is the later date. The application shall be completed. For certification in the Title XVIII (Medicare) program, the Medicare fiscal intermediary must approve the application and the CMS must concur with the department’s recommendation.

(7) The department shall conduct federal surveys in SNFs, NFs and ICF/MR facilities, utilizing regulations and procedures contained in—

(A) The State Operations Manual (SOM) (HCFA Publication 7);

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(B) The Survey and Certification Regional letters received by the department from the CMS;

(C) For SNFs and NFs, federal regulation 42 CFR chapter IV, part 483, subpart B; and

(D) For ICF/MR facilities, federal regulation 42 CFR chapter IV, part 483, subpart I.

(8) A facility, in its application, shall designate the number of beds to be certified and their location in the facility. A facility can be wholly or partially certified. If partially certified, the beds shall be in a distinct part of the facility and all beds shall be contiguous.

(9) If a facility certified to participate in the Title XIX (Medicaid) or Title XVIII (Medicare) program elects to change the size of its distinct part, it must submit a written request to the Licensure/Certification Unit or the ICF/MR Unit of the department, as applicable. The request shall specify the room numbers involved, the number of beds in each room and the facility cost reporting year end date. The request must include a floor diagram of the facility and a signed DA-113 form, Bed Classification for Licensure and Certification by Category. A facility is allowed two (2) changes in the size of its distinct part during the facility cost reporting year. This may be two (2) increases or one (1) increase and one (1) decrease. It may not be two (2) decreases. The first change can be done only at the beginning of the facility cost reporting year and the second change can be done effective at the beginning of a facility cost reporting quarter within that facility cost reporting year. All requests must be submitted to the Licensure/Certification Unit or the ICF/MR Unit of the department at least forty-five (45) days in advance. Any facility wishing to eliminate its distinct part to go to full certification may do so effective at the beginning of the next facility cost reporting quarter thirty (30) days notice to the Licensure/Certification Unit or the ICF/MR Unit of the department.

(10) If a facility certified to participate in the Title XIX (Medicaid) or Title XVIII (Medicare) program undergoes a change of operator, the new operator shall submit an application as specified in section (2) of this rule. The application shall be submitted within five (5) working days of the change of operator. For applications made for the Title XIX (Medicaid) program, the department shall provide the application to the Division of Medical Services of the Department of Social Services so that a provider agreement can be negotiated and signed. For applications made for the Title XVIII (Medicare) program, the department shall provide the application to the CMS. Certification status will be retained unless or until formally denied.

(11) If it is determined by the department that a facility certified to participate in Medicaid or Medicare does not comply with federal regulations at the time of a federal survey, complaint investigation or state licensure inspection, the department shall take enforcement action using the regulations and procedures contained in the following sources:

(A) 42 CFR chapter IV, part 431, subparts D, E and F;

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(12) If a facility certified to participate in the Medicaid Title XIX program has been decertified as a result of noncompliance with the federal requirements, the facility can be readmitted to the Medicaid program by submitting an application for initial participation in the Medicaid program. After having received the application, the department shall conduct a survey at the earliest possible date to determine if the facility is in substantial compliance with all federal participation requirements. The effective date of participation will be the date the facility is found to substantially comply with all federal requirements.

(13) If a change in the administrator or the director of nursing of a facility occurs, the facility shall provide written notice to the department’s SLTC central office licensure unit within ten (10) calendar days of the change. The notice shall show the effective date of the change, the identity of the new director of nursing or administrator and a copy of his or her license or the license number. Change of administrator information shall be submitted as a notarized statement by the operator in accordance with section 198.018, RSMo.

(14) An NF may request a waiver of nurse staffing requirements to the extent the facility is unable to meet the requirements including the areas of twenty-four (24)-hour licensed nurse coverage, the use of a registered nurse for eight (8) consecutive hours seven (7) days per week and the use of a registered nurse as director of nursing.

(A) Requests for waivers shall be made in writing to the director of the Section for Long Term Care.

(B) Requests for waivers will be considered only from facilities licensed under Chapter 198, RSMo as ICFs which do not have a nursing pool agency that is within fifty (50) miles, within state boundaries, and which can supply the needed nursing personnel.

(C) The department shall consider each request for a waiver and shall approve or disapprove the request in writing postmarked within thirty (30) working days of receipt or, if additional information is needed, shall request from the facility the additional information or documentation within ten (10) working days of receipt of the request.

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(D) Approval of a nurse waiver request shall be based on an evaluation of whether the facility has been unable, despite diligent efforts—including offering wages at the community prevailing rate for nursing facilities—to recruit the necessary personnel. Diligent effort shall mean prominently advertising for the necessary nursing personnel in a variety of local and out-of-the-area publications, including newspapers and journals within a fifty (50)-mile radius, and which are within state boundaries; contacts with nursing schools in the area; and participation in job fairs. The operator shall submit evidence of the diligent effort including:

1. Copies of newspapers and journal advertisements, correspondence with nursing schools and vocational programs, and any other relevant material;

2. If there is a nursing pool agency within fifty (50) miles which is within state boundaries and the agency cannot consistently supply the necessary personnel on a per diem basis to the facility, the operator shall submit a letter from the agency so stating;

3. Copies of current staffing patterns including the number and type of nursing staff on each shift and the qualifications of licensed nurses;

4. A current Resident Census and Condition of Residents, Form CMS-672 (10/98), incorporated by reference in this rule and available through the Centers for Medicare and Medicaid website: http://www.cms.hhs.gov/forms/, or by mail at: Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1850. This rule does not incorporate any subsequent amendments or additions;

5. Evidence that the facility has a registered nurse consultant required under 19 CSR 30-85.042 and evidence that the facility has made arrangements to assure registered nurse involvement in the coordination of the assessment process as required under 42 CFR 483.20(3);

6. Location of the nurses’ stations and any other pertinent physical feature information the facility chooses to provide;

7. Any other information deemed important by the facility including personnel procedures, promotions, staff orientation and evaluation, scheduling practices, benefit programs, utilization of supplemental agency personnel, physician-nurse collaboration, support services to nursing personnel and the like; and

8. For renewal requests, the information supplied shall show diligent efforts to recruit appropriate personnel throughout the prior waiver period. Updates of prior submitted information in other areas are acceptable.

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(E) In order to meet the conditions specified in federal regulation 42 CFR 483.30, the following shall be considered in granting approval:

1. There is assurance that a registered nurse or physician is available to respond immediately to telephone calls from the facility for periods of time in which licensed nursing services are not available;

2. There is assurance that if a facility requesting a waiver has or admits after receiving a waiver any acutely ill or unstable residents requiring skilled nursing care, the skilled care shall be provided in accordance with state licensure rule 19 CSR 30-85.042; and

3. The facility has not received a Class I notice of noncompliance in resident care within one hundred twenty (120) days of the waiver request or the department has not conducted an extended survey in the facility within one (1) year of the waiver request. Any facility which receives a Class I notice of noncompliance in resident care or an extended survey while under waiver status will not have the waiver renewed unless the problem has been corrected and steps have been taken to prevent recurrence. If a facility received more than one (1) Class I notice of noncompliance in resident care during a waiver period, the department will consider revocation of the waiver.

(F) The facility shall cooperate with the department in providing the proper documentation. For renewal requests, the request and proper documentation shall be submitted to the department at least forty-five (45) days prior to the ending date of the current waiver period. If any changes occur during a waiver period that affect the status of the waiver, a letter shall be submitted to the deputy director of institutional services within ten (10) days of the changes. The request for a waiver or renewal of a waiver shall be denied if the facility fails to abide by these previously mentioned time frames.

(G) If a waiver request is denied, the department shall notify the facility in writing and within twenty (20) days, the facility shall submit to the department a written plan for how the facility will recruit the required personnel. If appropriate personnel are not hired within two (2) months, the department shall initiate enforcement proceedings.

19 Mo. Code of State Regulations 30-81.015
19 CSR 30-81.015 Resident Assessment Instrument

(Rescinded September 30, 2012)

19 Mo. Code of State Regulations 30-81.020
19 CSR 30-81.020 Prelong-Term Care Screening

Current through May 31, 2014
PURPOSE: This rule sets the requirements for the periodic evaluation and assessments of residents in long-term care facilities in relationship to evaluation and assessment processes, level-of-care needed by individuals, and appropriate placement of individuals in order to receive this care.

(1) For purposes of this rule only, the following definitions shall apply:

(A) Applicant—any resident or prospective resident of a certified long-term care facility who is seeking to receive inpatient Title XIX assistance;

(B) Certified long-term care facility—any long-term care facility which has been approved to participate in the inpatient program and receives Title XIX funding for eligible recipients;

(C) Initial assessment forms—the forms utilized to collect information necessary for a determination of level-of-care need pursuant to 19 CSR 30-81.030 and designated Forms DA-124 A/B (dated 6-05) and DA-124 C (dated 4-05) and Notice To Applicant Form, DA-124C ATT. (attachment) (dated 12-01), incorporated by reference in this rule and available through the Department of Health and Senior Services website: www.dhss.mo.gov or by mail at: Department of Health and Senior Services Warehouse, Attention General Services Warehouse, PO Box 570, Jefferson City, Missouri 65102-0570; telephone: (573) 526-3861; fax: (573) 751-1574, shall be considered the approved Initial Assessment Forms. This rule does not incorporate any subsequent amendments or additions.

(D) Inpatient Title XIX assistance—Title XIX payments for intermediate or skilled nursing care in a certified long-term care facility;

(E) Level-of-care assessment—the determination of level-of-care need based on an assessed point count value for each category cited in subsection (4)(B) of this rule;

(F) Level-of-care need—the decision whether an individual qualifies for long-term care facility care;
(G) Long-term care facility—a skilled nursing facility (SNF), an intermediate care facility (ICF), or a hospital which provides skilled nursing care or intermediate nursing care in a distinct part or swing bed under Chapter 197, RSMo;

(H) *Pro re nata* (PRN)—medication or treatment ordered by a physician to be administered as needed, but not regularly scheduled;

(I) Recipient—any resident in a certified long-term care facility who is receiving inpatient Title XIX assistance;

(J) Redetermination of level-of-care—the periodic assessment of the recipients’ continued eligibility and need for continuation at the previously assigned level-of-care. Periodic assessment includes but is not limited to the following:

1. Assessment of new admissions to a long-term care facility;

2. Assessment of a change in mental and or physical status for a resident who is being readmitted to a long-term care facility after transfer to an acute care facility, and the previous DA-124 A/B or C forms do not reflect the resident’s current care needs; and

3. Assessment of DA-124 forms as requested by Department of Social Services, Family Support Division;

(K) Resident—a person seventeen (17) years or older who by reason of aging, illness, disease, or physical or mental infirmity receives or requires care and services furnished by a long-term care facility and who resides in, is cared for, treated or accommodated in such long-term care facility for a period exceeding twenty-four (24) consecutive hours; and

(L) The department—Department of Health and Senior Services.

(2) Initial Determination of Level-of-Care Needs Requirements.

(A) For the purpose of making a determination level-of-care need and in accordance with 42 CFR sections 456.370 and 483.104, the department or its designated agents, or both, will conduct a review and assessment of the evaluations made by the attending physician for an applicant in or seeking admission to a long-term care facility. The review and assessment shall be conducted using the criteria in section (5) of this rule.
(B) The department shall complete the assessment within ten (10) working days of receipt of all documentation required by section (5) of this rule unless further evaluation by the State Mental Health Authority is required by 42 CFR 483.100 to 483.138.

(3) Redetermination of Level-of-Care Requirements.

(A) Redetermination of level-of-care of individual recipients who are eligible for placement in long-term care facilities shall be conducted by the department through a review and assessment of the DA-124 A/B and C forms and any documentation provided by the resident’s attending physician.

(B) Required documentation on the DA-124 C form shall include the resident’s physician’s signature and his or her Physician Identification Number.

(4) Level-of-Care Criteria for Long-Term Care Facility Care—Qualified Title XIX Recipients and Applicants.

(A) Individuals will be assessed with the ultimate goal to achieve placement for these individuals in the least restrictive environment possible, yet enable them to receive all services required by their physical/mental condition.

(B) The specific areas which will be considered when determining an individual’s ability or inability to function in the least restrictive environment are—mobility, dietary, restorative services, monitoring, medication, behavioral, treatments, personal care and rehabilitative services.

(C) To qualify for intermediate or skilled nursing care, an applicant or recipient shall exhibit physical impairment, which may be complicated by mental impairment or mental impairment which may be complicated by physical impairment, severe enough to require intermediate or skilled nursing care.

(5) Assessed Needs Point Designations Requirements.

(A) Applicants or recipients will be assessed for level-of-care by the assignment of a point count value for each category cited in subsection (4)(B) of this rule.

(B) Points will be assessed for the amount of assistance required, the complexity of the care and the professional level of assistance necessary, based on the level-of-care criteria. If the applicant’s or recipient’s records show that the applicant’s or recipient’s attending physician has ordered certain care, medication or
treatments for an applicant or recipient, the department will assess points for a PRN order if the applicant or recipient has actually received or required that care, medication or treatment within the thirty (30) days prior to review and evaluation by the department.

(C) For individuals seeking admission to a long-term care facility on or after July 1, 2005, the applicant or recipient will be determined to be qualified for long-term care facility care if he or she is determined to need care with an assessed point level of twenty-one (21) points or above, using the assessment procedure as required in this rule.

(D) For individuals seeking admission to a long-term care facility on or after July 1, 2005, an applicant with eighteen (18) points or lower will be assessed as ineligible for Title XIX-funded long-term care in a long-term care facility, unless the applicant qualifies as otherwise provided in subsections, (5)(E) and/or (F) of the rule.

(E) Applicants or recipients may occasionally require care or services, or both, which could qualify as long-term care facility services. In these instances, a single nursing service requirement may be used as the qualifying factor, making the individual eligible for long-term care facility care regardless of the total point count. The determining factor will be the availability of professional personnel to perform or supervise the qualifying care services. Qualifying care services may include, but are not limited to:

1. Administration of Levine tube or gas-trostomy tube feedings;

2. Nasopharyngeal and tracheotomy aspiration;

3. Insertion of medicated or sterile irrigation and replacement catheters;

4. Administration of parenteral fluids;

5. Inhalation therapy treatments;

6. Administration of injectable medications other than insulin, if required other than on the day shift; and

7. Requirement of intensive rehabilitation services by a professional therapist at least five (5) days per week.

(F) An applicant or recipient will be considered eligible for inpatient Title XIX assistance regardless of the total...
point count if the applicant or recipient is unable to meet physical/mental requirements for residential care facility (RCF) residency as specified by section 198.073, RSMo. In order to meet this requirement, an applicant or recipient must be able to reach and go through a required exit door on the floor where the resident is located by—

1. Responding to verbal direction or the sound of an alarm;

2. Moving at a reasonable speed; and

3. If using a wheelchair or other assistive device, such as a walker or cane, being able to transfer into the wheelchair or reach the assistive device without staff assistance.

(G) Points will be assigned to each category, as required by subsection (4)(B) of this rule, in multiples of three (3) according to the following requirements:

1. Mobility is defined as the individual’s ability to move from place-to-place. The applicant or recipient will receive—

   A. Zero (0) points if assessed as independently mobile, in that the applicant or recipient requires no assistance for transfers or mobility. The applicant or recipient may use assistive devices (cane, walker, wheelchair) but is consistently capable of negotiating without assistance of another individual;

   B. Three (3) points if assessed as requiring minimum assistance, in that the applicant or recipient is independently mobile once the applicant or recipient receives assistance with transfers, braces or prosthesis application or other assistive devices, or a combination of these (example, independent use of wheelchair after assistance with transfer). This category includes individuals who are not consistently independent and need assistance periodically;

   C. Six (6) points if assessed as requiring moderate assistance, in that the applicant or recipient is mobile only with direct staff assistance. The applicant or recipient must be assisted even when using canes, walker or other assistive devices; and

   D. Nine (9) points if assessed as requiring maximum assistance, in that the applicant or recipient is totally dependent upon staff for mobility. The applicant or recipient is unable to ambulate or participate in the ambulation process, requires positioning, supportive device, application, prevention of contractures or pressure sores and active or passive range of motion exercises;

2. Dietary is defined as the applicant’s or recipient’s nutritional requirements and need for assistance or
A. Zero (0) points if assessed as independent in dietary needs, in that the applicant or recipient requires no assistance to eat. The applicant or recipient has physician’s orders for a regular diet, mechanically altered diet or requires only minor modifications (example, limited desserts, no salt or sugar on tray);

B. Three (3) points if assessed as requiring minimum assistance, in that the applicant or recipient requires meal supervision or minimal help, such as cutting food or verbal encouragement. Calculated diets for stabilized conditions shall be included;

C. Six (6) points if assessed as requiring moderate assistance, in that the applicant or recipient requires help, including constant supervision during meals, or actual feeding. Calculated diets for unstable conditions are included; and

D. Nine (9) points if assessed as requiring maximum assistance, in that the applicant or recipient requires extensive assistance for special dietary needs or with eating, which could include enteral feedings or parenteral fluids;

3. Restorative services are defined as specialized services provided by trained and supervised individuals to help applicants or recipients obtain and/or maintain their optimal highest practicable functioning potential. Each applicant or recipient must have an individual overall plan of care developed by the provider with written goals and response/progress documented. Restorative services may include, but are not limited to: applicant or recipient teaching program (self-transfer, self-administration of medications, self-care), range of motion, bowel and bladder program, remotivational therapy, validation therapy, patient/family program and individualized activity program. The applicant or recipient will receive—

A. Zero (0) points if restorative services are not required;

B. Three (3) points if assessed as requiring minimum services in order to maintain level of functioning;

C. Six (6) points if assessed as requiring moderate services in order to restore the individual to a higher level of functioning; and

D. Nine (9) points if assessed as requiring maximum services in order to restore to a higher level of functioning. These are intensive services, usually requiring professional supervision or direct services;

4. Monitoring is defined as observation and assessment of the applicant’s or recipient’s physical and/or
mental condition. This monitoring could include assessment of—routine laboratory work, including but not limited to, evaluating digoxin and coumadin levels, measurement and evaluation of blood glucose levels, measurement and evaluation of intake and output of fluids the individual has received and/or excreted, weights and other routine monitoring procedures. The applicant or recipient will receive—

A. Zero (0) points if assessed as requiring only routine monitoring, such as monthly weights, temperatures, blood pressures and other routine vital signs and routine supervision;

B. Three (3) points if assessed as requiring minimal monitoring, in that the applicant or recipient requires periodic assessment due to mental impairment, monitoring of mild confusion, or both, or periodic assessment of routine procedures when the recipient’s condition is stable;

C. Six (6) points if assessed as requiring moderate monitoring, in that the applicant or recipient requires recurring assessment of routine procedures due to the applicant’s or recipient’s unstable physical or mental condition; and

D. Nine (9) points if assessed as requiring maximum monitoring, which is intensive monitoring usually by professional personnel due to applicant’s or recipient’s unstable physical or mental condition;

5. Medication is defined as the drug regimen of all physician-ordered legend medications, and any physician-ordered nonlegend medication for which the physician has ordered monitoring due to the complexity of the medication or the condition of the applicant or recipient. The applicant or recipient will receive—

A. Zero (0) points if assessed as requiring no medication, or has not required PRN medication within the thirty (30) days prior to review and evaluation by the department;

B. Three (3) points if assessed as requiring any regularly scheduled medication and the applicant or recipient exhibits a stable condition;

C. Six (6) points if assessed as requiring moderate supervision of regularly scheduled medications, requiring daily monitoring by licensed personnel; and

D. Nine (9) points if assessed as requiring maximum supervision of regularly scheduled medications, a complex medication regimen, unstable physical or mental status or use of medications requiring professional observation and assessment, or a combination of these;

6. Behavioral is defined as an individual’s social or mental activities. The applicant or recipient will
A. Zero (0) points if assessed as requiring little or no behavioral assistance. Applicant or recipient is oriented and memory intact;

B. Three (3) points if assessed as requiring minimal behavioral assistance in the form of supervision or guidance on a periodic basis. Applicant or recipient may display some memory lapses or occasional forgetfulness due to mental or developmental disabilities, or both. Applicant or recipient generally relates well with others (positive or neutral) but needs occasional emotional support;

C. Six (6) points if assessed as requiring moderate behavioral assistance in the form of supervision due to disorientation, mental or developmental disabilities or uncooperative behavior; and

D. Nine (9) points if assessed as requiring maximum behavioral assistance in the form of extensive supervision due to psychological, developmental disabilities or traumatic brain injuries with resultant confusion, incompetency, hyperactivity, hostility, severe depression, or other behavioral characteristics. This category includes residents who frequently exhibit bizarre behavior, are verbally or physically abusive, or both, or are incapable of self-direction. Applicants or recipients who exhibit uncontrolled behavior that is dangerous to themselves or others must be transferred immediately to an appropriate facility;

7. Treatments are defined as a systematized course of nursing procedures ordered by the attending physician. The applicant or recipient will receive—

A. Zero (0) points if no treatments are ordered by the physician;

B. Three (3) points if assessed as requiring minimal type-ordered treatments, including nonroutine and preventative treatments, such as whirlpool baths and other services;

C. Six (6) points if assessed as requiring moderate type-ordered treatments requiring daily attention by licensed personnel. These treatments could include: daily dressings, PRN oxygen, oral suctioning, catheter maintenance care, treatment of stasis or pressure sore ulcers, wet/moist packs, maximist and other such services; and

D. Nine (9) points if assessed as requiring maximum type-ordered treatments of an extensive nature requiring provision, direct supervision, or both, by professional personnel. These treatments could include: intratrachial suctioning; insertion or maintenance of suprapubic catheter; continuous oxygen; new or unregulated ostomy care; dressings of deep draining lesions more than once daily; care of extensive skin disorders, such as advanced pressure sore or necrotic lesions; infrared heat and other services;
8. Personal care is defined as activities of daily living, including hygiene; personal grooming, such as dressing, bathing, oral and personal hygiene, hair and nail care, shaving; and bowel and bladder functions. Points will be determined based on the amount of assistance required and degree of assistance involved in the activity. The applicant or recipient will receive—

A. Zero (0) points if assessed as requiring no assistance with personal care in that the applicant or recipient is an independent, self-care individual. No assistance is required with personal grooming; the applicant or recipient has complete bowel and bladder control;

B. Three (3) points if assessed as requiring minimal assistance with personal care, in that the applicant or recipient requires assistance with personal grooming, and/or exhibits infrequent incontinency (once a week or less);

C. Six (6) points if assessed as requiring moderate assistance with personal care, in that the applicant or recipient requires assistance with personal grooming, requiring close supervision or exhibits frequent incontinency (incontinent of bladder daily but has some control or incontinent of bowel two (2) or three (3) times per week), or a combination of these; and

D. Nine (9) points if assessed as requiring maximum assistance with personal care, in that the applicant or recipient requires total personal care to be performed by another individual, and/or exhibits continuous incontinency all or most of the time; and

9. Rehabilitation is defined as the restoration of a former or normal state of health through medically-ordered therapeutic services either directly provided by or under the supervision of a qualified professional. Rehabilitation services include, but are not limited to: physical therapy, occupational therapy, speech therapy and audiology. If ordered by the physician, each resident must have an individually planned and implemented program with written goals and response/progress documented. Points will be determined by intensity of required services and the applicant’s or recipient’s potential for rehabilitation as determined by the rehabilitation evaluation. The applicant or recipient will receive—

A. Zero (0) points if assessed as requiring no ordered rehabilitation services;

B. Three (3) points, if assessed as requiring minimal-ordered rehabilitation services of one (1) time per week;

C. Six (6) points if assessed as requiring moderate-ordered rehabilitative services of two (2) or three (3) times per week; and

D. Nine (9) points if assessed as requiring maximum-ordered rehabilitative services of four (4) times
PURPOSE: This rule sets forth general licensure and application procedures and outlines the request for an exception procedure related to long-term care facility licensure.

(1) Persons wishing to operate a skilled nursing facility, intermediate care facility, assisted living facility or residential care facility shall complete form MO 580-2631 (8-07), Application for License to Operate a Long-Term Care Facility, incorporated by reference in this rule and available through the Department of Health and Senior Services’ (department’s) website at www.dhss.mo.gov, or by mail at: Department of Health and Senior Services, Section for Long-Term Care Regulation, Licensure Unit, PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) 526-8524. This rule does not incorporate any subsequent amendments or additions. Application shall be signed by a person with the express authority to sign on behalf of the operator, who shall attest by signature that the information submitted is true and correct to the best of the applicant’s knowledge and belief and that all required documents are either included with the application or are currently on file with the department. The completed application form may be submitted by mail or electronically. If submitted electronically, send the completed application to LTCapplication@dhss.mo.gov. The application fee for application processing should be submitted by separate mail. If submitted by mail, send the application form and fee to Department of Health and Senior Services, Section for Long-Term Care Regulation, Fee Receipts, PO Box 570, 920 Wildwood, Jefferson City, MO 65102. One application may be used to license multiple facilities if located on the same premises.

(A) The applicant shall submit the following documents and information as listed in the application:

1. Financial information demonstrating that the applicant has the financial capacity to operate the facility;

2. A document disclosing the location, capacity, and type of licensure and certification of any support buildings, wings, or floors housing residents on the same or adjoining premises or plots of ground;

3. A document disclosing the name, address, and type of license of all other long term care facilities owned or operated by either the applicant or by the owner of the facility for which the application is being submitted;

4. A copy of any executed management contracts between the applicant and the manager of the facility;

5. A copy of any executed contract conveying the legal right to the facility premises, including, but not limited to, leases, subleases, rental agreements, contracts for deed, and any amendments to those contracts;

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6. A copy of any contract by which the facility’s land, building, improvements, furnishings, fixtures, or accounts receivable are pledged in whole or in part as security, if the value of the asset pledged is greater than five hundred dollars ($500);

7. A nursing home surety bond or non-cancelable escrow agreement, if the applicant holds or will hold facility residents’ personal funds in trust;

8. A document disclosing the name, address, title, and percentage of ownership of each affiliate of any general partnership, limited partnership, general business corporation, nonprofit corporation, limited liability company, or governmental entity which owns or operates the facility or is an affiliate of an entity which owns or operates the facility. If an affiliate is a corporation, partnership, or LLC, a list of the affiliate’s affiliates must also be submitted. As used in this rule, the word “affiliate” means:

A. With respect to a partnership, each partner thereof;

B. With respect to a limited partnership, the general partner and each limited partner with an interest of five percent (5%) or more in the limited partnership;

C. With respect to a corporation, each person who owns, holds, or has the power to vote five percent (5%) or more of any class of securities issued by the corporation, and each officer and director;

D. With respect to an LLC, the LLC managers and members with an interest of five percent (5%) or more;

9. If applicable, a document stating the name and nature of any additional businesses in operation on the facility premises and the document issued by the division giving its prior written approval for each business;

10. A list of all principals in the operation of the facility and their addresses and titles and, so that the department may verify the information disclosed pursuant to paragraphs (1)(A)11. and (1)(A)12. of this rule, the Social Security numbers or employer identification numbers of the operator and all principals in the operation of the facility. As used in this rule, “principal” means officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities;

11. Disclosure concerning whether the operator or any principals in the operation of the facility are excluded from participation in the Title XVIII (Medicare) or Title XIX (Medicaid) program of any state or territory;

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12. Disclosure concerning whether the operator or any principals in the operation of the facility have ever been convicted of a felony in any state or federal court concerning conduct involving either management of a long-term care facility or the provision or receipt of health care services;

13. Emergency telephone, fax, and email contact information for the facility administrator, director of nursing, and the operator’s corporate office; and

14. Disclosure concerning whether the facility has a Department of Mental Health (DMH) license.

(B) Every facility that provides specialized Alzheimer’s or dementia care services, as defined in sections 198.500 to 198.515, RSMo, by means of an Alzheimer’s special care unit or program shall submit to the department with the licensure application or renewal, the following:

1. Form MO 580-2637, Alzheimer’s Special Care Services Disclosure (2-07), incorporated by reference in this rule and available through the department’s website: www.dhss.mo.gov, or by mail at: Department of Health and Senior Services, Section for Long-Term Care Regulation, Licensure Unit, PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) 526-8524. This rule does not incorporate any subsequent amendments or additions. The form shall be completed showing how the care provided by the special care unit or program differs from care provided in the rest of the facility in the following areas:

A. The Alzheimer’s special care unit’s or program’s written statement of its overall philosophy and mission which reflects the needs of residents afflicted with dementia;

B. The process and criteria for placement in, or transfer or discharge from, the unit or program;

C. The process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition;

D. Staff training and continuing education practices;

E. The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;

F. The frequency and types of resident activities;

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G. The involvement of families and the availability of family support programs;

H. The costs of care and any additional fees; and

I. Safety and security measures; and

2. Form Guide to Selecting an Alzheimer’s Special Care Unit (6/06) #455, incorporated by reference in this rule and available through the department’s website: at http://www.dhss.mo.gov/Ombudsman, or by mail at: Department of Health and Senior Services, Section for Long-Term Care Regulation, Licensure Unit, PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) 526-8524 or a document of choice which contains, but is not limited to, all information on selecting an Alzheimer’s special care unit or program that is contained in the Guide to Selecting an Alzheimer’s Special Care Unit (6/06) #455. This rule does not incorporate any subsequent amendments or additions.

(C) If, after filing an application, the operator identifies an error or if any information changes the issuance of the license, including but not limited to, a change in the administrator, board of directors, officers, level of care, number of beds, or change in the name of the operating entity, the operator shall—

1. Submit the correction or additional information to the department’s Licensure and Certification Unit in a letter. The letter shall be signed by a person with express authority to sign on behalf of the operator attesting by signature that the information being submitted is true and correct to the best of the operator’s knowledge and belief; or

2. Submit the correction or additional information to the department’s Licensure and Certification Unit. The additional information may be submitted electronically or by mail. Information shall be submitted using form Term Care Facility License Application, incorporated by reference in this rule and available through the Department of Health and Senior Services’ (department’s) website at www.dhss.mo.gov, or by mail at: Department of Health and Senior Services, Section for Long-Term Care Regulation, Licensure Unit, PO Box 570, Jefferson City, MO 65102-0570, telephone: (573) 526-8524. This rule does not incorporate any subsequent amendments or additions. The completed correction form shall be signed by a person with express authority to sign on behalf of the operator attesting by signature that the information submitted is true and correct to the best of the operator’s knowledge and belief and shall be submitted by electronic mail to LTCapplication@dhss.mo.gov, or by mail to: Department of Health and Senior Services, Section for Long-Term Care Regulation, Fee Receipts, PO Box 570, 920 Wildwood, Jefferson City, MO 65102.

(D) If, as a result of an application review, the department requests a correction or additional information, the operator, within ten (10) working days of receipt of the written request shall—
Missouri Code of State Regulations Currentness _Title 19 - Department of Health and Senior Services
Division 30 - Division of Regulation and Licensure_Trademark Notice_Special Notice_Chapter 70 - Lead Abatement and Assessment Licensing, Training Accreditation

1. Submit the correction or additional information to the department in a letter attesting by signature that the information being submitted is true and correct to the best of the operator’s knowledge and belief; or

2. Submit the correction or additional information using form MO 580-2623 (8-07), Corrections For Long-Term Care Facility License Application referenced in paragraph (1)(C)2. of this rule.

(E) A new facility shall submit an application for an original license not less than thirty (30) days before the anticipated opening date. The department must approve the application before a licensure inspection is scheduled. Sixty (60) days after its receipt, the department shall consider any application for an original license withdrawn if it is submitted without all the required information and documents. If intending to continue with licensure, the operator shall submit a new application and fee along with all necessary documents.

(F) An operator shall submit a relicensure application thirty (30) to ninety (90) days prior to the existing license’ expiration date.

(G) If, during the license’s effective period, an operator which is a partnership, limited partnership or corporation undergoes any of the changes described in section 198.015.4, RSMo, or a new corporation, partnership, limited partnership, limited liability company or other entity assumes facility operation, within ten (10) working days of the effective date of that change, the operator shall submit an application for a new license.

(H) The department shall issue each license only for the premises and operator named in the application. This license shall cover the entire premises unless stipulated otherwise and shall not be transferable. If the licensed operator of a facility is replaced by another operator, the new operator shall apply for a new license before the effective date of the change. A change of operator shall include a change in form of business as well as a change of person. Upon receipt of the application and receipt of confirmation that the change of operator has taken place, the department shall grant the new operator a temporary operating permit of sufficient duration to allow the department time to evaluate the application, conduct any necessary inspection(s) to determine substantial compliance with the law and the rules, and to either issue or deny a license to the new operator. The new operator shall be subject to all the terms and conditions under which the previous operator’s license or temporary operating permit was issued. This includes any existing statement of deficiencies, plans of correction and compliance with any additional requirements imposed by the department as a result of any existing substantial noncompliance. The new operator, however, shall apply to the department for renewal in his/her/its name for any exception to the rules that had been granted the previous operator under the provisions of section (3) of this rule.

(I) The operator shall accompany each application for a license to operate a long-term care facility (skilled nursing facility, intermediate care facility, assisted living facility or residential care facility with a license fee of one hundred dollars ($100) for those facilities which have a resident capacity of at least three (3) but less than twenty-five (25), three hundred dollars ($300) for those facilities which have a resident capacity of twenty-five through one hundred (25-100), and six hundred dollars ($600) for those facilities with a capacity of over one hundred (100+). The operator shall submit a separate fee for each facility’s license application. This fee is nonrefundable unless the facility withdraws the application within ten (10) days of receipt by the department. The department will issue a license for a period of no more than two (2) years for the premises and operator named in the application. If the license is for less than two (2) years, the department will prorate the fees

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(J) An operator may apply for licenses for two (2) or more different levels of care located on the same premises either by submitting one (1) application or by submitting a separate application for each level of care. If an operator elects to submit one (1) application for two (2) or more levels of care located on the same premises—

1. The application shall specify separately the number of beds of each level of care being applied for;

2. The application shall be accompanied by a license fee for each level of care applied for, as required by subsection (1)(I) of this rule; and

3. An application for two (2) or more levels of care on the same premises shall indicate one (1) facility name only.

(K) The department shall issue a separate license for each level of care located on the same premises, whether applied for by one (1) application or more than one (1). If the operator uses one (1) application for two (2) or more levels of care on the same premises, the department shall issue licenses with one (1) expiration date. If two (2) or more levels of care have existing licenses with different expiration dates and the operator elects to apply for licenses for the levels of care by submitting one (1) relicensure application, the expiration dates of the licenses issued shall be two (2) years subsequent to the expiration date of the license of the level of care expiring earliest following receipt of the application by the department. Fees for unused portions of licenses resulting from the submission of one (1) application for two (2) or more levels of care are nonrefundable.

(L) After receiving a license application, the department shall review the application, investigate the applicant and the statements sworn to in the application for license and conduct any necessary inspections. A license shall be issued if—

1. The department has determined that the application is complete, and that all necessary documents have been filed with the application including an approved nursing home bond or noncancelable escrow agreement if personal funds of residents are held in trust;

2. The department has determined that the statements in the application are true and correct;

3. The department has determined that the facility and the operator are in substantial compliance with the provisions of sections 198.003-198.096, RSMo and the corresponding rules;

4. The department has determined that the applicant has the financial capacity to operate the facility.
5. The department has verified that the administrator of a residential care facility that was licensed as a residential care facility II on August 27, 2006 and chooses to continue to meet all laws, rules and regulations that were in place on August 27, 2006 for a residential care facility II, assisted living facility, an intermediate care facility or a skilled nursing facility is currently licensed by the Missouri Board of Nursing Home Administrators under the provisions of Chapter 344, RSMo;

6. The department has received the fee required by subsection (1)(I) of this rule;

7. The applicant meets the definition of operator as defined in 19 CSR 30-83.010;

8. The applicant has received a Certificate of Need, if required, or has received a determination from the Certificate of Need Program that no certificate is required, has completed construction, and is in substantial compliance with the licensure rules and laws;

9. The department has determined that neither the operator, owner or any principals in the operation of the facility have ever been convicted of an offense concerning the operation of a long-term care facility or other health care facility or, while acting in a management capacity, ever knowingly acted or knowingly failed to perform any duty which materially and adversely affected the health, safety, welfare or property of a resident;

10. The department has determined that neither the operator, owner or any principals in the operation of the facility are excluded from participation in the Title XVIII (Medicare) or Title XIX (Medicaid) program of any state or territory;

11. The department has determined that neither the operator, owner or any principals in the operation of the facility have ever been convicted of a felony in any state or federal court concerning conduct involving either management of a long-term care facility or the provision or receipt of health care services; and

12. The department has determined that all fees due the state have been paid.

(M) If, during the period in which a license is in effect, a change occurs which causes the statements in the application to no longer be correct, including change of administrator, or if any document is executed which replaces, succeeds or amends any of the documents filed with the application, within ten (10) working days of the effective date of the change, the operator shall—

1. Submit a letter to the department’s Licensure and Certification Unit that contains a correction of the
application with notification of the effective date of the change and a copy of any new documents. The operator must ensure the letter is signed by a person with the express authority to sign on behalf of the operator, who shall attest by signature that the information being submitted is true and correct to the best of the operator’s knowledge and belief; or

2. Submit to the department a correction of the application and a copy of any new documentation and information by submitting form Corrections for Long-Term Care Facility License Application referenced in paragraph (1)(C) 2. of this rule.

(N) If from an analysis of financial information submitted with the application, or if from information obtained during the term of a license, the operator appears insolvent or shows a tendency toward insolvency, the department shall have the right to request additional financial information from the operator. Within ten (10) working days after receiving a written request from the department, the operator shall—

1. Submit to the department the additional information requested in a letter accompanied by a statement attesting by signature that the information being submitted is true and correct to the best of the operator’s knowledge and belief; or

2. Submit the financial information to the department on form Corrections for Long-Term Care Facility License Application referenced in paragraph (1)(C)2. of this rule.

(O) A license applicant’s financial information, data and records submitted to the department as required by this rule, including, but not limited to, copies of any Internal Revenue Service forms, shall be open for inspection and be released only—

1. To designated employees of the department;

2. To the applicant furnishing this information or to his/her representative as designated in writing;

3. To the director of the department or to his/her representative as designated in writing;

4. To the state auditor or his/her representative as designated in writing;

5. To appropriate committees of the General Assembly or their representatives as designated in writing;
6. In any judicial or administrative proceeding brought under the Omnibus Nursing Home Act; or

7. When so ordered by a court of competent jurisdiction.

(P) To obtain a license for an additional level of care on the premises, the licensed operator shall submit a written request by electronic mail to LTCapplication@dhss.mo.gov, or mail to the department for the issuance of a license for the desired level of care. The request shall indicate the level of care, the number of beds desired, the name and address of the facility, the name and address of the operator, and shall include the signature of the operator. The request shall be signed by a person with the express authority to sign on behalf of the operator, who shall attest by signature that the information submitted is true and correct to the best of the operator’s knowledge and belief. The licensure fee shall accompany this request. Requests are subject to department approval. The operator shall submit this request no less than sixty (60) days prior to the initiation date of the new level of care. The department shall coordinate this license’s expiration date with that of the original license and the department shall prorate the license fee accordingly.

(Q) To request issuance of an amended license or temporary operating permit currently in effect, the operator shall—

1. Submit a written request to the department containing the request for amendment, the date the operator would like the amendment to be effective, and the number of the license or temporary operating permit to be amended; and

2. Submit a fee for the issuance of the amended license or temporary operating permit as required by subsection (1)(R) of this rule.

(R) If an operator initiates a request to amend a license or temporary operating permit currently in effect, the department requires the following fees:

1. If the request is for an increase in bed capacity, the operator shall submit a fee with the request which is the greater of—

   A. The amount that would have been required by subsection (1)(I) of this rule if the increase in bed capacity has been included in the application, less any amount actually paid under that subsection; or

   B. Fifty dollars ($50); and

2. If the request is for a decrease in resident capacity or any other change, the operator shall submit a fee of twenty-five dollars ($25) with the request.
(S) The department shall approve all requests for bed changes prior to issuance of an amended license or temporary operating permit. The effective date of the amended license or temporary operating permit shall be no earlier than the date the department approved the request for bed change.

(T) If the department issues a temporary operating permit, and then subsequently issues a regular license, the licensing period shall include the period of operation under the temporary operating permit. The licensing period shall also include any period during which the department was enjoined or stayed from revoking or denying a license or rendering the temporary operating permit null and void.

(U) Unless an operator indicates otherwise, all the rooms and space on the premises and all persons eighteen (18) years of age and over living on the premises shall be considered as part of the facility and its licensed capacity or staff and shall be subject to compliance with all rules governing the operation of a licensed facility. If an operator, when applying or reapplying for a license, wants to exclude some portion of the premises from being licensed or wants to exclude a relative as a resident, a statement to that effect shall be filed as a separate document indicating the use which will be made of that area of the premises and who or what occupies the area, and what the relationship is of the relative(s) being excluded. The statement shall be signed by a person with the express authority to sign on behalf of the operator, who shall attest by signature that the information submitted is true and correct to the best of the operator’s knowledge and belief.

(V) The operator shall not provide care in any area on the premises to any related person who requires protective oversight unless there has been a written request to the department to consider any portion of the facility for private use and that indicates facility staff shall not be used at any time to care for the relative(s). Prior to the area being used in that manner, the operator shall submit the request for the department’s approval. The department, after investigation, shall approve or disapprove the request in writing within thirty (30) days and shall issue or reissue the license indicating clearly which portion of the premises is excluded from licensure or which specific relative(s) is/are not considered a resident(s).

(2) If a facility was licensed under Chapter 197 or 198, RSMo and was in operation before September 28, 1979, or if an application was on file or construction plans were approved prior to September 28, 1979, the facility shall comply with construction, fire safety and physical plant rules applicable to an existing or existing licensed facility provided there has been continuous operation of the facility under a license or temporary operating permit issued by the division. If, however, there was an interruption in the operation of the facility due to license denial, license revocation or voluntary closure, the facility may be relicensed utilizing the same fire safety, construction and physical plant rules that were applicable prior to the license denial, license revocation or voluntary closure; provided that the facility reapply for a license within one (1) year of the date of the denial, revocation or voluntary closure. Regardless of licensure, application, or construction care facilities and skilled nursing facilities shall comply with the fire safety standards published in 19 CSR 30-85.022.

(A) If a facility changes from a skilled nursing or intermediate care facility to any other level, or if the facility changes from a an assisted living facility to a residential care facility, the facility shall comply with construction, fire safety and physical plant rules applicable to an existing or existing licensed facility as defined in 19 CSR 30-83.010.
(B) If the facility changes from a residential care facility to any other level or if an assisted living facility changes to an intermediate care or skilled nursing facility, the facility shall comply with construction, fire safety and physical plant rules applicable to a new or newly licensed facility as defined in 19 CSR 30-83.010.

(C) The facility shall comply with the rules applicable to a new or newly licensed facility if an application for relicensure has not been filed with the department within one (1) year of the license denial, license revocation or voluntary closure. All such facilities seeking licensure as an assisted living facility shall also comply with the requirements of 19 CSR 30-86.047 and, if applicable, 19 CSR 30-86.045.

(3) If a licensed facility discontinues operation as evidenced by the fact that no residents are in care or at any time the department is unable to freely gain entry into the facility to conduct an inspection, the facility shall be considered closed. The department shall notify the operator in writing requesting the voluntary surrender of the license. If the department does not receive the license within thirty (30) days, it shall be void. If the operator should choose to again license the facility, the operator shall submit a complete application. The provisions of section (1) shall apply.

(4) The department may grant exceptions for specified periods of time to any rule imposed by the department if the department has determined that the exception to the rule would not potentially jeopardize the health, safety or welfare of any residents of a long-term care facility.

(A) The owner or operator of the facility shall make requests for exceptions in writing to the director of the department. These requests shall contain—

1. A copy of the latest Statement of Deficiencies which shows a violation of the rule being cited, if the exception request is being made as a result of a deficiency issued during an inspection of the facility;

2. The section number and text of the rule being cited;

3. If applicable, specific reasons why compliance with the rule would impose an undue hardship on the operator, including an estimate of any additional cost that might be involved;

4. An explanation of any extenuating factors that may be relevant; and

5. A complete description of the individual characteristics of the facility or residents, or of any other factors that would safeguard the health, safety and welfare of the residents if the exception were granted.

(B) With the advice of the division’s licensure inspection field staff, the department will consider any requests that contain all the information required in subsection (4)(A). The department shall notify the operator, in
writing, of the decision on any request for an exception, stating the reason(s) for acceptance or denial, and, if granted, the length of time the exception is to be in effect and any additional corrective factors upon which acceptance may be conditioned.

(C) The department shall only grant exceptions to licensure requirements set out in rules imposed by the department and cannot grant exceptions to requirements established by state statute or federal regulations. Operators wishing to obtain waivers of regulations under Title XVIII or Title XIX of the Social Security Act shall follow procedures established by the Centers for Medicare and Medicaid (CMS).

(5) When the department issues a notice of noncompliance to a facility pursuant to the Omnibus Nursing Home Act (section 198.026, RSMo), the department, only after affording the facility operator a reasonable opportunity to remedy the situation, shall—

(A) Make every reasonable effort to provide residents of the facility or their legally authorized representatives or designees, if any—

1. A written notice of the noncompliance;

2. A list of other licensed facilities appropriate to the resident’s needs; and

3. A list of agencies that will assist the resident if he/she moves from the facility; and

(B) After providing the information required by subsection (5)(A) and allowing a time period for the residents of the facility to relocate if they wish, notify the Social Security Administration in writing that a notice of noncompliance has been issued to the facility, and the effective date of the notice. If the facility achieves substantial compliance with standards and rules later, the department shall the effective date of the facility’s substantial compliance.

(6) A licensed facility shall comply with the provisions of Title VI of the Civil Rights Act 1964, as amended; Section 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendment of 1972; the Age Discrimination Act of 1975; the Omnibus Budget and Reconciliation Act of 1982; the Americans with Disabilities Act of 1990; and the Keyes Amendment to the Social Security Act. No person shall be denied admission to, be denied benefits of, or be subjected to discrimination under any program, activity or service provided by the facility based on his/her race, color, national origin, sex, religion, age or disability, including Human Immunodeficiency Virus (HIV) or Acquired Immunodeficiency Syndrome (AIDS). Every licensed facility shall complete and sign form MO 580-2622 (9-05), Assurance of Compliance, incorporated by reference in this rule and available through the department’s website at www.dhss.mo.gov or by telephone at (573) 526-8505 and file the form with the application for licensure or relicensure. This rule does not incorporate any subsequent amendments or additions.

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(7) The department shall make available by Internet at www.dhss.mo.gov to interested individuals or without charge a single copy of—

(A) A complete set of the standards promulgated for each type of facility;

(B) An explanation of the procedures used in the state to ensure the enforcement of standards;

(C) A list of any facilities granted exception from a standard, including the justification for the exception; and

(D) A list of any facilities issued notices of noncompliance, including the details of the noncompliance.

(8) Every skilled nursing facility, intermediate care facility, residential care facility and assisted living facility issued a license or temporary operating permit by the department shall submit the required certificate of need quarterly surveys to the department on or before the fifteenth day of the first month following the previous Social Security quarter. (For example, for the Social Security quarter ending December 31, the due date is by January 15; for the Social Security quarter ending March 31, the due date is by April 15; for the Social Security quarter ending June 30, the due date is by July 15; and for the Social Security quarter ending September 30, the shall be submitted on the ICF/SNF Certificate of Need Quarterly Survey form or the RCF/ALF Certificate of Need Quarterly Survey form obtained from the Missouri Certificate of Need Program, PO Box 570, Jefferson City, MO 65102.

19 Mo. Code of State Regulations 30-82.015

19 CSR 30-82.015 Long-Term Care Receiverships

PURPOSE: This rule establishes guidelines for the determination of qualified receivers, maintenance of the list of receivers, and the selection and removal of receivers.

(1) A person requesting to act as a receiver shall submit a completed application to the department. The application shall include the following information:

(A) Full name of the receiver, date of birth and Social Security number;

(B) Information that establishes the receiver has the necessary experience to operate a long-term care facility or the ability to contract with another party for the operation of a facility; and

(C) Information that establishes the receiver has the financial capacity to operate a long-term care facility as a
(2) Based on the information submitted in the application, if the applicant has the necessary experience to operate a long-term care facility or the ability to contract with another party for the operation of a facility and the financial capacity to operate a facility, and the applicant does not have any disqualifying characteristics, the applicant will be approved to be a receiver. Disqualifying characteristics are defined as:

(A) The applicant has been convicted of a felony offense in any state or federal court arising out of conduct involving the operation or management of a long-term care facility or other health care facility or the provision or receipt of health care;

(B) The applicant has ever knowingly acted or knowingly failed to perform any duty which materially and adversely affected the health, safety, welfare or property of a resident of a long-term care facility, while acting in a management capacity; or

(C) The applicant is under exclusion from participation in the Title XVIII (Medicare) or Title XIX (Medicaid) program of any state or territory.

(3) Once a completed application is received and approved, the person will be placed on the list of qualified receivers. Receivers will be placed on the list in the order their completed application was received. If two (2) or more completed applications are received on the same day, and any two (2) or more are approved, they will be placed on the list of qualified receivers in alphabetical order according to the receivers’ last names.

(4) If any of the information in an application changes, or if a qualified receiver has any change of status, including a change in disqualifying characteristics, that could affect his/her ability to serve as a receiver, he/she must notify the department in writing within ten (10) working days. Given the additional information, the department will make a determination as to whether the receiver remains qualified to act as a receiver. If the receiver is no longer qualified, his/her name will be removed from the list of qualified receivers. The department will notify the receiver in writing of the removal.

(5) If the department otherwise becomes aware of a change in any information in the application or a change in status of a qualified receiver that affects the receiver’s ability to serve as a receiver, the department may remove the receiver from the list of qualified receivers. The department will notify the receiver in writing of the removal.

(6) If a receiver no longer wishes to be included on the list of qualified receivers, the receiver shall notify the department in writing of his/her desire to be removed from the list and the effective date of the removal.

19 Mo. Code of State Regulations 30-82.020

19 CSR 30-82.020 Classification of Rules
PURPOSE: This rule adds to the classification of the standards for long-term care facilities as cited in chapters 13 CSR 15-12, 13 CSR 15-14, 13 CSR 15-15 and 13 CSR 15-16 and as required in section 198.085.1, RSMo.

(1) All rules relating to long-term care facilities licensed by the Division of Aging, other than those rules which are informational in character, shall be followed by a notation at the end of each rule, section, subsection or pertinent part. This notation shall consist of a Roman numeral(s). These Roman numerals refer to the class (either class I, class II or class III) of standard as designated in section 198.085.1, RSMo and will be used when that rule, section, subsection or portion of a rule carrying the notation is violated by the facility.

(2) In those instances where a particular rule, section, subsection or portion of a rule is followed by a notation consisting of more than one (1) Roman numeral, the lower classification shall be applied unless the division can show that the higher classification is merited because of the extent of the violation, the violations effect on residents or the impact when combined with other deficiencies. The division, on the Statement of Deficiency, shall indicate for the operator which classification has been applied and if the higher one is used, for what reason.

(3) A violation of a class I standard is one which would present either an imminent danger to the health, safety or welfare of any resident or a substantial probability that death or serious physical harm would result. If a violation of a class I standard is not immediately corrected, or corrective action instituted, the division shall proceed as required under section 198.029, RSMo. The division shall also take all other necessary steps to protect the health, safety or welfare of a resident which may include: initiation of license revocation action under section 198.036, RSMo; initiation of an action under section 198.067, RSMo; injunctive relief or assessment of a civil penalty, initiation of an action under section 198.070.6, RSMo; protection of residents from further abuse or neglect; initiation of an action under section 198.105 or 198.108, RSMo for appointment of a receiver; and appointment of a monitor under section 198.103, RSMo.

(4) A violation of a class II standard is one which has a direct or immediate relationship to the health, safety or welfare of any resident, but which does not create any imminent danger. When a violation is noted, the operator shall either correct the violation immediately or prior to the time of the reinspection or shall be correcting it in accordance with the time schedules set out in the operator’s approved plan of correction, as provided for under section 198.026.2, RSMo. If not, or the plan of correction is not approved and the violation not corrected, the violation will constitute substantial noncompliance under the Omnibus Nursing Home Act. After review by the division director or his/her designee, the division may initiate any action authorized by law, including those provided for in sections 198.026, 198.036, 198.067, 198.070.6, 198.103, 198.105 and 198.108, RSMo. Where specific standards are set out in sections 198.003-198.186, RSMo and are not otherwise classified, those standards will be treated as class II standards.

(5) A violation of a class III standard is one which has an indirect or a potential impact on the health, safety or welfare of any resident. When a violation is noted, the operator shall either correct the violation immediately or prior to the time of the reinspection, or shall be correcting it in accordance with the time schedules set out in the operator’s approved plan of correction as provided for under section 198.026, RSMo. If not, if the plan of correction is not approved and the violation not corrected, a point value of one (1) point each will be noted for violations of each distinct class III standard not corrected; however, the points will not be assessed if there are five (5) or fewer class III standards violated.

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(A) If the points total twenty (20) or more points, the facility will be deemed to be in substantial noncompliance under the Omnibus Nursing Home Act and the division may initiate any action as authorized by law, including issuance of a notice of noncompliance, as provided under section 198.026, RSMo.

(B) If the points total less than twenty (20) points, the points will remain on the facility’s record until the time the violations are corrected and are noted as corrected during a reinspection. If during the reinspection a class III standard violated in the prior inspection continues to be violated, the previously assessed points will be doubled unless the operator immediately corrects the violation. If after the reinspection the points for all previously noted and left uncorrected violations of distinct class III standards total twenty (20) or more, the facility will be deemed to be in substantial noncompliance under the Omnibus Nursing Home Act and the division may take action as provided under section 198.026, RSMo.

(C) The division shall not revoke an operator’s license to operate a long-term care facility for violations of class III standards unless—

1. The uncorrected violations taken all together present either an imminent danger to the health, safety or welfare of any resident or a substantial probability of death or serious physical harm; or

2. The operator or his/her agent acted or knowingly omitted any duty which would materially and adversely affect the health, safety, welfare or property of a resident.

(D) Points will not be assessed for class III violations if the operator can show that the violation had been corrected since it was initially noted, that the operator made a good faith effort, as judged by the division, to stay in compliance and that the violation again occurred for reasons beyond the operator’s control.

(6) The division shall not initiate any action against an operator as authorized by law, including issuance of a notice of noncompliance for uncorrected violations of class II or III standards, unless the facility’s record, the cited violations and the circumstances are reviewed by the director of the division or his/her designee.

19 Mo. Code of State Regulations 30-82.030

19 CSR 30-82.030 Assessment of Availability of Beds

PURPOSE: This rule sets forth the procedures followed by the Division of Aging in determining for the Missouri Health Facilities Review Committee whether or not a need exists in a particular locale for additional Medicaid certified beds.

(1) The Department of Social Services/Division of Aging will determine whether there presently exists a need for
additional beds in a particular county or locality after the Department of Social Services/Division of Aging is notified by the State Health Planning and Development Agency that a Certificate of Need letter of intent has been filed for a project in that particular county or locality. The Department of Social Services/Division of Aging will obtain from the State Health Planning and Development Agency information concerning the project’s projected completion date, the number of beds to be licensed for each level of care and the number of beds for which Medicaid certification will be sought.

(2) The Department of Social Services/Division of Aging will consider the need for intermediate care facility and skilled nursing facility licensed beds and will evaluate separately the need for licensed beds certified to participate in Missouri’s Title XIX (Medicaid) program.

(3) Once per quarter, the Department of Social Services/Division of Aging will determine the total number of licensed only beds and the total number of beds certified to participate in the Medicaid program in every county or locality in the state and the percentage of those beds which are occupied.

(4) If the Department of Social Services/Division of Aging is notified by the State Health Planning and Development Agency that a Certificate of Need letter of intent has been filed for a project, the Department of Social Services/Division of Aging will determine if a present need actually exists for additional licensed beds in the county or locality and the minimum number of additional beds needed, taking into account, one (1) or more of the following factors:

   (A) Legal or administrative actions to which the Department of Social Services/Division of Aging may or may not be a party, which may affect availability of licensed intermediate care facility or skilled nursing facility beds in the county or locality;

   (B) The number of beds under actual construction for which a certificate of need has been issued in that county or locality; and

   (C) Whether ninety percent (90%) or more of the existing licensed long-term care beds in the county or locality are occupied.

(5) If the Department of Social Services/Division of Aging is notified by the State Health Planning and Developing Agency that a Certificate of Need letter of intent has been filed for a project for any county or locality where fifteen percent (15%) or less of the total Medicaid-certified beds in that county or locality are available, or if that county or locality has no certified beds, the Department of Social Services/Division of Aging will determine if a present need actually exists for additional Medicaid-certified beds in that county or locality and the minimum number of additional Medicaid-certified beds needed, taking into account, one (1) or more of the following factors:

   (A) The number of certifiable and potentially certifiable beds in existence in the county or locality;
Missouri Code of State Regulations Currentness _Title 19 - Department of Health and Senior Services  
Division 30 - Division of Regulation and Licensure_Special Notice _Chapter 70 - Lead Abatement and  
Assessment Licensing, Training Accreditation  

(B) The number of potentially certifiable beds under construction in that county or locality for which a Certificate of Need has been issued which are scheduled for completion on or before the date scheduled for completion for beds proposed in the application in question; and 

(C) Legal or administrative action to which the Department of Social Services/Division of Aging may or may not be a party, which may affect availability of licensed and Medicaid-certified intermediate care facility and skilled nursing facility beds in the county or locality.

(6) Available Medicaid-certified beds are—

(A) Those which are certified to participate in the Medicaid program, currently staffed and capable of being occupied by a resident and not occupied by either a Medicaid or private pay resident; or

(B) Those, if occupied by a private pay resident in a distinct part facility, where the facility has verified in writing to the Department of Social Services/Division of Aging that the private pay resident will be transferred to a noncertified bed in the same facility if a Medicaid recipient or Medicaid-eligible individual requests placement.

(7) The Department of Social Services/Division of Aging finds a present need exists for additional beds of the classification proposed in a particular Certificate of Need letter of intent, the Department of Social Services/Division of Aging will certify the proposed facility to the Missouri Health Facilities Review Committee for whatever action it deems appropriate on that proposed facility including action pursuant to section 197.330, RSMo. If a Certificate of Need letter of intent has been filed for more than one (1) project in a county or locality in which the Department of Social Services/Division of Aging has found existence of a need for additional beds of the classification(s) proposed in the letters of intent, the Department of Social Services/Division of Aging will certify all such proposed facilities to the Missouri Health Facilities Review Committee to determine which, if any, of the proposed facilities will be issued a Certificate of Need to meet the present need for additional beds determined by the Department of Social Services/Division of Aging. Where the Department of Social Services/Division of Aging finds a present need for additional beds in a particular county or locality, the report to the Missouri Health Facilities Review Committee will specify whether licensed long-term care beds are needed or whether the need is for long-term care beds which are also certified to participate in the Medicaid program and what minimum number of beds is needed for each classification.

19 Mo. Code of State Regulations 30-82.050  
19 CSR 30-82.050 Transfer and Discharge Procedures

PURPOSE: This rule provides instructions for persons who are discharged from a licensed long-term care facility under involuntary circumstances. When this proposed rule becomes effective it will replace 13 CSR 15-9.010(17) which will be rescinded by subsequent rulemaking. This rule also includes the provisions of section 198.088, RSMo applicable to transfer or discharge and the notice and due process required of all licensed facilities.
(1) For the purposes of this rule, the following terms shall be defined as follows:

(A) Transfer means moving a resident from one institutional setting to another institutional setting for care and under circumstances where the releasing facility has decided that it will not readmit the resident or a legally authorized representative of the resident has not consented or agreed with the transfer. Unless indicated otherwise from the context of this rule, a transfer shall be deemed the same as a discharge;

(B) Discharge means releasing from a facility or refusing to readmit a resident from a community setting under circumstances where the resident or a legally authorized representative of the resident has not consented or agreed with the move or decision to refuse readmittance. Refusal to readmit a former resident shall not constitute a discharge if the former resident has been absent from the facility for more than ninety (90) days;

(C) Consent to or agreement with transfer or discharge means one of the following:

1. The resident or a legally authorized representative of the resident has consented to, agreed with, or requested the discharge; or

2. The resident’s treating physician has ordered the transfer and the releasing facility intends to readmit the resident if requested to do so;

(D) Consent of the resident means that the resident, with sufficient mental capacity to fully understand the effects and consequences of the transfer or discharge, consents to or agrees with the transfer or discharge; and

(E) Legally authorized representative of a resident means a duly appointed guardian or an attorney-in-fact who has current and valid power to make health care decisions for the resident.

(2) The facility shall permit each resident to remain in the facility unless—

(A) The transfer or discharge is appropriate because the residents welfare and the residents needs cannot be met by the facility;

(B) The transfer or discharge is appropriate because the resident’s health has improved sufficiently so the resident no longer needs the services provided by the facility;

(C) The safety of individuals in the facility is endangered;

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(D) The health of individuals in the facility would otherwise be endangered;

(E) The resident has failed, after reasonable and appropriate notice, to pay for (or have paid under Medicare or Medicaid) a stay at the facility. For a resident who becomes eligible for Medicaid after admission to a only allowable charges under Medicaid; or

(F) The facility ceases to operate.

(3) When the facility transfers or discharges a resident under any of the circumstances specified in subsections (2)(A)-(E), the resident’s clinical record shall be documented. The facility shall ensure that documentation for the transfer or discharge is obtained from—

(A) The resident’s personal physician when transfer or discharge is necessary under subsections (2)(A)-(B); and

(B) A physician when transfer or discharge is necessary under subsection (2)(D); and

(C) The facility administrator or the facility director of nursing in all circumstances.

(4) Before a facility transfers or discharges a resident, the facility shall:

(A) Send written notice to the resident in a language and manner reasonably calculated to be understood by the resident. The notice must also be sent to any legally authorized representative of the resident and to at least one family member. In the event that there is no family member known to the facility, the facility shall send a copy of the notice to the appropriate regional coordinator of the Missouri State Ombudsman’s office;

(B) Include in the written notice the following information:

1. The reason for the transfer or discharge;

2. The effective date of transfer or discharge;
3. The resident’s right to appeal the transfer or discharge notice to the director of the Division of Aging or his/her designated hearing official within thirty (30) days of the receipt of the notice;

4. The address to which the request for a hearing should be sent: Administrative Hearings Unit, Division of Legal Services, P.O. Box 1527, Jefferson City, MO 65102-1527;

5. That filing an appeal will allow a resident to remain in the facility until the hearing is held unless a hearing official finds otherwise;

6. The location to which the resident is being transferred or discharged;

7. The name, address and telephone number of the designated regional long-term care ombudsman office;

8. For facility residents with developmental disabilities, the mailing address and telephone number of the Missouri Protection and Advocacy Agency, 925 South Country Club Drive, Jefferson City, MO 65109, (573) 893-3333, or the current address and telephone number of the protection advocacy agency if it has changed. The protection and advocacy agency is responsible for the protection and advocacy of developmentally disabled individuals established under Part C of the Developmental Disabilities Assistance and Bill of Rights Act. For Medicare and Medicaid certified facility residents with mental illness, the address and telephone number of Missouri Protection and Advocacy Agency, the agency responsible for persons with mental illness under the Protection and Advocacy for Mentally Ill Individuals Act; and

(C) Record and document in detail in each affected resident’s record the reason for the transfer or discharge. The recording of the reason for the transfer or discharge shall be entered into the resident’s record prior to the date the resident receives notice of the transfer or discharge, or prior to the time when the transferring or discharging facility decides to transfer or discharge the resident.

(5) The notice of transfer or discharge described in this rule shall be made by the facility no less than thirty (30) days before the resident is to be transferred or discharged. In the case of an emergency discharge, the notice shall be made as soon as practicable before the discharge when it is specifically alleged in the notice that—

(A) The safety of individuals in the facility would be endangered under subsection (2)(C) of this rule and the notice contains specific facts upon which the facility has based its determination that the safety of said individuals would be so endangered;

(B) The health of individuals in the facility would be endangered under subsection (2)(D) of this rule and the
notice contains specific facts upon which the facility has based its determination that the safety of said individuals would be so endangered;

(C) The resident’s health has improved sufficiently to allow a more immediate transfer or discharge under subsection (2)(B) of this rule;

(D) An immediate transfer or discharge is required by the resident’s urgent medical needs under subsection (2)(A) of this rule; or

(E) The resident has not resided in the facility for thirty (30) days.

(6) Any resident of a facility who receives notice of discharge from the facility in which he/she resides may file an appeal of the notice with the Administrative Hearings Section, Division of Legal Services, P.O. Box 1527, Jefferson City, MO 65102-1527 within thirty (30) days of the date the resident received the discharge notice from the facility. The resident’s legal guardian, the resident’s attorney-in-fact appointed under sections 404.700-404.725, RSMo (Durable Power of Attorney Law of Missouri) or pursuant to sections 404.800-404.865, RSMo (Durable Power of Attorney for Health Care Act) or any other individual may file an appeal on the resident’s behalf. A Nursing Facility Transfer or Discharge Hearing Request form (MO Form 886-3245) to request a hearing may be obtained from the Division of Aging or the regional ombudsman. However, the use of a form is not required in order to file a request for a hearing. The request for a hearing shall be verified in writing by the resident, his/her legal guardian, attorney-in-fact, or any other party requesting a hearing on the resident’s behalf by attesting to the truth of the resident’s request for a hearing.

(7) The director of the Department of Social Services shall designate a hearing official to hear and decide the resident’s appeal.

(A) The designated hearing official shall notify the resident, the state long-term care ombudsman and the facility that the request for a hearing has been received and that a hearing has been scheduled.

(B) The hearing may be held by telephone conference call or in person at any location the designated hearing official deems reasonably appropriate to accommodate the resident’s needs.

(8) The discharge of the resident shall be stayed at the time the request for a hearing was filed unless the facility can show good cause why the resident should not remain in the facility until a written hearing decision has been issued by the designated hearing official. Good cause shall include, but is not limited to, those exceptions when the facility may notify the resident of a discharge from the facility with less than thirty (30) days notice as set forth in section (5) of this rule.

(A) The facility may show good cause for discharging the resident prior to a hearing decision being issued by
the designated hearing official by filing a written Motion to Set Aside the Stay with the Administrative Hearings Unit at the address in paragraph (4)(B)4. The facility must provide a copy of the Motion to Set Aside the Stay to the resident, or to the resident’s legally authorized representative and to at least one (1) family member, if one is known. In the event that a resident has no legally authorized representative and no known family members, then a copy of the Motion to Set Aside the Stay must be provided to the Missouri State Long-Term Care Ombudsman’s Office.

(B) Within five (5) days after a written Motion to Set Aside the Stay has been filed with the Administrative Hearings Unit, the designated hearing official shall schedule a hearing to determine whether the facility has good cause to discharge the resident prior to a written hearing decision being issued. Notice of the good cause hearing need not be in writing. All parties and representatives who received a copy of the Motion to Set Aside the Stay under subsection (8)(A) of this rule shall also be notified of the good cause hearing.

1. The designated hearing official shall have the discretion to consolidate the facility’s good cause hearing with the discharge hearing requested by the resident. In the case of an emergency discharge, an expedited hearing shall be held upon the request of the resident, legally authorized representative, family member, and in a case where notice was required to be sent to the regional ombudsman, to the state long-term care ombudsman, so long as the parties waive the ten (10)-day notice requirement specified in section (9).

2. Subsequent to the good cause hearing, the designated hearing official shall issue an order granting or denying the facility’s Motion to Set Aside the Stay. If the facility’s good cause hearing and the resident’s discharge hearing were consolidated, the order shall also set forth whether the facility may discharge the resident.

(9) Written notice of a hearing shall contain the date and time for the hearing and shall be mailed to the facility, the resident or the resident’s legally authorized representative, and to any and all parties in interest, including any family members who received notice of the discharge, that are known to the designated hearing official. The written notice shall be mailed to the parties at least ten (10) days prior to the hearing.

(10) If the facility’s good cause hearing and the resident’s discharge hearing were not consolidated and the designated hearing official issues an order denying the facility’s Motion to Set Aside the Stay, the designated hearing official shall schedule the discharge hearing subsequent to the date the order which denied the facility’s motion was issued. After the hearing, the designated hearing official shall issue a written decision setting forth whether the facility may discharge the resident. The written decision shall be mailed to the facility, the resident or the resident’s legally authorized representative and counsel for all parties, if any. If the state long-term care ombudsman’s office received notice of the discharge, a copy of the hearing decision shall be sent to the ombudsman’s office. If a member of the resident’s family received notice of the discharge, a copy of the hearing decision shall be mailed to the family member upon request.

(11) The burden of showing that the facility has complied with all requirements for appropriate discharge of the resident shall be upon the facility. The resident may provide any additional evidence competent to show that the facility has not met its burden.
(12) The resident may obtain legal counsel, represent him/herself or use a relative, a friend or other spokesperson. All natural parties, including residents, sole proprietors of a facility and a partner of a facility operated in the partnership form of business, may represent themselves in a pro se capacity on behalf of the facility. Corporate operators of a facility may only be represented by an attorney licensed to practice law in Missouri.

(13) Hearings shall be subject to the hearing procedures found in 42 CFR Chapter IV, Part 483, subpart E and the Missouri Administrative Procedures Act, specifically sections 536.070 through 536.080, RSMo, which include, but are not limited to, oral and written evidence, witnesses, objections, official notices, affidavits, transcripts, depositions and other discovery methods, sanctions, oral arguments and written briefs. Written medical statements by a physician, psychiatrist or psychologist shall be admitted as relevant and probative evidence and shall be given due weight in consideration by the director or his/her designated hearing official. An audiotape recording of the hearing shall be made unless it is agreed by both parties to substitute a certified transcript.

(14) If the decision is that there is no cause for discharge, the resident shall be permitted to remain in the facility. If the decision is in the facility’s favor, the resident shall be granted an additional ten (10) days after the decision is received for purpose of relocation, and the facility shall assist the resident in making suitable arrangements for relocation. If the resident prevails and has already been discharged, the facility shall notify the resident, the qualified representative, or any other responsible party who will assure that the resident is made aware of the decision and that the resident may return to the facility. In the event that there are no beds available, the facility shall admit the resident to occupy the first available bed without regard to any waiting list maintained by the facility.

PURPOSE: This rule is being promulgated to establish the procedure by which persons with criminal convictions may seek a waiver allowing them to be employed by health care and mental health providers despite the hiring restrictions found in section 660.317, RSMo. The waivers are to be for “good cause” as defined by that statute. This rule sets forth both the procedure for seeking waivers and the facts and circumstances to be considered by the Department of Social Services in determining “good cause.”

(1) Definitions.

(A) Applicant means a person who has been or would be rejected for employment by a provider due to the hiring restrictions found in section 660.317, RSMo.

(B) Department means the Department of Health and Senior Services.

(C) Determination means the decision issued by the director of the Department of Health and Senior Services or the director’s designee based on the factual, procedural or causal issues of the request for waiver.

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(D) Director means the director of the Department of Health and Senior Services.

(E) Good Cause Waiver means a finding that it is reasonable to believe that the restrictions imposed by section 660.317, RSMo, on the employment of an applicant may be waived after an examination of the applicant’s prior work history and other relevant factors is conducted and demonstrates that such applicant does not present a risk to the health or safety of residents, patients or clients if employed by a provider.

(F) Provider means any person, corporation or association who—

1. Is licensed as an operator pursuant to Chapter 198, RSMo;

2. Provides in-home services under contract with the Department of Health and Senior Services;

3. Employs nurses or nursing assistants for temporary or intermittent placement in health care facilities;

4. Is an entity licensed pursuant to Chapter 197, RSMo;

5. Is a public or private facility, day program, residential facility or specialized service operated, funded or licensed by the Department of Mental Health; or

6. Is a licensed adult day care provider.

(G) Reference means a written statement of character, qualification or ability issued on behalf of the applicant by a person who is not related to or residing with the applicant requesting a good cause waiver.

(H) Sponsor means the current or potential employer of the applicant, or a training program, agency or school in which the applicant is or was a student enrolled for the purpose of earning a professional license, certification or otherwise becoming qualified to perform the duties of an occupation.

(2) Any person who is not eligible for employment by a provider due to the hiring restrictions found in section 660.317, RSMo, may apply to the director for a good cause waiver. If the director, or the director’s designee, determines that the applicant has demonstrated good cause, such restrictions prohibiting such persons from being hired by a provider shall be waived and such persons may be so employed unless rejected for employment on other

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grounds. Hiring restrictions based on the Department of Health and Senior Services’ employee disqualification list established pursuant to section 660.315, RSMo, are not subject to a waiver.

(3) The director, or the director’s designee, shall accept an application for a good cause waiver only if the application—

(A) Is submitted in writing by the applicant on the form provided by the department;

(B) Is legible;

(C) Is signed by the applicant;

(D) Includes an indication of the type of waiver that is being requested;

(E) Includes a complete history of residency since the earliest disqualifying offense or incident;

(F) Includes a complete employment history since the age of eighteen (18) years;

(G) Includes an attached explanation written by the applicant as to why the applicant believes he or she no longer poses a risk to the health, safety or welfare of residents, patients or clients;

(H) Includes an attached description written by the applicant of the events that resulted in each disqualifying offense or incident;

(I) Includes attached documentation on the applicant’s professional, vocational or occupational licensure, certification or registration history and current status, if any, in this state and any other state;

(J) Includes at least one (1) reference letter from a sponsor. If the applicant is not able to obtain a sponsor, the applicant shall so state, shall identify those potential sponsors who have been approached by the applicant, and shall submit three (3) reference letters from individuals knowledgeable of the applicant’s character or work history who are not related to or residing with the applicant;

(K) Includes a criminal history record from the Missouri State Highway Patrol if requesting a waiver of
(L) Includes a certified court document for each disqualifying criminal offense. If such document is not obtainable, a written and signed statement from the court indicating that no such record exists must be submitted;

(M) Includes certified investigative reports from the Department of Social Services if requesting a waiver of child abuse or neglect findings or a waiver of foster parent license denial, revocation, or involuntary suspension;

(N) Includes certified investigative reports or other documentation of the incident(s) which resulted in the applicant’s inclusion on all other lists in the Family Care Safety Registry for which waiver is requested; and

(O) If in addition to the criminal offense(s) for which the applicant is requesting a waiver the applicant has any pending felony or misdemeanor charges, includes a statement explaining the circumstances and certified copies of the charging documents for all pending criminal charges; and, in the case of an applicant seeking a position with an in-home services provider agency or home health agency, if in addition to the circumstances related to the listing on any of the background checklists of the Family Care Safety Registry for which the applicant is requesting a waiver the applicant has any pending circumstances which if established would lead to an additional listing on any of the background checklists of the Family Care Safety Registry, includes a statement explaining the circumstances and certified copies of documents relating to those circumstances.

(4) The director, or the director’s designee, will not consider any application for a good cause waiver unless it is fully completed, signed by the applicant, and contains all required attachments.

(5) Each completed application will be reviewed by a good cause waiver committee of two (2) or more employees of the department. The director shall determine the size of the committee and shall, from time to time, appoint members to serve on the committee.

(A) If the applicant seeks a good cause waiver of placement on the disqualification list maintained by the Department of Mental Health, the director shall appoint an employee of the Department of Mental Health recommended by the director of the Department of Mental Health to serve on the good cause waiver committee.

(B) A member of the good cause waiver committee shall recuse himself or herself in a good cause waiver review in which the member’s impartiality might reasonably be questioned, including but not limited to instances where the committee member has a personal bias or prejudice concerning the applicant, or personal knowledge of evidentiary facts concerning the application for good cause waiver.
(6) The department may, at any time during the application process or review thereof, request additional information from the applicant. If the applicant fails to supply any requested additional information within thirty (30) calendar days of the date of the request, unless the applicant requests and the department grants an extension, the department will consider the application for good cause waiver to be withdrawn by the applicant.

(7) The department may request the applicant, prior to the completion of the review, to appear in person to answer questions about his or her application. If the applicant is requested to appear in person, the department, in its sole discretion, shall determine the location for the appearance and may conduct any such proceedings using electronic means, including but not limited to telephonic or video conferencing. The department shall review and may investigate the information contained in each application for completeness, accuracy and truthfulness. The burden of proof shall be upon the applicant to demonstrate that he or she no longer poses a risk to the health, safety or welfare of residents, patients or clients. The following factors shall be considered in determining whether a good cause waiver should be granted:

(A) The applicant’s age at the time the crime was committed or at the time the incident occurred that resulted in the applicant being listed on the background checklists in the Family Care Safety Registry;

(B) The circumstances surrounding the crime or surrounding the incident that resulted in the applicant being listed on the background checklists in the Family Care Safety Registry;

(C) The length of time since the conviction or since the occurrence of the incident that resulted in the applicant being listed on the background checklists in the Family Care Safety Registry;

(D) The length of time since the applicant completed his or her sentence for the disqualifying conviction(s), whether or not the applicant was confined, conditionally released, on parole or probation;

(E) The applicant’s entire criminal history and entire history of all incidents that resulted in the applicant being listed on the background checklists in the Family Care Safety Registry, including whether that history shows a repetitive pattern of offenses or incidents;

(F) The applicant’s prior work history;

(G) Whether the applicant had been employed in good standing by a provider but subsequently became ineligible for employment due to the hiring restrictions in section 660.317, RSMo;

(H) Whether the applicant has been convicted or found guilty of, or pled guilty or nolo contendere to any offense displaying extreme brutality or disregard for human welfare or safety;
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(I) Whether the applicant has omitted a material fact or misrepresented a material fact pertaining to his or her criminal or employment history or to his or her history of incidents that resulted in his or her being listed on the background checklists in the Family Care Safety Registry;

(J) Whether the applicant has ever been listed on the Employee Disqualification List maintained by the department as provided in section 660.315, RSMo;

(K) Whether the applicant’s criminal offenses were committed, or the incidents that resulted in the applicant being listed on the background checklists in the Family Care Safety Registry occurred, during the time he or she was acting as a provider or as an employee for a provider;

(L) Whether the applicant has, while disqualified from employment by a provider, obtained employment by fraud, deceit, deception or misrepresentation, including misrepresentation of his or her identity;

(M) Whether the applicant has ever had a professional or occupational license, certification, or registration revoked, suspended, or otherwise disciplined;

(N) Any other information relevant to the applicant’s employment background or past actions indicating whether he or she would pose a risk to the health, safety or welfare of residents, patients or clients; and

(O) Whether the applicant has supplied all information requested by the department.

(8) If, at the time of an application for a waiver, or during the waiver consideration process, the applicant has been charged or indicted for, but not convicted of, any of the crimes covered under the provisions of section 660.317, RSMo, the division will hold the request for waiver in abeyance while such charges are pending or until a court of competent jurisdiction enters a judgment or order disposing of the matter.

(9) Each applicant who submits a waiver application meeting the requirements of section (3) of this rule shall be notified in writing by the director, or the director’s designee, as to whether his or her application has resulted in a determination of good cause or no good cause. Such notification shall be effective if sent to the applicant’s address given on the application.

(10) Any good cause waiver granted to an applicant applies only to:

(A) The specific disqualifying conviction(s), finding(s) of guilt, plea(s) of guilty or nolo contendere, as contained in the certifying copies of the court documents which are required in the application; and/or

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(B) The incident(s) that resulted in the applicant being listed on the background checklists in the Family Care Safety Registry, as contained in the investigative reports or other supporting documentation required in the application or subsequently requested by the department.

(11) Any good cause waiver granted to an applicant applies only to those disqualifying criminal convictions on incidents that resulted in the applicant being listed on the background checklists in the Family Care Safety Registry, as covered under the provisions of section 660.317, RSMo, and shall not apply to any other hiring restriction or exclusion imposed by any other federal or state laws or regulations.

(12) The director, or the director’s designee, may withdraw a good cause waiver if it receives information or finds that—

(A) The applicant has omitted a material fact or misrepresented a material fact in seeking a good cause waiver;

(B) The applicant has been subsequently convicted or found guilty of, or pled guilty or nolo contendere to any class A or B felony violation of Chapter 565, 566, or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or section 568.020, RSMo, in this state or any other state;

(C) Such applicant is a prospective or current employee of an in-home services provider or home health agency and has been subsequently involved in an incident that results in the applicant being listed on any of the background checklists in the Family Care Safety Registry;

(D) The applicant has omitted, misrepresented or failed to disclose or provide any of the information required by section 660.317, RSMo, or the provisions of this rule; or

(E) There has been a material change in the circumstances upon which the good cause waiver was granted.

(13) If the good cause waiver is withdrawn by the department, the notice of such withdrawal shall be mailed by the department to the applicant’s last known address, with a copy of the notice sent to the applicant’s last known employer, if any.

(14) No applicant may be employed in a direct care or direct service position with a provider during the pendency of a request for waiver unless the applicant has been continuously employed by that provider prior to August 28, 2003. If an applicant is employed on or after August 28, 2003, he or she may be employed following submission of a completed waiver application on a conditional basis to provide in-home services or home health services to any in-home services client or home health patient during the pendency of that waiver application if:

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(A) The disqualifying crime is not one that would preclude employment pursuant to subsection 6 of section 660.317, RSMo; and

(B) The applicant is not listed on the Department of Health and Senior Services’ employee disqualification list established pursuant to section 660.315, RSMo.

(15) If a waiver is denied to an applicant employed on or after August 28, 2003, on a conditional basis, the conditional employment shall immediately terminate.

(16) Applicants who have been denied a good cause waiver, or who have had their good cause waivers withdrawn by the department, may reapply one (1) time every twelve (12) months, or whenever the circumstances related to the disqualifying conviction(s) have changed.

(17) Each provider shall be responsible for—

(A) Requesting criminal background checks on all prospective employees, regardless of waiver status, in accordance with the provisions of sections 660.317 and 43.540, RSMo; and

(B) Contacting the department to confirm the validity of a prospective employee’s good cause waiver prior to hiring the prospective employee if the prospective employee reveals the existence of a good cause waiver or reveals the existence of an otherwise disqualifying circumstance.

(18) Each in-home services provider or home health provider shall also be responsible for—

(A) Requesting Family Care Safety Registry background screenings on all prospective employees, regardless of waiver status, in accordance with the provisions of section 660.317.7, RSMo; and

(B) Contacting the department to confirm the validity of a prospective employee’s good cause waiver prior to hiring the prospective employee if the prospective employee reveals the existence of a good cause waiver or reveals the existence of an otherwise disqualifying circumstance.

(19) All applications for good cause waivers and related documents shall become permanent records maintained by the department.

19 Mo. Code of State Regulations 30-82.070

Current through May 31, 2014
PURPOSE: This rule explains the requirements for receiving funding from the Nursing Facility Quality of Care (NFQC) Fund to improve the quality of service the facility provides to its residents.

(1) Definitions.

(A) Qualified Facility—Any facility licensed pursuant to Chapter 198, RSMo, that has received a Class I or Uncorrected Class II Notice of Noncompliance within the past twelve (12) months in one (1) of the following areas:

1. For Residential Care Facility I (RCF I and Residential Care Facility II (RCF II):

   A. Administrative, Personnel and Resident Care (19 CSR 30-86.042);

   B. Dietary (19 CSR 30-86.052); or

   C. Resident Rights (19 CSR 30-88.010);

2. For Skilled Nursing Facility (SNF) and Intermediate Care Facility (ICF):

   A. Administration and Resident Care (19 CSR 30-85.042)

   B. Dietary (19 CSR 30-85.052); or
(B) Quality Improvement Project for Missouri (QIPMO) consultation—Provides technical assistance and support to nursing facility staff throughout the state in order to improve the quality of care in nursing facilities using the Minimum Data Set (MDS) and on-site clinical consultation.

(2) Selection of Qualified Facilities.

(A) Qualified facilities may submit a written request to the department for funds from the Nursing Facility Quality of Care (NFQC) Fund to pay for QIPMO assistance and support. The department will provide a written response to the qualified facility’s request approving or disapproving the use of NFQC funding for QIPMO assistance. In the absence of extraordinary circumstances, a qualified facility shall receive no more than one thousand dollars ($1,000) per request. A qualified facility which wishes to receive more than one thousand dollars ($1,000) per request must separately justify reimbursement in excess of one thousand dollars ($1,000) by setting forth the extraordinary circumstances justifying reimbursement in excess of one thousand dollars ($1,000). The department may, in its sole discretion, approve reimbursement in excess of one thousand dollars ($1,000).

(B) Qualified facilities may also submit to the department proposals describing implementation of a quality improvement program, shall address areas of noncompliance that have been cited in the notice of noncompliance issued in the past twelve (12) months. Upon approval of the proposal by the department, the department may use funds in the NFQC Fund that have been collected from state civil money penalties to fund the qualified facility’s proposal. In the absence of extraordinary circumstances, a qualified facility shall receive no more than one thousand dollars ($1,000) per proposal. A qualified facility which wishes to receive more than one thousand dollars ($1,000) per proposal must separately justify reimbursement in excess of one thousand dollars ($1,000) by setting forth the extraordinary circumstances justifying reimbursement in excess of one thousand dollars ($1,000). The department may, in its sole discretion, approve reimbursement in excess of one thousand dollars ($1,000).

(C) The department may impose upon a qualified facility a directed plan of correction, as set forth in section 198.066, RSMo, which includes QIPMO consultation. Funding for the QIPMO consultation may be taken from the NFQC Fund, not to exceed one thousand dollars ($1,000), unless the department, in its sole discretion, determines reimbursement in excess of one thousand dollars ($1,000) is justified by extraordinary circumstances.

(3) The qualified facility will submit to the department the paid invoice(s) for the QIPMO consultation or other quality improvement program. The department will reimburse the qualified facility for the amount granted.

19 Mo. Code of State Regulations 30-83.010

19 CSR 30-83.010 Definition of Terms

Current through May 31, 2014
PURPOSE: This rule defines terms used in the rules for long-term care facilities as set forth in chapters 19 CSR 30-85, 19 CSR 30-86, 19 CSR 30-87, and 19 CSR 30-88.

(1) Activities of daily living (ADL)--Shall mean one (1) or more of the following:

   (A) Eating;

   (B) Dressing;

   (C) Bathing;

   (D) Toileting;

   (E) Transferring; and

   (F) Walking.

(2) Administrator--Shall mean an individual person who is in general administrative charge of a facility.

(3) Assisted living facility (ALF)--Shall mean any premises, other than a residential care facility, intermediate care facility, or skilled nursing care facility, that is utilized by its owner, operator, or manager to provide twenty-four (24) hour care and services and protective oversight to three (3) or more residents who are provided with shelter, board, and who may need and are provided with the following:

   (A) Assistance with any activities of daily living and any instrumental activities of daily living;

   (B) Storage, distribution or administration of medications; and

   (C) Supervision of health care under the direction of a licensed physician, provided that such services are consistent with a social model of care.

   (D) The term “assisted living facility” does not include a facility where all of the residents are related within the
(4) Automated dispensing system--Shall mean a mechanical system that performs functions that may include, but are not limited to, storing, packaging or dispensing medications, and that collects, controls and maintains all transaction information.

(5) Certified-medication technician--Shall mean a nursing assistant who has completed a course in medication administration approved by the Department of Health and Senior Services.

(6) Chemical restraint--Shall mean a psychopharmacologic medication that is used for discipline or convenience and not required to treat medical symptoms.

(7) Communicable disease--Any illness, disease or condition reportable to the Missouri Department of Health and Senior Services as required by 19 CSR 20-20.010 and 19 CSR 20-20.020 is considered, for the context of these rules, a communicable disease.

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

(9) Control of medication--Shall mean assuming responsibility by the facility for all facets of control of medication including, but not limited to, acquisition, storage, security and administration.

(10) Convenience--Shall mean any action taken by the facility to control resident behavior or maintain residents with a lesser amount of effort by the facility and not in the resident’s best interest.

(11) Dementia--Shall mean a general term for the loss of thinking, remembering, and reasoning so severe that it interferes with an individual’s daily functioning, and may cause symptoms that include changes in personality, mood, and behavior.

(12) Designee--Shall mean an individual who has been designated in writing by a resident to handle matters and receive reports related to his/her personal possessions and property.

(13) Discipline--Shall mean any action taken by the facility for the purpose of punishing or penalizing residents.
(14) Emergency medical procedure--Shall mean those written policies and procedures which describe the types and degrees of accidents and injuries, how they will be treated, by whom, in which instances the resident’s physician will be notified and how quickly.

(15) Emergency medication supply--Shall mean a limited number of dosage units of prescription medications that may be administered to a resident in an emergency situation or for initial doses of a necessary medication when a pharmacy cannot provide a prescription for a resident within a reasonable time based on the resident’s clinical needs at the time.

(16) Existing or existing licensed facility--Shall mean a long-term care facility which was licensed and in operation or one whose plans were approved prior to June 10, 1981 for a skilled or intermediate care facility or prior to November 13, 1980 for residential care facilities and assisted living facilities except as otherwise indicated in 19 CSR 30-86.012, 19 CSR 30-86.022 and 19 CSR 30-86.032.

(17) Exit--Shall mean a door leading to the outside or through a horizontal exit in a fire wall to a fire-safe area in the building.

(18) Facility--Shall mean any residential care facility, assisted living facility, intermediate care facility or skilled nursing facility licensed by the department.

(19) Fire-resistant construction--For intermediate care facilities and skilled nursing facilities, fire-resistant construction shall mean that a facility meets the specifications for Type II (222) or Type II (111) construction as given in the National Fire Protection Association Code 220. Fire-resistant construction for residential care facilities and assisted living facilities is defined in 19 CSR 30-86.022.

(20) Hazardous area--Shall mean furnace rooms other than electric forced air furnaces, laundries, kitchens, maintenance shops and storage rooms of over one hundred (100) square feet and any areas which contain combustible materials which will be either easily ignited, burn with an intense flame or result in the production of dense smoke and fumes.

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

(A) A living room and common use areas for social interactions and activities;

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(B) Kitchen and family style eating area for use by the residents;

(C) Laundry area for use by residents;

(D) A toilet room that contains a toilet, lavatory and bathing unit in each resident’s room;

(E) Resident room preferences for residents who wish to share a room, and for residents who wish to have private bedrooms;

(F) Outdoor area for outdoor activities and recreation; and

(G) A place where residents can give and receive affection, explore their interests, exercise control over their environment, engage in interactions with others and have privacy, security, familiarity and a sense of belonging.

(22) Individualized service plan (ISP)–Shall mean the planning document prepared by an assisted living facility which outlines a resident’s needs and preferences, services to be provided, and the goals expected by the resident or the resident’s legal representative in partnership with the facility.

(23) Instrumental activities of daily living (IADL)–Shall mean one (1) or more of the following activities:

(A) Preparing meals;

(B) Shopping for personal items;

(C) Medication management;

(D) Managing money;

(E) Using the telephone;

(F) Housework; and
(G) Transportation ability.

(24) Intermediate care facility--Shall mean any premises, other than a residential care facility, assisted living facility, or skilled nursing facility, which is utilized by its owner, operator, or manager to provide twenty-four (24) hour accommodation, board, personal care, and basic health and nursing care services under the daily supervision of a licensed nurse and under the direction of a licensed physician to three (3) or more residents dependent for care and supervision and who are not related within the fourth degree of consanguinity or affinity to the owner, operator or manager of the facility.

(25) Involuntary seclusion--Shall mean separation of a resident from other residents or from her/his room or confinement to her/his room (with or without roommates) against the resident’s will, or the will of the resident’s legal representative. Emergency or short term monitored separation from other residents will not be considered involuntary seclusion and may be permitted if used for a limited period of time as a therapeutic intervention to reduce agitation until professional staff can develop a plan of care to meet the resident’s needs.

(26) Keeping residents in place--Shall mean maintaining residents in place during a fire in lieu of evacuation where a building’s occupants are not capable of evacuation, where evacuation has a low likelihood of success, or where it is recommended in writing by local fire officials as having a better likelihood of success and/or lower risk of injury.

(27) Level I medication aide--Shall mean an individual who has completed a course approved by the department in medication administration in a residential care facility or assisted living facility.

(28) Long-term care facility--Shall mean a facility that is licensed either solely or in combination as a skilled nursing facility, an intermediate care facility, a residential care facility, or assisted living facility.

(29) Long-term care services--Shall mean the assistance and support that a resident receives in a residential care facility, assisted living facility, intermediate care facility, and skilled nursing care facility, to meet the resident’s individual need for nursing care, protective oversight, monitoring, medication management, social interactions, cooking, housekeeping, laundry, and recreational activities.

(30) Major fraction thereof--Shall mean anything over fifty percent (50%) of the number of occupied beds.

(31) Major remodeling--Shall mean any remodeling of a long-term care facility which involves the addition of resident-use rooms, which affects fire safety or the structure of the building.

(32) Multistory building--Shall mean any building with more than one (1) floor entirely above the grade. A floor that
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is partially below grade will be counted as the first story to determine sprinkler requirements only if it contains resident sleeping rooms.

(33) New or newly licensed facility--Shall mean a long-term care facility whose plans are approved or which is licensed after June 10, 1981 for a skilled nursing or intermediate care facility or after November 13, 1980 for residential care facility or assisted living facility except as otherwise indicated in 19 CSR 30-86.012, 19 CSR 30-86.022, and 19 CSR 30-86.032.

(34) Nursing personnel--Shall include any employee, including a nurse’s aide or an orderly, who provides or assists in the provision of direct resident health care services.

(35) Operator--Shall mean any person licensed or required to be licensed under the provisions of sections 198.003--198.096, RSMo, in order to establish, conduct, or maintain a facility. The term person required to be licensed shall mean any person having the following, as determined by the department:

(A) Ultimate responsibility for making and implementing decisions regarding the operation of the facility;

(B) Ultimate financial control of the operation of a facility; and

(C) Legal right to possession of the premises on which a facility is located.

(36) Person--Shall mean any individual, or any entity, including, but not limited to, a corporation, limited liability company, partnership, association, nonprofit organization, fraternal organization, church, or political subdivision of the state of Missouri.

(37) Physical restraint--Shall mean any manual method or physical or mechanical device, material or equipment attached to or adjacent to the resident’s body that the individual cannot remove easily which restricts freedom of movement or normal access to one’s body. Physical restraints include, but are not limited to, leg restraints, arm restraints, hand mitts, soft ties or vests, lap cushions, and lap trays the resident cannot remove easily. Physical restraints also include facility practices that meet the definition of a restraint, such as the following:

(A) Using side rails that keep a resident from voluntarily getting out of bed;

(B) Tucking in or using Velcro to hold a sheet, fabric, or clothing tightly so that a resident’s movement is restricted;

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(C) Using devices in conjunction with a chair, such as trays, tables, bars, or belts, that the resident cannot remove easily, that prevent the resident from rising;

(D) Placing the resident in a chair that prevents a resident from rising; and

(E) Placing a chair or bed so close to a wall that the wall prevents the resident from rising out of the chair or voluntarily getting out of bed.

(38) Physician--Shall mean an individual licensed to practice medicine in the state of Missouri under Chapter 334, RSMo.

(39) Premises--Shall mean any structures that are in close proximity one to the other and which are located on a single piece of property.

(40) Protective oversight--Shall mean an awareness twenty-four (24) hours a day of the location of a resident, the ability to intervene on behalf of the resident, supervision of nutrition, medication, or actual provisions of care, and the responsibility for the welfare of the resident, except where the resident is on voluntary leave.

(41) Qualified dietitian--Shall mean an individual who is registered by the American Dietetic Association or who is eligible for registration.

(42) Qualified therapist--Shall mean an individual who is either registered or is eligible for registration by the national accrediting association for that therapy or, if applicable, is licensed by the state of Missouri for the practice of the profession in which s/he is engaged.

(43) Qualified therapy assistant--Shall mean an individual who would be qualified as an occupational therapy or physical therapist assistant as outlined in 42 CFR 484.4.

(44) Residential care facility (RCF)--Shall mean any premises, other than an assisted living facility, intermediate care facility, or skilled nursing facility, which is utilized by its owner, operator, or manager to provide twenty-four (24) hour care to three (3) or more residents, who are not related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility and who need or are provided with shelter, board, and with protective oversight, which may include storage and distribution or administration of medications and care during short-term illness or recuperation, except that, for purposes of eligible residents of facilities formerly licensed as residential care facilities II receiving supplemental welfare assistance payments, any residential care facility that was licensed as a residential care facility II on or before August 27, 2006 that continues to meet the licensure standards for a residential care facility II in effect on August 27, 2006 shall be considered a residential care facility II for purposes of its eligible residents receiving the cash grant payment amount allocated immediately prior to August 28, 2006 for residents of a residential care facility II pursuant to section 208.030, RSMo.

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(45) Responsible party--Shall mean an individual who has been designated in writing by the resident to handle matters and receive reports related to his/her general condition.

(46) Self-administration of medication--Shall mean the act of actually taking or applying medication to oneself.

(47) Self-control of medication--Shall mean assuming immediate responsibility by a resident for the storage and administration of medication for oneself while the facility retains ultimate control of medication.

(48) Skilled nursing care--Shall mean services furnished pursuant to physicians’ orders which require the skills of licensed nurses and which are provided directly by or under the on-site supervision of these personnel. Examples of skilled nursing care may include, but are not limited to: administration of Levine tube or gastrostomy tube feedings; nasopharyngeal and tracheotomy aspiration; insertion of medicated or sterile irrigation solutions and replacement of catheters; administration of parenteral fluids; inhalation therapy treatments; administration of other treatments requiring aseptic technique; and administration of injectable medication other than insulin.

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

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

(51) Voluntary leave--Shall mean an off-premises leave initiated by: a) a resident that has not been declared mentally incompetent or incapacitated by a court; or b) a legal guardian of a resident that has been declared mentally incompetent or incapacitated by a court.

(52) Vulnerable person--Shall mean any person in the custody, care, or control of the Department of Mental Health that is receiving services from an operated, funded, licensed, or certified program.