

**Title 19—DEPARTMENT OF
HEALTH AND SENIORSERVICES
Division 30—Division of Regulation and Licensure
Chapter 82—General Licensure
Requirements**

PROPOSED AMENDMENT

19 CSR 30-82.010 General Licensure Requirements. The department is amending section (3).

PURPOSE: This amendment creates a temporary closure procedure for those Medicare and Medicaid federally certified facilities (skilled nursing facilities and intermediate care facilities) licensed in Missouri which experience staffing shortages from the COVID-19 vaccine mandate issued by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services emergency regulation 42 CFR part 483 for long term care facilities and intermediate care facilities on November 4, 2021, with an effective date of November 5, 2021.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(3) Licensed Facility Closures.

(A) 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.

(B) If any licensed skilled nursing facility or intermediate care facility is required to temporarily close for two (2) years or less from the effective date of the temporary closure due to staffing shortages as a result of a COVID-19 vaccine mandate first issued in emergency regulation by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (“CMS”) on November 4, 2021, effective on November 5, 2021, or any amendment changes or amendments thereafter, then the skilled nursing and intermediate care facilities shall do the following:

1. The facility operator shall submit a closure plan to the department which is in compliance with state and federal law, including 42 CFR part 483.15(c) (detailed in federal deficiency F623 in the State Operations Manual appendix PP), 42 CFR part 483.70(l) (detailed in federal deficiency F845 in the State Operations Manual appendix PP), and 42 CFR 483.70(m) (detailed in federal deficiency F846 in the State Operations Manual appendix PP). The State Operations Manual appendix PP revised November 22, 2017, which is incorporated by reference in this rule, as published by the Centers for Medicare and Medicaid Services and is available at www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_pp_guidelines_ltcf.pdf or the United States Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244. This rule does not incorporate any subsequent amendments or additions. After review of the temporary closure plan, the department shall either approve or disapprove the plan;

2. Facilities with approved closure plans by the department shall ensure that all residents residing at the facility are provided discharge notices in accordance with federal and state law and the facility shall assist all residents with discharge planning in accordance with federal and state law;

3. Facilities with approved closure plans by the department shall enter into a consent agreement with the department for a probationary license. These facilities shall agree to discharge all residents by the effective date of the temporary closure and to admit no residents while the facility is temporarily closed;

4. Temporary closure of facilities shall not be allowed past two (2) years from the effective date of the temporary closure. The effective date of the temporary closure is the date the last resident left the facility;

5. Facilities shall be reopened within two (2) years of the effective date of the temporary closure. Prior to reopening, the department shall conduct a full survey/inspection and the facility may be approved by the department to reopen after this survey or inspection. Facilities shall not reopen until approved by the department;

6. Facilities shall be reopened by the facility operator which initiated the temporary closure and a change of operator may not occur during this period of temporary closure;

7. Facilities shall submit plans of corrections, applications, licensure and certification fees in accordance with state law regardless of temporary closure status;

8. Facilities approved by the department to be temporarily closed will be noted as temporarily closed on state directories. The department will communicate temporary closure status of these facilities approved for temporary closure to CMS; and

9. Facilities not approved for temporary closure by the department which have closed or those facilities which stayed closed longer than two (2) years from the effective date of the temporary closure 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.

AUTHORITY: Executive Order 77-9 of the Governor filed Jan. 31, 1979, effective Sept. 28, 1979, and sections 198.018, 198.073, 198.076, and 198.079, RSMo [Supp. 2007] 2016. This rule was originally filed as 13 CSR 15-10.010. Emergency rule filed Aug. 13, 1979, effective Oct. 1, 1979, expired Jan. 25, 1980. Original rule filed Aug. 13, 1979, effective Dec. 13, 1979. Emergency amendment filed Oct. 15, 1980, effective Oct. 25, 1980, expired Feb. 26, 1981. Amended: Filed Dec. 10, 1980, effective May 11, 1981. Amended: Filed Dec. 7, 1981, effective May 11, 1982. Amended: Filed March 15, 1983, effective July 11, 1983. Amended: Filed July 13, 1983, effective Oct. 11, 1983. Amended: Filed Sept. 12, 1984, effective Dec. 11, 1984. Amended: Filed June 17, 1986, effective Oct. 24, 1986. Amended: Filed Aug. 1, 1988, effective Nov. 10, 1988. Emergency amendment filed Aug. 14, 1992, effective Aug. 28, 1992, expired Dec. 25, 1992. Rescinded and readopted: Filed April 14, 1993, effective Oct. 10, 1993. Amended: Filed Feb. 13, 1998, effective Sept. 30, 1998. Moved to 19 CSR 30-82.010, effective Aug. 28, 2001. Amended: Filed Aug. 23, 2006, effective April 30, 2007. Amended: Filed March 13, 2008, effective Oct. 30, 2008. ** Emergency amendment filed November 10, 2021, effective November 29, 2021, expires May 27, 2022.*

**Original authority: 198.018, RSMo 1979, amended 1984, 1987, 1988, 1994, 2007; 198.073, RSMo 1979, amended 1984, 1992, 1999, 2006, 2007; 198.076, RSMo 1979, amended 1984, 2007; and 198.079, RSMo 1979, amended 2007.*

***Pursuant to Executive Order 21-07, 19 CSR 30-82.010, paragraphs (4)(A)1.-3. and subsection (4)(B) was suspended from April 22, 2020 through August 31, 2021.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Carmen Grover-Slattery, Regulation Unit Manager, Section for Long-Term Care Regulation, PO Box 570, Jefferson City, MO 65102-0570 or at RegulationUnit@health.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*