

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
January 17, 2002**

**CASE NO: AX-2002-159**

**Office of the Public Counsel**  
P.O. Box 7800  
Jefferson City, MO 65102

**General Counsel**  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**Enclosed find certified copy of an PROPOSED RULE in the above-numbered case(s).**

Sincerely,



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Comments should refer to Case No. AX-2002-157 and be filed with an original and six (6) copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED AMENDMENT**

**4 CSR 240-2.115 [Nonunanimous] Stipulations and Agreements.** The commission is changing the title of the rule, amending sections (1) and (2) and deleting section (3).

*PURPOSE: The purpose of this amendment is to clarify the proceedings applicable to, and the effects of, stipulations and agreements in commission practice.*

(1) [A nonunanimous stipulation and agreement is any stipulation and agreement which is entered into by fewer than all parties and where one (1) or more parties requests a hearing of one (1) or more issues. If no party requests a hearing, the commission may treat the stipulation and agreement as a unanimous stipulation and agreement.] Stipulations and Agreements.

(A) The parties may at any time file a stipulation and agreement as a proposed resolution of all or any part of a contested case. Any such stipulation and agreement must contain stipulated facts sufficient to support the resolution proposed by the parties. A stipulation and agreement shall be filed as a pleading.

(B) The commission may resolve all or any part of a contested case on the basis of a stipulation and agreement.

(2) [If a hearing is requested, the commission shall grant the request.] Nonunanimous Stipulations and Agreements.

(A) A nonunanimous stipulation and agreement is any stipulation and agreement which is entered into by fewer than all of the parties.

(B) Each party shall have seven (7) days from the filing of a nonunanimous stipulation and agreement to file an objection to the nonunanimous stipulation and agreement. Failure to file a timely objection shall constitute a full waiver of that party's right to a hearing. A conditional assent to a nonunanimous stipulation and agreement shall be regarded as a non-conditional assent and not as an objection.

(C) If no party timely objects to a nonunanimous stipulation and agreement, the commission may treat the nonunanimous stipulation and agreement as a unanimous stipulation and agreement.

(D) A nonunanimous stipulation and agreement to which a timely objection has been filed shall be considered to be merely a position of the signatory parties to the stipulated position.

(E) If a nonunanimous stipulation and agreement resolves only issues as to which a party has stated no position and filed no testimony, such party need not join in the nonunanimous stipulation and agreement for it to be considered unanimous and an objection filed by such party shall have no effect.

[(3) A nonunanimous stipulation and agreement shall be filed as a pleading. Each party shall have seven (7) days from the filing of the nonunanimous stipulation and agreement to file a request for a hearing. Failure to file a timely request for hearing shall constitute a full waiver of that party's right to a hearing.]

*AUTHORITY: section 386.10, RSMo [Supp. 1998] 2000. Original rule filed June 9, 1987, effective Sept 15, 1987. Rescinded and readopted. Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed Dec. 7, 2001.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Comments should refer to Case No. AX-2002-158 and be filed with an original and six (6) copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**FILED**<sup>3</sup>

**JAN 17 2002**

**PROPOSED RULE Missouri Public Service Commission**

**4 CSR 240-2.117 Summary Disposition of Contested Cases**

*PURPOSE: This rule provides for disposition of a contested case by disposition in the nature of summary judgment or judgment on the pleadings.*

*AX-2002-159*

(1) Summary Determination.

(A) Any party may by motion, with or without supporting affidavits, seek disposition of all or any part of a contested case by summary determination at any time after the filing of a responsive pleading, if there is a respondent, or at any time after the close of the intervention period. However, a motion for summary determination shall not be filed less than twenty (20) days prior to the hearing except by leave of the commission.

(B) Motions for summary determination shall state with particularity in separately numbered paragraphs each material fact as to which the movant claims there is no genuine issue, with specific references to the pleadings, testimony, discovery, or affidavits that demonstrate the lack of a genuine issue as to such facts. Each motion for summary determination shall have attached thereto a separate legal memorandum explaining why summary determination should be granted and testimony, discovery or affidavits not previously filed that are relied on in the motion. The movant shall serve the motion for summary determination upon all other parties not later than the date upon which the motion is filed with the commission.

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(C) Not more than ten (10) days after a motion for summary determination is served, any party may file and serve on all parties a response in opposition to the motion for summary determination. Attached thereto shall be any testimony, discovery or affidavits not previously filed that are relied on in the response. The response shall admit or deny each of movant's factual statements in numbered paragraphs corresponding to the numbered paragraphs in the motion for summary determination, shall state the reason for each denial, shall set out each additional material fact that remains in dispute, and shall support each factual assertion with specific references to the pleadings, testimony, discovery, or affidavits. The response may also have attached thereto a legal memorandum explaining why summary determination should not be granted.

(D) For good cause shown, the commission may continue the motion for summary determination for a reasonable time to allow an opposing party to conduct such discovery as is necessary to permit a response to the motion for summary determination.

(E) The commission shall grant the motion for summary determination if the pleadings, testimony, discovery, affidavits, and memoranda on file show that there is no genuine issue as to any material fact and that any party is entitled to relief as a matter of law as to all or any part of the contested case. The commission may order summary determination against the moving party. An order granting summary determination shall include findings of fact and conclusions of law.

(F) If the commission grants a motion for summary determination, but does not dispose thereby of the entire contested case, it shall hold an evidentiary hearing to resolve the remaining issues. Those facts found in the order granting partial summary determination shall be established for purposes of the hearing.

(G) The commission may hear oral argument on a motion for summary determination.

(2) Determination on the Pleadings—On its own motion or on the motion of any party, the commission may dispose of all or any part of a contested case on the pleadings whenever such disposition is not otherwise contrary to law.

*AUTHORITY:* section 386.410, RSMo 2000. Original rule filed Dec. 7, 2001.

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

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

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Comments should refer to Case No. AX-2002-159 and be filed with an original and six (6) copies. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 10—Director, Department of Mental Health  
Chapter 7—Core Rules for Psychiatric and Substance Abuse Programs**

**PROPOSED AMENDMENT**

**9 CSR 10-7.020 Rights, Responsibilities, and Grievances.** The department proposes to delete section (8) and renumber section (9).

*PURPOSE:* This amendment removes the language on surrogates to avoid potential legal conflicts.

~~[(8) Surrogate Decision Maker. The organization's policies, procedures and practices shall ensure an opportunity for the individual to designate or establish a surrogate decision maker, in the event the individual may become incapable of understanding or unable to communicate his or her wishes regarding the treatment plan or a proposed service.]~~

~~[(9)] (8) Practices to Promote Safety and Well-Being. The organization shall demonstrate a commitment to the safety and well-being of the individuals it serves. The organization's policies, procedures and practices shall—~~

~~(A) Promote therapeutic progress by addressing matters such as medication compliance, missed appointments, use of alcohol and drugs, and other program expectations or rule;~~

~~(B) Encourage appropriate behavior by providing positive instruction and guidance; and~~

~~(C) Ensure safety by effectively responding to any threats of suicide, violence or harm. Any use of seclusion or restraint shall be in accordance with 9 CSR 10-7.060 Behavior Management.~~

*AUTHORITY:* sections 630.050 and 630.055, RSMo 2000. Original rule filed Feb. 28, 2001 effective Oct. 30, 2001. Amended: Filed Dec. 12, 2001.

*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 by writing to Dewey Price, Mental Health Manager, Division of Alcohol and Drug Abuse, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 10—Director, Department of Mental Health  
Chapter 7—Core Rules for Psychiatric and Substance Abuse Programs**

**PROPOSED AMENDMENT**

**9 CSR 10-7.030 Service Delivery Process and Documentation.** The department proposes to amend paragraph (1)(A)2.

*PURPOSE:* This amendment eliminates the requirement for programs to provide supports for persons that have not been admitted to substance abuse treatment.

(1) Screening. Each individual requesting services shall have prompt access to a screening in order to determine eligibility and to plan an initial course of action, including referral to other services and resources, as needed.

(A) At the individual's first contact with the organization (whether by telephone or face-to-face contact), any emergency or urgent service needs shall be identified and addressed.

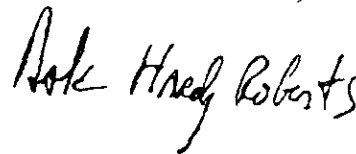
1. Emergency service needs are indicated when a person presents a likelihood of immediate harm to self or others. A person who presents at the program site with emergency service needs

**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

I have compared the preceding copy with the original on file in this office and  
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,  
Missouri, this 17<sup>th</sup> day of Jan. 2002 .



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**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

