



2. First or second degree statutory rape;
3. Sexual assault;
4. Forcible sodomy;
5. First or second degree statutory sodomy;
6. First or second degree child molestation;
7. Deviate sexual assault;
8. Sexual misconduct involving a child;
9. First degree sexual misconduct;
10. Sexual abuse;
11. Incest;
12. Causing catastrophe;
13. Abuse of a child;
14. First degree pharmacy robbery; or
15. Forcible rape.

(9) For the purposes of this rule, a verdict of not guilty by reason of insanity (NGRI) is not per se disqualifying. A suspended imposition of sentence (SIS) or suspended execution of sentence (SES) is disqualifying.

(10) A provider shall not hire any person who has committed a disqualifying crime as identified in section (7) of this rule, unless the person has received an exception from the department. However, the provider retains the discretionary authority to deny employment to persons who—

(A) Have committed crimes not identified as disqualifying;

(B) Have received an exception from the Exceptions Committee; or

(C) Have received a verdict of Not Guilty by Reason of Insanity.

*AUTHORITY: sections 630.170 and 660.317, RSMo Supp. 2003 and 630.655 and 630.710, RSMo 2000.\* Emergency rule filed Aug. 15, 1997, effective Aug. 28, 1997, expired Feb. 26, 1998. Original rule filed Aug. 15, 1997, effective March 30, 1998. Amended: Filed Oct. 29, 1998, effective May 30, 1999. Amended: Filed Nov. 3, 2003, effective April 30, 2004. Amended: Filed March 29, 2004, effective Sept. 30, 2004.*

*\*Original authority: 630.170, RSMo 1980, amended 1982, 1996, 1998, 2001, 2003; 630.655, RSMo 1980; 630.710, RSMo 1980, amended 1996, 1998, and 660.317, RSMo 1996, amended 1997, 1998, 2003, 2003.*

### \* 9 CSR 10-5.200 Report of Complaints of Abuse, Neglect and Misuse of Funds/Property

*PURPOSE: This rule prescribes procedures for reporting and investigating complaints of abuse, neglect, and misuse of funds/property in an agency that is licensed, certified, accredited, in possession of deemed status, and/or funded by the Department of Mental*

*Health (department) as required by sections 630.135, 630.167, 630.168, 630.655, and 630.710, RSMo. The rule also sets forth due process procedures for persons who have been accused of abuse, neglect, and misuse of funds/property.*

(1) The following words and terms, as used in this rule, mean:

(A) Agency: An organization that is licensed, certified, accredited, in possession of deemed status, and/or funded by the Department of Mental Health;

(B) Consumer: An individual (client, resident, patient) receiving department-funded services directly from an agency;

(C) Department: Department of Mental Health;

(D) Employee: A person employed by or contracted by an agency or a person serving as a volunteer or student for the agency;

\* (E) Misuse of funds/property: The misappropriation or conversion for any purpose of a consumer's funds or property by an employee or employees with or without the consent of the consumer or the purchase of property or services from a consumer in which the purchase price substantially varies from the market value;

\* (F) Neglect: Failure of an employee to provide reasonable or necessary services to maintain the physical and mental health of any consumer when that failure presents either imminent danger to the health, safety, or welfare of a consumer or a substantial probability that death or serious physical injury would result. This would include, but is not limited to, failure to provide adequate supervision during an event in which one consumer causes serious injury to another consumer;

\* (G) Physical abuse:

1. An employee purposefully beating, striking, wounding, or injuring any consumer;

2. In any manner whatsoever, an employee mistreating or maltreating a consumer in a brutal or inhumane manner; or

3. An employee handling a consumer with any more force than is reasonable for a consumer's proper control, treatment, or management;

\* (H) Sexual abuse: Any touching, directly or through clothing, of a consumer by an employee for sexual purpose or in a sexual manner. This includes, but is not limited to:

1. Kissing;

2. Touching of the genitals, buttocks, or breasts;

3. Causing a consumer to touch the employee for sexual purposes;

4. Promoting or observing for sexual purpose any activity or performance involving consumers including any play, motion picture, photography, dance, or other visual or written representation;

5. Failing to intervene or attempting to stop inappropriate sexual activity or performance between consumers; and/or

6. Encouraging inappropriate sexual activity or performance between consumers; and

\* (I) Verbal abuse: An employee making a threat of physical violence to a consumer, when such threats are made directly to a consumer or about a consumer in the presence of a consumer.

(2) This rule applies to any director, supervisor, or employee of any agency. Facilities, programs, and services that are operated by the department are regulated by the department's operating regulations and are not included in this rule.

(A) Any such person shall immediately file a written complaint if that person has reasonable cause to believe that a consumer has been subjected to any of the following while under the care of an agency:

1. Physical abuse;
2. Sexual abuse;
3. Misuse of funds/property;
4. Neglect; or
5. Verbal abuse.

(B) A complaint under subsection (2)(A) above shall be made to the head of the agency and to the department's regional office, supported community living placement office, or district administrator office. If the allegation results in an investigation, the head of the agency shall make reasonable arrangements with respect to the alleged perpetrator to assure the safety of all of the agency's consumers. Such arrangements may include, but are not limited to, leave with or without pay or transfer to a position where there is no client contact.

(C) The head of the agency shall forward the complaint to—

1. The Children's Division if the alleged victim is under the age of eighteen (18); or

2. The Division of Senior Services and Regulation if the alleged victim is a resident or client of a facility licensed by the Division of Senior Services and Regulation or receiving services from an entity under contract with the Division of Senior Services and Regulation.

(D) Failure to report shall be cause for disciplinary action, criminal prosecution, or both.