



MISSOURI DEPARTMENT OF MENTAL HEALTH

KEITH SCHAFER, DEPARTMENT DIRECTOR



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR

1.240

CHAPTER General Department	SUBCHAPTER Regulations	EFFECTIVE DATE May 23, 2014	NUMBER OF PAGES 5	PAGE NUMBER 1 of 5
SUBJECT Exceptions Committee		AUTHORITY Section 630.656 and 630.170 RSMo	HISTORY See below	
PERSON RESPONSIBLE Deputy Director			SUNSET DATE July 1, 2017	

Purpose: Prescribes responsibilities and procedures of the Exceptions Committee.

Application: Applies to the entire department.

(1) The Exceptions Committee is responsible for reviewing all requests for exceptions, removals or waivers as authorized by the department director pursuant to sections 630.170 and 630.656, RSMo.

(A) These are open meetings in accordance with chapter 610, RSMo.

(B) The committee may close the meeting as authorized under sections 610.021 and 610.022, RSMo.

(2) Definitions. Terms are defined as follows:

(A) Applicant: Any provider or individual who applies to the Exceptions Committee for an exception, removal or waiver.

(B) Disqualifying incident: Under section 630.170, RSMo, a crime that results in a person being disqualified from employment, or one (1) or more administrative findings of abuse, neglect or misuse of funds/property that leads to a person being listed on the department of mental health disqualification registry.

(C) Exception: A decision by the department to permit a person to work in a public or private facility, residential facility, day program or specialized service operated, licensed, certified, accredited, in possession of deemed status, or funded by the department when the person is disqualified under section 630.170, RSMo, and 9 CSR 10-5.190 or 9 CSR 10-5.200.

(D) Exceptions Committee: Employees of the department that are appointed by the department director or his/her designee to review and make determinations on requests for exception, removal or waiver.

(E) Removal: a decision by the department to remove a person from the department disqualification registry who is disqualified under section 630.170, RSMo, and 9 CSR 10-5.200 and was placed on the department disqualification registry prior to August 28, 2012.

(F) Waiver: A decision by the department not to enforce an administrative rule under the individual circumstances described in the request for the waiver and the conditions described in the approval. None of the following are subject matter of a waiver:

1. A contention that the rule is not valid;
2. A contention that the provider is in fact in compliance with the rule; or
3. A request for an interpretation of a rule.



MISSOURI DEPARTMENT OF MENTAL HEALTH

KEITH SCHAFER, DEPARTMENT DIRECTOR



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
1.240

SUBJECT Exceptions Committee	EFFECTIVE DATE May 23, 2014	NUMBER OF PAGES 5	2 of 5
---------------------------------	--------------------------------	----------------------	--------

(3) Exceptions Committee Membership. The committee shall be composed of the following members:

(A) Two (2) members appointed by the Division of Developmental Disabilities Director;

(B) Four (4) members appointed by the Division of Behavioral Health Director, of which two (2) members shall represent the area of substance use disorders and two (2) members shall represent the area of mental health;

(C) A staff person from the Office of General Counsel, who serves as the coordinator of the committee;

(D) The director of licensure and certification;

(E) A staff attorney from the Office of General Counsel, who serves as legal advisor to the committee;

(F) Other department representative(s) appointed by the department director as voting participant(s);

(G) Other department representative(s) appointed by the department director as non-voting participants; and

(H) Other persons invited by the committee on an ad hoc basis in a non-voting capacity.

(I) Members of the committee listed in subsections (A), (B) and (F) shall have voting rights. Members shall not send proxies to committee meetings to vote on their behalf.

(4) Quorum. A quorum is required at each meeting. A quorum shall consist of a majority of the voting members appointed and must include at least one member from each division and area represented.

(5) Responsibilities of the Exceptions Committee Membership.

(A) Prior to each meeting, members shall gather information regarding requests relating to their divisions or areas so as to be well-informed regarding the nature of the request.

(B) The coordinator is responsible for the following:

1. Circulating requests for exceptions as they arrive at the department;

2. Maintaining a system for tracking requests; Organizing each meeting;

3. Providing public notice of the date and time of each meeting;

4. Preparing for each request a summary of issues involved, including the relevant regulations, policies, and precedents;

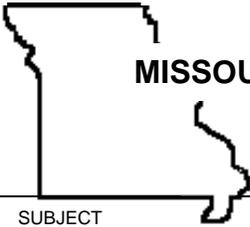
5. Assuring that a quorum is present at each meeting;

6. Preparing minutes of each meeting;

7. Maintaining a log of the committee's decisions;

8. Writing and sending letters announcing the committee's decisions within twenty (20) days of the decision;

9. Soliciting from the recipients of exceptions the documentation that is required under the conditions of the exception; and



MISSOURI DEPARTMENT OF MENTAL HEALTH

KEITH SCHAFER, DEPARTMENT DIRECTOR



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
1.240

SUBJECT Exceptions Committee	EFFECTIVE DATE May 23, 2014	NUMBER OF PAGES 5	3 of 5
---------------------------------	--------------------------------	----------------------	--------

10. Advising the department director when an issue, such as a financial or information system technology rule, is to be presented for an exception so that the department director can appoint a member from the respective office in support of (3)(F).

(6) Decision-making Process

(A) Each member of the committee, as listed in (3)(A), (B) and (F), shall have one vote. For those requests that affect a particular division or area, a consensus must be reached between the members of the affected division or area when voting. If there is a split vote between the members of the affected division or area, then the request shall be tabled and forwarded to the director of the affected division for a final decision. In the event that the members of the affected division or area do not agree with the majority vote, then the request shall be tabled and forwarded to the director of the affected division for a final decision.

(B) The decision of the committee shall be either to approve the request, approve the request with conditions, deny the request, deny a request for removal but approve an exception, deny a request for removal but approve an exception with conditions, or table the request to obtain more information.

(7) Decision-making Criteria

(A) The following criteria shall be considered when reviewing requests for waiver:

1. Is the waiver needed;
2. Is the information complete;
3. Is there a potentially harmful situation;
4. Would a waiver violate the spirit of the rule;
5. Would a waiver undermine the quality of service intended by the rule;
6. Is the request from a person authorized to make a request;
7. Would the waiver violate state or federal law;
8. Is the waiver in the best interest of consumer(s);
9. Is the waiver tailored to individual circumstances;
10. How would the waiver benefit the requesting agency;
11. Is there expert consultation or relevant professional references to support the waiver;
12. What actions does the agency propose to take in place of the rule requirement that is believed would satisfy the intent of the rule sought to be waived; and
13. Would a waiver be consistent with prior decisions of the committee.



MISSOURI DEPARTMENT OF MENTAL HEALTH

KEITH SCHAFER, DEPARTMENT DIRECTOR



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
1.240

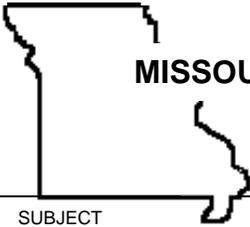
SUBJECT Exceptions Committee	EFFECTIVE DATE May 23, 2014	NUMBER OF PAGES 5	4 of 5
---------------------------------	--------------------------------	----------------------	--------

(B) The following criteria shall be considered when reviewing requests for exception when the person is disqualified under section 630.170, RSMo, and 9 CSR 10-5.190 for criminal conduct:

1. The nature and date of the disqualifying incident;
 2. Length of sentence and when completed;
 3. Any evidence that the person will not engage in conduct similar to what led to the disqualifying incident;
 4. Mitigating or aggravating circumstance, if any;
 5. Any evidence that the person has committed other acts that would be harmful to a consumer;
 6. Activities and accomplishments since the disqualifying incident, including any relevant training or rehabilitative services;
 7. Changes in personal life since the disqualifying incident;
 8. What the person would do differently in the same situation to avoid the disqualifying incident;
 9. Work history and type of employment sought if exception is granted;
- and
10. Would an exception be consistent with prior decisions of the committee.

(C) The following criteria shall be considered when reviewing requests for exception or removal when the person is disqualified under section 630.170, RSMo, and 9 CSR 10-5.200 for abuse, neglect or misuse of funds/property:

1. The nature and date of the disqualifying offense;
2. Would the disqualifying incident have been considered disqualifying under current practice;
3. How long has the person been on the department disqualification registry;
4. Any evidence that the person will not engage in conduct similar to what led to the disqualifying incident;
5. Mitigating or aggravating circumstances, if any;
6. Any evidence that the person has committed other acts that would be harmful to a consumer;
7. Activities and accomplishments since the disqualifying incident, including any relevant training or rehabilitative services;
8. Changes in personal life since the disqualifying incident;
9. What the person would do differently in the same situation to avoid the disqualifying incident;
10. Work history and type of employment sought if exception or removal is granted; and
11. Would an exception or removal be consistent with prior decisions of the committee.



MISSOURI DEPARTMENT OF MENTAL HEALTH

KEITH SCHAFER, DEPARTMENT DIRECTOR



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
1.240

SUBJECT Exceptions Committee	EFFECTIVE DATE May 23, 2014	NUMBER OF PAGES 5	5 of 5
---------------------------------	--------------------------------	----------------------	--------

(8) Each decision of the committee shall be announced to the applicant by means of a letter. The letter shall include the following:

- (A) Reference the letter requesting the exception;**
- (B) State whether or not the request was approved;**
- (C) State any conditions or termination dates, if applicable;**
- (D) Advise the applicant to keep the letter on file for review by department staff;**

- (E) Indicate that an approval becomes effective on the date of the letter; and**
- (F) Be made available to -**

- 1. The members of the exception committee;
- 2. Department staff responsible for oversight of provider contracts;
- and
- 3. The appropriate licensing and certification staff.

(9) Rescissions. Upon receipt of information that an exception or waiver should be rescinded, the committee shall pursue the following process:

- (A) Request an inquiry by licensure and certification or other department staff;**
- (B) Review the finding of the inquiry; and**
- (C) If the committee finds cause in the report to rescind the exception or waiver, a notice of rescission with an effective date shall be sent to the applicant by certified mail.**

History: Original effective August 1, 2001. Amendment effective July 15, 2002. Amendment effective April 1, 2004. Amendment effective November 21, 2007. On May 6, 2011 the sunset date was extended to July 1, 2014. Amendment effective May 23, 2014.