In the Missouri Court of Appeals
Eastern District

DIVISION TWO

MISSOURI MEDICAL OPTIONS, LLC,	)	No. ED113472
	)	
	)	
Appellant,	)	
	)	
vs.	)	
	)	
MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES,	)	
	)	
	)	
Respondent.	)	FILED: December 23, 2025

Appeal from the Circuit Court of Franklin County, Case No. 24AB-CC00359
The Honorable Craig E. Hellmann

Before: Michael S. Wright, Presiding Judge, Philip M. Hess, Judge, and Virginia W. Lay, Judge.

Introduction

Missouri Medical Options, LLC (MMO) appeals the circuit court's dismissal of MMO's petition for declaratory judgment. MMO argues in three points the circuit court erred (1) in granting Missouri Department of Health and Senior Services' (DHSS) motion to dismiss because MMO sufficiently plead it was entitled to a declaration of rights; (2) in ruling MMO's request for relief was moot and dismissing its petition because a ruling on the merits would have a significant, practical effect on an existing controversy; and (3) in ruling retrospective application of regulations would lead to absurd results because procedural laws and regulations are given retrospective application. We affirm.

Factual and Procedural Background

On August 19, 2019, MMO submitted three applications to cultivate medical marijuana, three applications to manufacture medical marijuana-infused products, and three applications to dispense medical marijuana. DHSS denied all of MMO's applications pursuant to results of the scoring and ranking procedures in 19 C.S.R. 30-95.025(4)(C) and (D).[1] MMO timely appealed the denials to the Administrative Hearing Commission (AHC). After Missouri voters approved an amendment to Article XIV of the Missouri Constitution to legalize recreational marijuana in 2022, DHSS rescinded 19 C.S.R. 30-95.025(4)(C) and (D), effective July 30, 2023.

While the AHC appeal was pending, MMO petitioned the circuit court on December 11, 2024, for a declaratory judgment that 19 C.S.R. 30-95.025(4)(C) and (D) were invalid and further, that MMO's applications should be approved and licenses issued. DHSS moved to dismiss MMO's petition because (1) the validity challenge to rescinded 19 C.S.R. 30-95.025(4)(C) and (D) is moot, (2) MMO had not exhausted its administrative remedies, and (3) MMO brought suit against the wrong party.[2] On February 21, 2025, the circuit court dismissed MMO's petition, concluding a challenge to the validity of rescinded regulations was moot and there was no "threatened application" of the rescinded regulations because MMO's applications were denied five years prior. This appeal follows.

Standard of Review

"A judgment dismissing an action for failure to state a claim upon which relief can be granted is subject to de novo review." *Avery Contracting, LLC v. Niehaus*, 492 S.W.3d 159, 161-

[1] All C.S.R. references are to the Code of State Regulations, tit. 19, sec. 30 (June 3, 2019).
[2] MMO's petition named "Paula Nickelson as Director of Missouri Department of Health and Senior Services" as the defendant in the caption, but refers exclusively to DHSS in the body of the petition. The petition and summons were served on DHSS. Throughout the case, the parties and the circuit court referenced the defendant in an inconsistent manner. This Court accepted the notice of appeal, which named only DHSS as the defendant, and DHSS has participated in the appeal without raising this issue. At oral argument, Respondent had no objection to proceeding with the appeal as denominated.

62 (Mo. banc 2016). "A motion to dismiss for failure to state a claim tests the adequacy of a plaintiff's petition." *Id.* at 162. We review "the petition to determine if the plaintiff has alleged facts that meet the elements of a recognized cause of action," and assume the facts alleged to be true, construing all inferences from those facts in favor of the plaintiff. *Id.* We will affirm a dismissal "if it is supported by any ground raised in the motion to dismiss." *Id.*

Discussion

This case involves MMO's attempt to obtain somewhat hard-to-get licenses to cultivate, manufacture, and dispense medical marijuana. Although MMO asserts the circuit court erred in three instances, we reach only the merits of Point Two and affirm the circuit court's judgment.

Point One – Failure to State a Claim

In Point One, MMO argues the circuit court erred in granting DHSS's motion to dismiss for failure to state a claim because MMO sufficiently plead it was entitled to a declaration of rights as to the applicable legal standard in its ongoing licensure litigation. We deny this point because it is unpreserved for appellate review.

Because the "lack of a specific ruling preserves nothing for review," appellate courts "will not consider a point upon which no ruling has been made." *Vandever v. Junior Coll. Dist. of Metro. Kansas City*, 708 S.W.2d 711, 720 (Mo. App. W.D. 1986). Although Respondent sought dismissal for failure to state a claim, the circuit court did not rule on that request, and instead dismissed MMO's petition on mootness grounds. Since the circuit court did not rule on the failure to state a claim argument, there is nothing for this Court to review on that matter. Point denied.

Point Two – Mootness

MMO claims in Point Two the circuit court erred in dismissing MMO's challenge to the validity of 19 C.S.R. 30-95.025(4)(C) and (D) as moot because a ruling on the merits would have

a significant, practical effect on MMO's ongoing licensure litigation. We disagree because MMO's challenge to already-rescinded regulations is moot.

"[A] case is moot if a judgment rendered has no practical effect upon an existent controversy." *Autumn Ridge Homeowners Ass'n, Inc. v. Occhipinto*, 311 S.W.3d 415, 420 (Mo. App. W.D. 2010) (internal quotation omitted). "When an event occurs that makes a court's decision unnecessary or makes granting effectual relief by the court impossible, the case is moot and generally should be dismissed." *State ex rel. Reed v. Reardon*, 41 S.W.3d 470, 473 (Mo. banc 2001) (per curiam).

Here, MMO sought a declaration that 19 C.S.R. 30-95.025(4)(C) and (D) were invalid and therefore DHSS had no legal basis to continue denying MMO's applications, and that MMO's applications should be approved and licenses accordingly issued.[3] However, there is no existing controversy precisely because the challenged regulations were rescinded, making it impossible for the court to grant effectual relief. The circuit court did not err in dismissing MMO's petition for declaratory judgment as moot. Point denied.

Point Three – Retrospective Application

Lastly, in Point III, MMO claims the circuit court erred in ruling retrospective application of regulations would always lead to absurd results because procedural regulations are given retrospective application. MMO contends the amended Article XIV of the Missouri Constitution and corresponding regulations are procedural in nature and are therefore to be applied retrospectively instead of the rescinded regulations. We need not get into the weeds of this claim because it was not preserved for appeal.

[3] MMO's argument appears to cherry-pick portions of the rescinded regulations it likes by asking the Court to invalidate the numerical scoring system in 19 C.S.R. 30-95.025(4)(C) while finding a second portion of the rescinded regulation 19 C.S.R. 30-95.025(4)(D) valid which provides for licensure for facilities that meet the minimum standards for licensure if the numerical scoring system is not used.

"[A] party is not entitled on appeal to raise a claim of trial court error when the party did not alert the trial court to the error and give it the opportunity to rule on the question." *Williams v. St. Charles Auto Mart, Inc.*, 690 S.W.3d 495, 501 (Mo. App. E.D. 2024). MMO raised the issue of retrospective application for the first time in this appeal. Failing to raise the issue before the circuit court leaves nothing for our review. Point denied.

Conclusion

For the reasons set forth above, we affirm the circuit court's judgment.

Virginia W. Lay, J.

Michael S. Wright, P.J., concurs.
Philip M. Hess, J., concurs.