

Stadler, Jr., Assistant General Counsel, Department of Financial Services, 200 E. Gaines St., Tallahassee, Florida 32399-4247, (850)413-3010

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF FINANCIAL SERVICES

Division of Accounting and Auditing

RULE NO.: 69I-44.022
RULE TITLE: Report of Unclaimed Property under Sections 43.19, 402.17, 550.1645, 705.103, 732.107, 733.816 or 744.534, Florida Statutes

PURPOSE AND EFFECT: Proposed Rule 69I-44.022, F.A.C., incorporates a form into the Department’s rules for the reporting of the unclaimed funds in accordance with Sections 43.19, 402.17, 550.1645, 705.103, 732.107, 733.816 and 744.534, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Reporting forms for Sections 43.19, 402.17, 550.1645, 705.103, 732.107, 733.816 and 744.534, Florida Statutes.

RULEMAKING AUTHORITY: 17.29, 624.308(1) FS.

LAW IMPLEMENTED: 17.05(1), 17.29, 43.19, 402.17, 550.1645, 705.103, 732.107, 733.816, 744.534 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Thursday, February 25, 2010, 9:30 a.m.
PLACE: Suite B 103, The Fletcher Building, 101 E. Gaines St., Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Paul C. Stadler, Jr., (850)413-3010. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Paul C. Stadler, Jr., Assistant General Counsel, Department of Financial Services, 200 E. Gaines St., Tallahassee, Florida 32399-4247, (850)413-3010

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

**Section II
Proposed Rules**

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1S-2.037
RULE TITLE: Provisional Ballots

PURPOSE AND EFFECT: The purpose of the proposed changes is to clarify the content of the notice of rights to provisional ballot voters as relates to their right to present evidence of eligibility in order to have their ballot counted and their right to find out if their provisional ballot was counted, and if not, why. The proposed changes will make the notice consistent with the procedures implemented in response to 2008 legislative changes to Section 97.053(6), Florida Statutes.

SUMMARY: Specifically, the proposed changes highlight what evidence must be presented by a specific class of voters who may vote provisionally, i.e., those who vote provisionally solely because their Florida driver’s license number, Florida identification card number, or social security number was unverified by the time they presented to vote. Such provisional ballot voter can either present identification in person or provide a copy of such identification by mail, fax or email to the Supervisor of Elections. The identification must still be presented to or received by Supervisor of Elections no later than 5 pm. of the second day following the election if the voter wants the evidence to be considered by the county canvassing board for purposes of counting the provisional ballot. The proposed changes also eliminate reference to the procedures that were applicable prior to January 1, 2008 and also make non-substantive organizational changes to the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 20.10(3), 97.012(1), 101.048 FS.

LAW IMPLEMENTED: 97.053(6), 101.048 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: February 15, 2010, 3:00 p.m.
PLACE: Room 307, R. A. Gray Building, Florida Department of State, 500 S. Bronough Street, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Eddie L. Phillips, Executive Office Assistant,

Office of General Counsel, Florida Department of State at: ELPhillips@dos.state.fl.us or (850)245-6536. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donald Palmer, Director, Division of Elections, Florida Department of State at: DLPalmer@dos.state.fl.us or (850)245-6200 or Maria Matthews, Assistant General Counsel, Florida Department of State, (850)245-6536, mimatthews@dos.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.037 Provisional Ballots.

(1) ~~Notice of Rights to Provisional Ballot Voters. A~~ Written notice, entitled "Notice of Rights for Provisional Ballot Voters" must ~~are to~~ be provided to each person who casts a provisional ballot, ~~and shall be entitled "Notice of Rights to Provisional Ballot Voters."~~ The notice instructions shall contain the following statements.

~~(a) Information on how to access the respective county supervisor of election's free access system and the information the voter will need to provide to obtain information on whether his or her provisional ballot was counted, and if not, the reason it was not counted.~~

~~(a)(b) The statement "If this is a primary election, you should contact the supervisor of elections' office immediately to confirm that you are registered and can vote in the general election."~~

~~(e)1. Applicable before January 1, 2008. The statement "You may provide written evidence supporting your eligibility to vote to the Supervisor of Elections at (provide address of the Supervisor) by no later than 5:00 p.m. of the third day following the election.~~

~~(b)2. Applicable on or after January 1, 2008. The statement "As a provisional ballot voter, you have the right to You may provide written evidence supporting your eligibility to vote to the Supervisor of Elections at (provide address of the Supervisor). However, in order for your provisional ballot to count for this election, you must provide the evidence by no later than 5:00 p.m. of the second day following the election. If you voted a provisional ballot because the State could not verify your Florida driver's license number, Florida state identification card number or the last four digits of your social security card number that you gave on your application, you can either bring in your Florida driver's license, Florida identification card, or social security card to the Supervisor of Elections at (provide address of the Supervisor) for verification or you can mail, fax or email a copy of your card to the Supervisor of Elections. However, this written evidence must be received by the deadline above in order for your provisional ballot to count."~~

~~(d) The statement "ATTENTION: If you voted a provisional ballot because you did not present an acceptable form of photo or signature have the proper identification at the polls your ballot will be counted if your signature on the, you do not have to provide further evidence of your eligibility. If the canvassing board determines that the signature on your provisional ballot Voter's Certificate and Affirmation matches the signature on your registration record and you voted in the proper precinct, your provisional ballot shall count."~~

~~(c) "You also have the right to find out through the Supervisor of Elections' office whether your provisional ballot was counted, and if not, the reason it was not counted. To find out if your ballot was counted, please take the following steps: (provide instructions on how to access the Supervisor of Elections' free access system for the voter to find out if his or her provisional ballot was, and if not, the reason it was not counted)."~~

~~(d) Contact information for the Supervisor of Elections' office is: (provide address, phone number, fax number, and e-mail address).~~

(2) Forms for Certificates and Affirmations. ~~The Department of State, Division of Elections, is required to establish forms for Provisional Ballot Certificates and Affirmations to be used statewide Except as provided. Subject to the exception in subsection (3), P~~rovisional ballot certificates and affirmations shall be substantially in accordance with Form DS DE 49 OS (eff. 01/06), entitled "Optical Scan, Provisional Ballot Voter's Certificate and Affirmation"; Form DS DE 49 OS/TS (eff. 01/06), entitled "Touch Screen, Provisional Ballot Voter's Certificate and Affirmation"; or Form DS DE 49 OT (eff. 01/06), entitled "Optical Scan/Touchscreen, Provisional Ballot Voter's Certificate and Affirmation". All forms under this rule are hereby incorporated by reference. Copies of the forms may be obtained from the Division of Elections, Room 316, R. A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250, from the Division of Elections website at: <http://election.dos.state.fl.us>, or by contacting the Division of Elections at (850)245-6200.

(3) ~~Exception for Sequoia Touch Screen Voting System.~~ In order to ensure the secrecy of the ballot of each provisional ballot voter, the following special forms and procedures must be used and followed in all counties using the Sequoia Touch Screen Voting System:

(a) Forms. Form DS DE 50 Sequoia ~~and~~, entitled "Sequoia Touch Screen, Provisional Ballot Voter's Certificate and Affirmation," (eff. 06/06) shall be used as the provisional ballot envelope form, and form DS DE 50 Sequoia-A, entitled "Provisional Ballot Identification Number Form," (eff. 06/06) shall be used to write the provisional ballot voter's identification number, in reference to the procedures in paragraphs (b) and (c).

(b) Procedures at the polls:

1. Once a determination is made that a voter needs to vote a provisional ballot, the voter is provided with the provisional ballot envelope form DS DE 50 Sequoia.

2. The voter fills out the Provisional Ballot Voter's Certificate and Affirmation using DS DE 50 Sequoia and provides it to the election official to witness.

3. The election official witnesses the voter's signature and fills out the information on the back side of the envelope indicating the reason the voter is voting a provisional ballot.

4. The election official activates the voter card and writes the provisional ballot number from the card activator on a separate form using DS DE 50 Sequoia-A.

5. The voter verifies that the provisional ballot identification number on the form matches the ballot number from the card activator display.

6. The voter places the form with the ballot identification number in the Provisional Ballot envelope and seals the envelope.

7. The voter proceeds to the touch screen voting system and votes his or her provisional ballot.

8. At the close of the polls, all completed provisional ballot envelopes are returned to the supervisor of elections.

(c) Procedures during the canvassing process:

1. The canvassing board determines the eligibility of each provisional voter.

2. For each provisional voter that is determined to be eligible, the provisional ballot envelope shall be opened and the provisional ballot number shall be separated from the envelope containing the voter's name to ensure that the voter's name and provisional ballot number cannot be connected.

3. All ballots connected to the provisional ballot numbers for eligible voters shall be tabulated according to the procedures for tabulating ballots provided by the manufacturer.

4. For each provisional voter that is determined to be ineligible, the provisional ballot envelope shall not be opened and the Provisional Ballot Identification Number shall remain sealed in the envelope.

(d) All requirements of this rule otherwise apply to provisional ballots cast using the Sequoia Touchscreen Voting System. Provisional ballot procedures on election day and during the early voting period must otherwise meet all requirements of this rule.

Rulemaking Specific Authority 20.10(3), 97.012(1), (2), 101.048 FS. Law Implemented 97.053(6), 101.043, 101.048, 101.049, 101.111 FS. History—New 2-2-04, Amended 1-29-06, 6-1-06, 11-18-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Donald Palmer, Director, Division of Elections, Florida Department of State at: DLPalmer@dos.state.fl.us or (850)245-6200

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kurt S. Browning, Secretary of State, Florida Department of State, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 11, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 6, 2009

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-210.101 RULE TITLE: Routine Mail

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to: clarify the circumstances under which an inmate may receive more than 15 pages of additional written materials; eliminate the color restrictions on incoming mail; clarify that address labels may only be affixed to the outside of the mailing envelope; create an exception to the prohibition on sending mail to individuals who have requested that no mail be received from an inmate, as long as the outgoing mail pertains to civil pleadings or other legal documents pertaining to a civil case in which both the inmate and the intended recipient are parties; clarify that incoming mail that is unauthorized because it is not properly addressed to the inmate or because it is in unauthorized packaging shall be stamped with the reason for rejection and returned to the sender unopened; create a mechanism for inmates who allege that a pen-pal solicitation ad was placed without their knowledge or consent to request in writing that the ad be removed in order to avoid disciplinary action; amend Form DC2-521, Unauthorized Mail Return, to coincide with the rule changes.

SUMMARY: The proposed rule is amended to: clarify the circumstances under which an inmate may receive more than 15 pages of additional written materials; eliminate color restrictions on incoming paper and stationery; clarify that address labels may only be affixed to the outside of the mailing envelope; clarify that incoming mail that is unauthorized because it is not properly addressed to the inmate or because it is in unauthorized packaging shall be stamped with the reason for rejection and returned to the sender unopened; create an exception to the prohibition on sending mail to individuals who have requested that no mail be received from an inmate, as long as the outgoing mail pertains to civil pleadings or other legal documents pertaining to a civil case in which both the inmate and the intended recipient are parties; provide a more efficient procedure for handling unauthorized mass mailings;

provide a procedure for inmates who allege no responsibility for the posting a pen pal advertisement to attempt to have the advertisement removed in order to avoid disciplinary action; clarify that incoming mail packed in or including any unauthorized packaging shall be returned to the sender.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-210.101 Routine Mail.

(1) The provisions of this section shall apply to routine mail. Routine mail is all inmate mail, except legal mail (see Rule 33-210.102, F.A.C.), privileged mail (see Rule 33-210.103, F.A.C.), and publications (see Rule 33-501.401, F.A.C.).

(2) Inmates will be permitted to receive only the following types of materials through routine mail:

(a) Written correspondence (no limit as to number of pages). Correspondence shall be written in either English or Spanish. Inmates who cannot read and write in English or Spanish shall request approval from the warden to correspond and receive correspondence in the language which the inmate can read and write using Form DC6-236, Inmate Request. The warden shall approve such requests when there are department staff who can translate the correspondence or when it is otherwise possible to obtain translation services at de minimus cost to the Department. Correspondence may be written on greeting cards, but cards containing electronic or other non-paper parts, cards ~~that which~~ are constructed in such a way as to permit concealment of contraband, or ~~cards that which~~ are larger than 8"x10" will not be permitted. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(b) Up to 15 pages of additional written materials, unless the additional written materials pertain to an inmate's legal case, ~~or~~ health, ~~or other significant issues and~~ ~~or~~ prior approval is obtained from the warden to send in an enclosure of greater than 15 pages. Each page can be no larger than 8 1/2" x 14" in size; material can be on both sides of a page. This does not

include publications, which shall be handled pursuant to Rule 33-501.401, F.A.C. Individual articles or clippings from publications the content of which is otherwise admissible are permissible, up to the 15 page limit. No item can be glued, taped, stapled, or otherwise affixed to a page. Requests to send enclosures of greater than 15 pages shall be made to the warden or ~~his~~ designee prior to sending the material. Exceptions to the 15 page limitation are intended for enclosures concerning legal, medical, or other significant issues, and not for material for general reading or entertainment purposes. The warden shall advise the sender and the mail room of his approval or disapproval of the request.

(c) Photographs. Photographs will be counted toward the 15 page additional materials limitation. Nude photographs or photographs ~~that which~~ reveal genitalia, buttocks, or the female breast will not be permitted. Polaroid photographs will not be permitted. Photographs will not exceed 8" x 10".

(d) No change.

(e) ~~Unused Blank~~ greeting cards (no larger than 8" x 10"), stationery or other blank writing paper (lined or unlined), or envelopes. ~~Such items may only be white, off-white, or yellow and may not include borders or graphics.~~ These items do not count toward the 15 page limitation for additional materials, but cannot exceed 10 each in number, ~~with a total possession limit of 15 of each item.~~ Card stock, sketch paper, and other types of craft paper may not be included.

(f) U.S. postage stamps. The value of the stamps cannot exceed the equivalent of 20 (1 oz.) first class stamps. These items do not count toward the 15 page limitation for additional materials. Inmates shall not possess more than the maximum number of stamps permitted by Rule 33-602.201, F.A.C. Due care shall be exercised in processing mail; however, the department shall not be responsible for any postage stamps sent through the mail.

(3) No other items may be received through incoming routine mail. If an impermissible item is found (other than items of an illegal nature) the entire correspondence will be returned to the sender pursuant to subsection (14) of this rule. For example, the following items are not permissible for inclusion in or attachment to routine mail:

(a) through (b) No change.

(c) Stickers or stamps (other than postage stamps, postal service attachments, and address labels affixed to the outside of the mailing envelope);

(d) Address labels (other than those affixed to the outside of the mailing envelope); or

(e) No change.

(4) No change.

(5) Any routine mail sent or received shall be opened, examined, and is subject to being read by a designated employee. If the warden has approved an inmate to receive correspondence written in a language other than English or

Spanish the correspondence may be translated to confirm that it complies with the applicable rules. If the language cannot be translated by an employee at the facility the correspondence may be photocopied and sent to another institution or the central office for translation. Outgoing mail shall not be sealed by the inmate sender. Incoming and outgoing mail that is properly addressed and otherwise in compliance with applicable rules shall not be held for processing for more than 48 hours of receipt by the mail room, excluding weekends and holidays.

(6) through (7) No change.

(8) Correspondence with individuals under civil commitment as sexually violent predators shall be subject to the prior approval of the warden. The warden shall withhold approval if he finds that the intended correspondence would present a substantial threat of interference with the security, order, or rehabilitative objectives of his institution.

(9) Inmates shall not use correspondence privileges to solicit or otherwise commercially advertise for money, goods, or services. For the purposes of this rule this includes advertising for pen-pals; inmates are not prohibited from corresponding with pen pals, but shall not place ads soliciting pen pals. Inmates who post ads or have ads posted with the assistance of another person shall be subject to disciplinary action. If an inmate alleges that an ad was posted without his assistance or permission or that the ad was placed before the restriction on soliciting pen-pals became effective, it is the responsibility of the inmate to request that the ad be removed by submitting a written request to the owner, operator, or administrator of the forum in which the ad is located if it is reasonably possible for the Department to identify the physical address of such entity. No inmate shall be subject to discipline if the ad is not removed subsequent to submission of the written request. If it is not reasonably possible for the Department to identify the physical address of the owner, operator, or administrator of the forum in which the ad is located, the inmate must submit Form DC6-236, Inmate Request, to the warden indicating that the ad was placed without the inmate's knowledge or consent or that it was placed prior to the restriction on solicitation of pen-pals. The inmate shall be subject to disciplinary action only if it is discovered that the inmate solicited the ad or that it was placed subsequent to the restriction on solicitation of pen-pals.

(10) Inmates may not send mail to any person who has advised the warden that he does not wish to receive mail from the inmate. The parents or legal guardians of a person under the age of 18 may advise that mail is not to be sent to such person. Upon receipt of such advisement, the warden will cause to be prepared an acknowledgment specifying that the inmate will not be permitted to send mail to the person requesting the correspondence restriction and that such person should return any further mail received from the inmate and notify the warden of the attempt to correspond. After the

inmate is notified of the correspondence restriction, any further attempt to correspond will be considered a violation of this rule and of section 9-14 of the Rules of Prohibited Conduct (Rule 33-601.314, F.A.C.), and will subject the inmate to disciplinary action. This restriction does not apply to civil pleadings or other legal documents pertaining to a civil case in which both the inmate and the receiver are parties, and no inmate shall be subject to discipline for mailing such items.

(11) Outgoing or incoming mail shall be disapproved for mailing or delivery to the inmate if any part of it:

(a) No change.

(b) Depicts, encourages, or describes methods of escape from correctional facilities or contains blueprints, drawings, or similar descriptions of Department of Corrections facilities or institutions, or includes road maps that can facilitate escape from correctional facilities;

(c) Depicts or describes procedures for the brewing of alcoholic beverages, or the manufacture of drugs or other intoxicants;

(d) No change.

(e) Depicts, describes, or encourages activities that which may lead to the use of physical violence or group disruption;

(f) No change.

(g) Is dangerously inflammatory in that it advocates or encourages riot, insurrection, disruption of the institution, or violation of department or institution rules;

(h) Threatens physical harm, blackmail, or extortion;

(i) Pictorially depicts sexual conduct as defined by Section 847.001, F.S., as follows:

1. through 5. No change.

~~6. Actual contact with a person's unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party;~~

~~6.7. Any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed.~~

(j) No change.

(k) Contains criminal history, offender registration, or other personal information about another inmate or offender which, in the hands of an inmate, presents a threat to the security, order, or rehabilitative objectives of the correctional system or to the safety of any person;

(l) ~~Contains~~ ~~It contains~~ an advertisement promoting any of the following where the advertisement is the focus of, rather than ~~being~~ incidental to, the publication, or the advertising is prominent or prevalent throughout the publication.

1. through 4. No change.

(m) through (o) No change.

(12) through (13) No change.

(14)(a) When an inmate is prohibited from sending a letter, the letter and a written and signed notice stating one of the authorized reasons for disapproval and indicating the portion or portions of the letter causing disapproval will be given to the

inmate. When an inmate is prohibited from receiving any item of mail, the inmate and the sender will be given notice in writing that the mail has been disapproved stating one of the authorized reasons for disapproval. Form DC2-521, The Unauthorized Mail Return Receipt, Form DC2-521, will be placed in the original envelope with the correspondence and returned to the sender. However, if an incoming mailing is rejected because it does not comply with the requirements of paragraph (15)(a) or subsection (20) of this rule, Form DC2-521 shall not be prepared. Instead, staff shall write or stamp the reason for rejection on the mailing and it shall be returned to the sender unopened.

(b) If the incoming mail is disapproved for one of the reasons listed in subsection (7), (8), or (9), paragraph (11)(a) through (l) or (o), subsection (12) or (13) of this rule, the institution shall make a copy of the correspondence before returning it to the sender with Form DC2-521, the Unauthorized Mail Return Receipt, Form DC2-521, included. If an institution receives identical correspondence from the same individual or entity that is addressed to more than 10 inmates, and the correspondence is disapproved for one of these reasons, the institution shall make only one copy of the correspondence and shall mail the sender only one Form DC2-521. The mailings shall be returned to the sender and may be returned together in a single package. The institution is not required to copy incoming correspondence disapproved pursuant to subsection (7) if the return address on the envelope was the reason for determining that the mail was sent from an inmate at another penal institution.

(c) No change.

(d) If unauthorized items are discovered in the mail (other than items of an illegal nature), the unauthorized item and the correspondence will be returned to the sender with Form DC2-521, the Unauthorized Mail Return Receipt, Form DC2-521 included. Form DC2-521 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 7-2-09.

(15) Incoming and outgoing routine mail shall be delivered to and picked up from the institution or facility by the U.S. Postal Service only.

(a) Addresses of incoming mail: The address of all incoming mail must contain the inmate's committed name, identification number, and institutional address. The inmate's dorm and bunk locations are not required. All incoming mail shall contain the return address of the sender. The return address of incoming mail is subject to verification, and incoming mail shall be rejected if the sender or recipient cannot be verified.

(b) Addresses of outgoing mail: The return address of all outgoing mail shall contain the inmate's committed name, identification number, and institutional name and institutional address. The inmate's dorm and bunk locations are not

required. No prefix other than inmate, Mr., Ms., Miss, or Mrs. nor any suffix other than Jr., Sr. or Roman numeral such as II or III may be included as part of the committed name in the return address. The institutional name in the return address must be spelled out completely with no abbreviations. All outgoing routine mail will be stamped "mailed from a state correctional institution" by mail room staff.

(c) Third party mailing services.

1. Inmates shall not utilize any third party mailing services or engage in any activities that which would enable them to engage in correspondence without revealing their status as inmates. Examples of prohibited activities include the following:

a. through b. No change.

c. Use of any mailing service that which allows the inmate to utilize a non-institutional address and engage in correspondence without revealing his or her status as an inmate;

d. Any activity or service that which does not reveal to potential correspondents the inmate's status as an inmate.

2. Senders shall not utilize any third party mailing services or engage in any activities that which would enable them to engage in correspondence without revealing their identity or return address.

3. No change.

(16) through (19) No change.

(20) No packaging other than standard envelopes shall be given to inmates. Incoming mail that includes This includes removing the following types of packaging shall be rejected and returned to the sender unopened: boxes, padded envelopes, plastic bags, any envelopes that include metal parts, multi-layer packaging, bubble wrap, packing peanuts, etc.

(21) through (22) No change.

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History—New 10-8-76, Amended 10-11-77, 4-19-79, 11-19-81, 3-12-84, 10-15-84, Formerly 33-3.04, Amended 7-8-86, 9-4-88, 3-9-89, 9-1-93, 9-30-96, 5-25-97, 6-1-97, 10-7-97, 5-10-98, Formerly 33-3.004, Amended 12-20-99, Formerly 33-602.401, Amended 12-4-02, 8-5-03, 10-27-03, 9-20-04, 3-23-08, 7-2-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
John Hancock, Deputy Assistant Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A. McNeil, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 10, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 25, 2009

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.603
 RULE TITLE: Furloughs

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify that inmates on community custody status are eligible to be considered for furlough, to update form names and numbers, and to amend for grammatical accuracy.

SUMMARY: The proposed rule specifies that community custody inmates are eligible to be considered for furlough, updates form names and numbers, and generally edits language for grammatical accuracy.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 945.091 FS.

LAW IMPLEMENTED: 945.091 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.603 Furloughs.

- (1) No change.
- (2) Definitions.

(a) Furlough – The program ~~that which~~ allows inmates to visit in the community for specified purposes and under certain conditions.

(b) through (d) No change.

(e) Non-relative sponsor – A person approved through the furlough sponsor process ~~who that~~ is not a relative ~~an immediate family member~~ of the inmate.

(f) No change.

(g) Non-Advanceable Release Date – A release date ~~that which~~ cannot be reduced by the application of discretionary gain time.

(3) Policy Statement.

(a) Except as limited in this rule, the limits of confinement for inmates participating in the furlough program will be relaxed ~~extended~~ in area and in time to the degree necessary to allow the inmate to travel to the furlough destination, accomplish the purpose for which the furlough was authorized, and return to the facility. The limits will be specified in writing and the inmate will be advised of the limits prior to the issuance of a furlough.

(b) The department will allow inmates to leave the principal places of their confinement unaccompanied by a custodial agent for a prescribed period of time ~~not accompanied by a custodial agent~~.

(c) No change.

(d) The decision as to which inmates shall be allowed to leave the principal places of their confinement shall be based upon criteria set forth in subsection (6) of this rule 33-601.603(6), F.A.C.

(e) through (f) No change.

(4) Requirements and General Considerations.

(a) Participation in the furlough program is not a right, but a privilege ~~that which~~ must be earned by the inmate.

(b) No change.

(c) The objectives of the furlough program ~~is are~~ to contribute to the total rehabilitation of the inmate by any of the following means:

1. Easing ~~Ease~~ the transition from prison back to the community.
2. Seeking ~~Seek~~ employment ~~that which~~ may be retained after the inmate is released from the facility.
3. Helping ~~Help~~ determine the inmate’s readiness for release.
4. Preserving ~~Preserve~~ family and community ties.
5. Permitting ~~Permit~~ the inmate to develop or maintain occupational skills.

(d) General conditions applicable to participation in the furlough program are as follows:

1. No change.
2. No inmate participating in the ~~on a~~ furlough program shall be allowed to operate any type of motor vehicle. Transportation shall be provided by the furlough sponsor or the facility. Public transportation shall be authorized when a furlough sponsor does not possess private means of transportation or when such transportation is required due to time or distance limitations. If public transportation is used, the cost of such transportation shall be paid by the inmate or sponsor.
3. No change.
- (e) No change.
- (f) Upon request of the inmate, community and minimum custody inmates will be considered for furlough providing:
 1. No change.
 2. If a detainer exists from an outside agency, the detaining authority has, in writing, not objected to ~~for~~ the inmate’s participation ~~inmate to participate~~ in the furlough program;
 3. No change.
 5. Any additional requirements or conditions imposed for the particular type of furlough requested are met; and

6. There is cause to believe that the inmate will honor the trust bestowed upon him or her. All furloughs shall be verified by the approving authority for the legitimacy and authenticity of the furlough requested ~~by the approving authority~~.

(5) Furlough Sponsors.

(a) No change.

(b) Factors used in assessing the appropriateness of an applicant to serve as a furlough sponsor are:

1. through 3. No change.

4. Any other factor that which impacts the safety and security of the public, institution, or inmate;

5. Whether the potential sponsor is Must be a relative of the inmate, unless no such relative is available. In that event, a non-relative furlough sponsor shall be utilized.

(c) A furlough sponsor will not be approved if:

1. The applicant Applicant is under any active felony supervision;

2. The applicant Applicant has introduced or attempted to introduce contraband into any correctional facility within the last 10 years as documented by an incident report; or evidenced by a finding of guilt by a court or administrative body;

3. The applicant Applicant has assisted or attempted to assist an escape or escape attempt from any correctional facility;

4. The applicant Applicant or inmate has committed a violation of department regulations during furlough activities in which the applicant has served as a sponsor; within the last five years;

5. The applicant Applicant or inmate has given false information at any point during the application process, unless it is reasonably determinable that the incorrect information was provided as a result of an inadvertant or good faith mistake, omission, or clerical error.

(d) Approval to serve as furlough sponsor is subject to termination at any time for the reasons stated below:

1. through 4. No change.

5. Information acquired by the department that supports reasonable belief that the sponsor's conduct or behavior does not promote the goals and objectives of the furlough;

6. Any other Sponsor is deemed to present a threat to the security, order, or rehabilitative objectives of the correctional system, or to the safety of any person posed by continued participation by the sponsor.

(6) Type A Furloughs.

(a) No change.

(b) Other conditions that which apply to type A furloughs are:

1. Inmates must be community or minimum custody;

2. through 4. No change.

5. An inmate shall abide by all conditions in Form DC6-178 DC6-152, the Type A Furlough Agreement;

6. There are no limitations on the number of Type A furloughs that which may be granted;

7. No change.

(c) No change.

(7) Community Supervision Type A Furloughs.

(a) Pregnancy Furloughs.

1. Female inmates in the last trimester of pregnancy shall be considered for a Type A furlough if:

a. The inmate Inmate meets all criteria outlined in this rule;

b. The inmate is within 36 months of release unless, serving a sentence with a non-advanceable release date or a current commitment of 1st, 2nd, or 3rd degree murder or attempt, in which case the inmate shall be within 15 months of her release date;

c. The chief health officer verifies that the level of medical care that which will be rendered to the inmate outside the institution is comparable to or greater than that which could be rendered to the inmate within the institution.

2. A plan of community supervision shall be developed by the classification specialist and approved by the approving authority of the inmate's facility, and arrangements shall be made for monitoring the inmate's activities while on furlough.

a. The plan of community supervision shall include supervision contact by probation and parole services while the inmate is on furlough status. The furloughing facility shall contact probation and parole services in the city where the inmate will be residing during the furlough period; and develop community control supervision contact standards. The developed plan will be attached to the furlough request.

b. through d. No change.

3. No change.

4. An inmate Inmates shall be considered for placement at the a community correctional center nearest to her their residence upon satisfactory completion of the pregnancy furlough.

(b) Medical Furloughs.

1. No change.

2. In order to be eligible for a medical furlough, the inmate must be recommended by the Chief Health Officer, Regional Health Services Director, and classification team, and the recommendation must be endorsed by the Assistant Secretary for Health Services. After the assistant secretary has endorsed the medical furlough based on all pertinent medical information and the above criteria, he shall forward the recommendation to the approving authority for review of security issues and for final determination. If approved, a plan of community supervision shall be developed by the classification specialist and approved by the approving authority of the inmate's facility, and arrangements shall be made for monitoring the inmate's progress.

(c) The plan of community supervision shall include supervision contact by probation and parole services while the inmate is on furlough status. The furloughing facility shall contact probation and parole services in the city where the inmate will be residing during the furlough period; and develop community control supervision contact standards. The developed plan will be attached to the furlough request.

(d) through (e) No change.

(f) The approving authority is authorized to terminate a medical furlough at any time during the furlough period for noncompliance with the conditions of the furlough; or changes in the inmate's medical condition.

(g) Upon the death of the inmate on furlough, staff performing community supervision shall contact the institution from which the inmate was released on furlough. The institution shall be responsible for providing notice of the death, the custody and disposition of the body, the distribution of the certificate of death, and the coroner's report pursuant to Rule 33-602.112, F.A.C., Inmate Deaths.

(8) Type B Furlough Sponsors. In addition to the criteria outlined in subsection (5) of this rule ~~33-601.603(5), F.A.C., Furlough Sponsors~~, the following criteria ~~apply~~ applies to Type B furlough sponsors:

(a) A Type B furlough sponsor shall be a relative; unless a relative is not available to serve as a sponsor or no relative meets ~~fails to meet~~ the criteria to serve as a sponsor, ~~then a non-relative furlough sponsor may be utilized.~~

(b) The inmate who requests an applicant to become a type B furlough sponsor shall submit the appropriate request to his assigned center officer. The assigned center officer shall obtain an FCIC/NCIC criminal history background inquiry on the prospective furlough sponsor. The Correctional Officer Major ~~correctional officer major~~ of the community correctional center shall review the request and approve or disapprove the request based on criteria provided in subsection (5) of this rule ~~33-601.603(5), F.A.C.~~ If disapproved, the correctional officer major shall provide the furlough sponsor applicant written notification of the decision and reasons why, a copy of which shall be included in the inmate's record.

(c) through (d) No change.

(9) Type B Furloughs.

(a) through (b) No change.

(c) Type B furloughs aid in the rehabilitation of the inmate; and are granted for family visitation, routine medical or dental appointments, community volunteer projects, employment interviews, mental health counseling, haircut appointments, church services, or substance abuse treatment meetings.

(d) Restrictions on ~~the number of~~ type B furloughs, ~~and time and distance limitations are as follows:~~

1. through 3. No change.

4. Except as noted in subparagraph (9)(d)3. of this rule ~~33-601.603(9)(d)3., F.A.C.~~, a type B furlough for purposes other than family visitation shall not exceed three hours. For family visitation an inmate shall not be granted more than a maximum of eight daylight hours. Factors that ~~which~~ will be considered in determining the maximum number of hours granted an inmate for a family visitation furlough shall include the inmate's need for furlough, degree of participation in programs, adjustment to the facility, and willingness to abide by the furlough conditions.

(e) Inmates who demonstrate satisfactory facility adjustment and program participation, meet all eligibility criteria, and have either served 5 calendar years or have completed one third of the sentence to be served, which ever is less, shall be eligible for consideration for a furlough for family visitation purposes. "Sentence to be served" is interpreted as being from the imposed date of sentence to the earliest release date. The following special conditions apply to family visitation furloughs:

1. The furlough must occur in a residential type facility that ~~which~~ has telephone access. Hotel or motel rooms will suffice if a residential type facility is not available given the particular circumstances of the visitation;

2. through 3. No change.

(f) The approving authority for community correctional centers shall have the authority to approve participation in the type B furlough family visitation program for all inmates assigned to community correctional centers, contract work release, and contract community substance abuse treatment facilities. Once approval has been granted, the Correctional Officer Major or the program director at contract facilities shall have the authority to approve ~~the taking of~~ type B family furlough privileges on a case by case basis; while ensuring that the criteria requirements and considerations outlined in this rule are met.

(g) An inmate granted type B furlough privileges must:

1. Agree to the conditions as outlined in Form DC6-179, Type B Furlough Request Agreement. Form DC6-179 is incorporated by reference in subsection (11) of this rule;

2. Be accompanied throughout the furlough period by the approved furlough sponsor; and

3. Adhere to the following procedures:

a. Inmates who reside in community correctional centers, contract work release facilities, or a community contract substance abuse treatment facility, upon approval by the Correctional Officer Major or program director, shall be permitted to leave the center on a sign-out basis not requiring a type B family visitation furlough approval for the following activities: routine medical, mental health, or dental appointments; community volunteer projects; employment interviews; haircuts; church services; substance abuse counseling; or seeking suitable residence.

b. All inmates to whom a type B furlough privilege has been granted must be signed out of and into the facility by an officer prior to departure from and upon their return from the furlough activity utilizing Form DC6-180, Sign-Out Sheet for Community Activity or Furlough.

c. No change.

(h) An inmate who is on a type B furlough for any activity except family visitation or church services shall call the community correctional center, contract work release facility, or community Tier IV drug treatment center in which the inmate resides at least once per hour during the furlough period. In the event more than one inmate is attending a function with a particular sponsor, that sponsor, rather than the inmate, is authorized to make the required call at least once per hour during the furlough period.

(i) No change.

(10) Removal From the Type B Furlough Program.

(a) The approving authority of a community correctional centers shall remove an inmate from the furlough program if:

1. The approving authority, following placement of the inmate in the type B furlough program, receives any information concerning the inmate ~~that which~~ would adversely impact the safety and security of the community;

2. The inmate engages in any conduct ~~that which~~ causes the approving authority to believe that the inmate will not honor the trust bestowed upon ~~him them~~;

3. The approving authority determines that it is not in the best interest of the safety and security of the community, the department, or the inmate to continue the inmate in the type B furlough program.

(b) No change.

(11) Forms. The following forms are hereby incorporated by reference.

(a) No change.

(b) DC6-179, "Type B Furlough Request Agreement", effective _____ ~~12-8-97~~.

(c) No change.

(d) DC6-180, "Sign-Out Sheet for Community Activity or Furlough" "~~Community Correctional Sign Out Sheet for Community Activities~~", effective _____ ~~12-8-97~~.

Rulemaking Specific Authority 945.091 FS. Law Implemented 945.091 FS. History-New 12-8-97, Amended 4-13-98, 10-20-98, Formerly 33-9.024, Amended 10-9-07, 12-25-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
John Hancock, Deputy Assistant Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A. McNeil, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 23, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 11, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Regulatory Council of Community Association Managers

RULE NO.: 61E14-2.001
RULE TITLE: Standards of Professional Conduct

PURPOSE AND EFFECT: The proposed rule is necessary to modify the standards of professional conduct.

SUMMARY: The proposed rule modifies the standards of professional conduct.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:

- 2,768 Management Firms in addition to the already regulated 11,000 Community Association Manager will be required to comply with the rule; furthermore, all licensed Community Association Management Firms and Community Association Managers will be required to comply.
- The only costs to be incurred are rulemaking costs. No effect on state or local revenue is expected.
- The proposed change will impact 1,000 – 4,999 small businesses. No small county or city will be impacted by the rule.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 468.4315(2), 468.436(3) FS.

LAW IMPLEMENTED: 468.433, 468.436 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Regulatory Council of Community Managers, 1940 North Monroe Street, Tallahassee, Florida 32399-0762

THE FULL TEXT OF THE PROPOSED RULE IS:

61E14-2.001 Standards of Professional Conduct.

All Licensees ~~and registrants~~ shall adhere to the following provisions, ~~and~~ standards of professional conduct, and such provisions and standards shall be deemed automatically incorporated, as duties of all licensees ~~and registrants~~, into any written or oral agreement for the rendition of community association management services, the violation of which shall constitute gross misconduct, ~~culpable negligence~~ or gross negligence:

(1) Definitions. As used in this rule, the following definitions apply:

(a) The word "control" means the authority to direct or prevent the actions of another person or entity pursuant to law, contract, subcontract or employment relationship, but shall

specifically exclude a licensee's ~~or registrant's~~ relationship with a community association, its board of directors, any committee thereof or any member of any board or committee.

(b) "Licensee" means a person licensed pursuant to Sections 468.432(1) and (2), F.S.

~~(c) "Registrant" means an entity registered pursuant to Section 468.432(2), F.S.~~

~~(c)(4)~~ The word "funds" as used in this rule includes money and negotiable instruments including checks, notes and securities.

(2) Honesty. During the performance of management services, a licensee ~~or registrant~~ shall not knowingly make an untrue statement of a material fact or knowingly fail to state a material fact.

(3) Professional Competence. A licensee ~~or registrant~~ shall undertake to perform only those community association management services which he or it can reasonably expect to complete with professional competence.

(4) Due Professional Care.

(a) A licensee ~~or registrant~~ shall exercise due professional care in the performance of community association management services.

(b) A licensee ~~or registrant~~ shall not knowingly fail to comply with the requirements of the documents by which the association is created or operated so long as such documents comply with the requirements of law.

(5) Control of Others. A licensee ~~or registrant~~ shall not permit others under his or the management firm's ~~its~~ control to commit on his or the firm's ~~its~~ behalf, acts or omissions which, if made by either the licensee or registrant, would place that licensee ~~him or it~~ in violation of Chapter 455, 468, Part VIII, F.S., or Chapter 61-20, F.A.C., or other applicable statutes or rules. A licensee ~~or registrant~~ shall be deemed responsible by the department for the actions of all persons who perform community association management related functions under his or its supervision or control.

(6) Records.

(a) A licensee ~~or registrant~~ shall not withhold possession of any original books, records, accounts, funds, or other property of a community association when requested by the community association to deliver the same to the association upon reasonable notice. Reasonable notice shall extend no later than 10 ~~20~~ business days after termination of any management or employment agreement and receipt of a written request from the association. The manager may retain those records necessary for up to 20 days to complete an ending financial statement or report. Failure of the association to provide access or retention of accounting records to prepare the statement or report shall relieve the manager of any further responsibility or liability for preparation of the statement or report. The provisions of this rule apply regardless of any contractual or other dispute between the licensee and the community association, ~~or between the registrant and the community~~

~~association~~. It shall be considered gross misconduct, as provided by Section 468.436(2), F.S., for a licensee ~~or registrant~~ to violate the provisions of this subsection.

(b) A licensee ~~or registrant~~ shall not deny access to association records, for the purpose of inspecting or photocopying the same, to a person entitled to such by law, to the extent and under the procedures set forth in the applicable law.

(c) A licensee ~~or registrant~~ shall not create false records or alter records of a community association or of the licensee ~~or registrant~~ except in such cases where an alteration is permitted by law (e.g., the correction of minutes per direction given at a meeting at which the minutes are submitted for approval).

(d) A licensee ~~or registrant~~ shall not, to the extent charged with the responsibility of maintaining records, fail to maintain his or its records, and the records of any applicable community association, in accordance with the laws and documents requiring or governing the records.

(7) Financial Matters. A licensee ~~or registrant~~ shall use funds received by him or it on the account of any community association or its members only for the specific purpose or purposes for which the funds were remitted.

(8) Other Licenses.

(a) A licensee ~~or registrant~~ shall not commit acts of gross negligence, ~~culpable negligence~~ or gross misconduct in the pursuit of community association management or any other profession for which a state or federal license is required or permitted. It shall be presumed that gross negligence or gross misconduct has been committed where a licensee's ~~or registrant's~~ other professional license has been suspended or revoked for reasons other than non-payment of fees dues or noncompliance with applicable continuing education requirements.

(b) A licensee ~~or registrant~~ shall not perform, agree to perform or hold himself or itself out as being qualified to perform any services which, under the laws of the State of Florida or of the United States, are to be performed only by a person or entity holding the requisite license or registration for same, unless the licensee ~~or registrant~~ also holds such license or registration; provided, however, that no violation hereof shall be deemed to have occurred unless and until the authority administering the license or registration in question makes a final determination that the licensee or registrant has failed to obtain a license or registration in violation of the law requiring same.

(c) A licensee ~~or registrant~~ shall reveal all other licenses or registrations held by him or it under the laws of the State of Florida or the United States, if, as a result of such license or registration, a licensee ~~or registrant~~ receives any payment for services or goods from the community association or its board.

(d) Violation of any provision of Section 455.227(1), F.S., or of any part of this rule shall subject the licensee ~~or registrant~~ to disciplinary measures as set out in Section 468.436, F.S.

www.doh.state.fl.us/mqa. To complete the application attach the appropriate fees and supporting documents and submit it to the Board Office.

(2) through (3) No change.

Rulemaking Authority 457.104 FS. Law Implemented 457.105 FS. History--New 2-18-98, Amended 10-11-04, 5-25-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Acupuncture

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 4, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 20, 2009

DEPARTMENT OF HEALTH

Board of Chiropractic

RULE NO.: 64B2-16.003
RULE TITLE: Guidelines for the Disposition of Disciplinary Cases

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to clarify the guidelines for the disposition of disciplinary cases.

SUMMARY: The guidelines for the disposition of disciplinary case will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.039(3), 456.072, 456.079, 460.405, 460.413 FS.

LAW IMPLEMENTED: 456.039(3), 456.072, 456.079, 460.413(4) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-16.003 Guidelines for the Disposition of Disciplinary Cases.

(1) No change.

(a) No change.

(b) Section 460.411(1)(a), F.S.: fraud – permanent revocation or denial of license (minimum and maximum same); other – from a minimum of an administrative fine of \$200 for each month of practice without an active license, up to a maximum of permanent revocation of license;

(c) Section 460.411(1)(b), 460.411(2)(a), 460.411(2)(b), F.S.: permanent revocation or denial of license (minimum and maximum same);

~~(d) Section 460.411(2)(a), F.S.: revocation or denial of license (minimum and maximum same);~~

~~(e) Section 460.411(2)(b), F.S.: revocation or denial of license (minimum and maximum same);~~

~~(d)(f)~~ No change.

~~(e)(g)~~ No change.

~~(f)(h)~~ Section 460.412 or 456.072(1)(v), F.S.: from a minimum of one (1) year suspension followed by two (2) years probation under terms and conditions set by the board to include supervision and a fine of not less than \$1,000 per violation, to permanent revocation; from a minimum of letter of concern and/or a PRN referral for evaluation up to a maximum fine of \$10,000 and/or permanent revocation.

~~(g)(i)~~ Section 460.413(1)(a) or 456.072(1)(h), F.S.: Obtain license by bribery – from a minimum fine of \$500 and/or up to two years of probation to a maximum of permanent revocation. For a second offense, from a minimum fine of \$5,000 to permanent revocation. After the second offense, permanent revocation;

Obtain license by fraudulent misrepresentations – from six months probation and a fine of \$10,000 to a maximum of permanent revocation and a fine of \$10,000. For a second offense, a fine of \$10,000 and permanent revocation; Obtain license by Department or Board error – from a minimum letter of concern and/or a fine of \$500, up to a maximum of suspension of license for one year, followed by two years of probation, and a fine of \$5,000. For a second offense, from a minimum fine of \$5,000 to permanent revocation of license, and after the second offense, permanent revocation of license;

~~(h)(j)~~ No change.

~~(i)(k)~~ Section 460.413(1)(c) or 456.072(1)(c), F.S.: guilt of a crime that relates to the practice or the ability to practice – misdemeanor: from a minimum fine of \$1,500 and six months probation, up to a fine of \$5,000 and a year’s suspension with conditions; felony: from a minimum of a fine of \$7,500 and two years probation, up to a fine of \$10,000 and permanent revocation. After the first offense, from a minimum of six months of probation, up to a maximum fine of \$10,000 and/or permanent revocation of license;

~~(j)(l)~~ Section 460.413(1)(d), F.S.: false/misleading advertising – from a minimum fine of \$1,000, and a letter of concern, up to a maximum fine of \$7,500 and one year of

probation. For a second offense, from a minimum fine of \$2,500 and/or one year of probation to a maximum fine of \$10,000 and/or three months suspension of license. After the second offense, a fine of up to \$10,000 and/or one year suspension to the maximum fine of \$10,000 and/or permanent revocation;

~~(k)(m)~~ Section 460.413(1)(e), or 456.072(1)(t), F.S.: non-identifying advertisement – from a minimum fine of \$500, up to a maximum of one year of probation. After the first offense, from a minimum fine of \$2,000 and one year of probation to a maximum fine of \$5,000 and/or three years suspension. After the second offense, up to a maximum fine of \$10,000 and/or one year of suspension up to permanent revocation;

~~(l)(n)~~ Section 460.413(1)(f), F.S.: phony name – from a minimum fine of \$3,500 and one year probation, up to a maximum fine of \$10,000 and/or suspension of license for six months, followed by one year of probation. After the first offense, a minimum fine of \$5,000 and six months suspension up to a maximum fine of \$10,000 and/or permanent revocation;

~~(m)(o)~~ Section 460.413(1)(g) or 456.072(1)(i), F.S.: failure to report another – from a minimum letter of concern and/or a fine of \$500, up to a maximum fine of \$2,000 and/or six months of probation. After the first offense, a minimum of six months of probation and a fine of \$2,000 to a maximum fine of \$10,000 and/or permanent revocation;

~~(n)(p)~~ Section 460.413(1)(h) or 456.072(1)(j), F.S.: assisting unlicensed person to practice – from a \$5,000 fine and/or one year of suspension to permanent revocation of license. After the first offense, from a fine of \$7,500 up to a maximum fine of \$10,000 and/or permanent revocation;

~~(o)(q)~~ Section 460.413(1)(i) or 456.072(1)(k), F.S.: failure to perform statutory or legal obligation – from a minimum fine of \$1,000 and a letter of concern, up to a maximum fine of \$7,500 and/or two years of suspension followed by two years of probation. For a second offense, from a minimum fine of \$2,500 and six months of probation up to a maximum fine of \$10,000 and/or permanent revocation. After the second offense, up to a fine of \$10,000 and/or permanent revocation;

~~(p)(r)~~ Section 460.413(1)(j) or 456.072(1)(l), F.S.: negligent filing of false report – from a minimum fine of \$1,000, up to a maximum of one year probation and a fine of \$5,000. For a second offense, a minimum fine of \$2,500 and a reprimand to a maximum fine of \$10,000 and two years suspension. After the second offense, up to a maximum fine of \$10,000 and/or permanent revocation;

Willful filing of false report, impeding, or inducing another to file false report – from a minimum fine of \$5,000 and/or suspension of license for three months, followed by six months of probation, up to a maximum of permanent revocation of license. After the first offense, up to a maximum fine of \$10,000 and/or permanent revocation.

~~(q)(s)~~ Section 460.413(1)(k) or 456.072(1)(m), F.S.: misrepresentations/trick or scheme – from six months of probation, up to a maximum of suspension of license for one year, followed by two years of probation and a \$10,000 fine per count or offense. After the first offense, from a minimum of two years of probation up to a maximum of permanent revocation and a \$10,000 fine per count or offense;

~~(r)(t)~~ Section 460.413(1)(l) or 456.072(1)(y)(x), F.S.: soliciting patients or commercial solicitation from accident report information – from a minimum fine of \$1,000 and/or one year probation, up to a maximum fine of \$10,000 and/or permanent revocation. After the first offense, from a minimum fine of \$5,000 and/or six months suspension up to a maximum of \$10,000 and/or permanent revocation;

~~(s)(u)~~ Section 460.413(1)(m), F.S.: medical record-keeping – from a minimum fine of \$500 and/or one year of probation, up to a maximum fine of \$7,500, suspension of license for three months, followed by six months of probation. After the first offense, a minimum fine of \$1,500 and two years of probation up to a maximum fine of \$10,000 and/or permanent revocation;

~~(t)(v)~~ Section 460.413(1)(n) or 456.072(1)(n), F.S.: exploit patient for financial gain – from a minimum fine of \$1,000 and/or one year of probation, up to a maximum fine of \$10,000 and/or permanent revocation of license. After the first offense, from a minimum of two years of probation and a fine of \$2,500 up to a maximum fine of \$10,000 and/or permanent revocation;

~~(u)(w)~~ Section 460.413(1)(o), F.S.: unauthorized services – from a minimum fine of \$1,000 and/or one year of probation, up to a maximum fine of \$5,000 and/or two years of probation. After the first offense, from a minimum fine of \$2,500 and two years of probation up to a maximum fine of \$10,000 and/or permanent revocation;

~~(v)(x)~~ Section 460.413(1)(p), F.S.: dispensing drugs/performing surgery – from a minimum fine of \$5,000 and/or one year of probation, up to a maximum fine of \$10,000 and/or permanent revocation. After the first offense, a fine of \$10,000 and/or permanent revocation;

~~(w)(y)~~ Section 460.413(1)(q) or 456.072(1)(z)(y), F.S.: unable to practice with skill and safety – from a minimum fine of \$1,000, three years of probation and referral for a PRN evaluation, up to a maximum of suspension of license for one year, followed by up to five years of probation. After the first offense from a \$3,500 fine, referral for a PRN evaluation, and two years of probation to a maximum fine of \$10,000 and/or permanent revocation;

~~(x)(z)~~ Section 460.413(1)(r), F.S.: gross malpractice – from a minimum fine of \$1,000, up to a maximum fine of \$10,000 and/or permanent revocation;

Repeated malpractice – from a minimum fine of \$1,000 up to a maximum fine of \$10,000 and/or permanent revocation.

Unacceptable level of care, skill, and treatment – from a minimum fine of \$1,000 up to a maximum fine of \$10,000 and/or permanent revocation;

~~(y)(aa)~~ Section 460.413(1)(s), F.S.: experimentation on human subjects without consent – from a fine of \$1,000 and/or five years of probation, up to a maximum of permanent revocation. After the first offense, up to a maximum fine of \$10,000 and/or permanent revocation;

~~(z)(bb)~~ Section 460.413(1)(t) or 456.072(1)(o), F.S.: practicing beyond the scope permitted or competent to perform – from a minimum fine of \$2,500 and/or one year of probation, up to a maximum of suspension of license for two years followed by probation and a fine of \$10,000. After the first offense, up to a maximum fine of \$10,000 and/or permanent revocation;

~~(aa)(cc)~~ Section 460.413(1)(u) or 456.072(1)(p), F.S.: delegating responsibilities to unqualified person – from a minimum fine of \$1,000 and/or six months of probation, up to a maximum fine of \$5,000 and suspension of license for three years, followed by up to three years of probation. After the first offense, from a minimum fine of \$5,000 and/or suspension of license for one year followed by probation up to a maximum fine of \$10,000 and/or permanent revocation;

~~(bb)(dd)~~ Section 460.413(1)(v) or 456.072(1)(q), F.S.: violating any lawfully issued order or subpoena – from a minimum fine of \$1,000 and a letter of concern, up to a maximum fine of \$10,000 and/or permanent revocation. For a second offense, from a minimum fine of \$5,000 and/or two years of probation up to a maximum fine of \$10,000 and/or permanent revocation of license. After the second offense, from a minimum fine of \$7,500 and/or six months of suspension followed by probation up to a maximum fine of \$10,000 and/or permanent revocation of license;

~~(cc)(ee)~~ Section 460.413(1)(w), F.S.: conspiring or committing an act to prevent a licensee from advertising – from a minimum of fine \$1,000 and/or one year of probation, up to a maximum of suspension of license for six months, followed by one year of probation and a fine of \$5,000. After the first offense, from a minimum fine of \$5,000 and/or two years suspension of license followed by probation up to a maximum fine of \$10,000 and/or permanent revocation;

~~(dd)(ff)~~ Section 460.413(1)(x); or 456.072(1)(ee), F.S.: submitting claims for treatment not provided – from a minimum fine of \$1,000 and/or one year of probation, up to a maximum fine of \$10,000 and/or permanent revocation of license. For a second offense, from a minimum fine of \$5,000 and/or six months suspension followed by two years of probation to a maximum fine of \$10,000 and/or permanent revocation. After the second offense, up to a maximum fine of \$10,000 and/or permanent revocation;

~~(ee)(gg)~~ Section 460.413(1)(y), F.S.: commingling or conversion of patient funds and financial recordkeeping – from a minimum fine of \$2,000 and/or one year of probation, up to a

maximum fine of \$10,000 and/or permanent revocation. After the first offense, from a minimum fine of \$5,000 and/or three months suspension followed by two years of probation up to a maximum fine of \$10,000 and/or permanent revocation;

~~(ff)(hh)~~ Section 460.413(1)(z), F.S.: offering or accepting payment by assignment if it appears to eliminate requirement for insured to pay deductible – from minimum fine of \$1,000, and/or a letter of concern up to a maximum fine of \$3,000 and/or two years of probation. For a second offense, from a minimum fine of \$3,000 and/or a year of probation to a maximum fine of \$7,500 and one year of suspension followed by probation. After the second offense, up to a fine of \$10,000 and/or permanent revocation;

~~(gg)(ii)~~ Section 460.413(1)(aa), F.S.: failure to provide insured with copy of claim – (citation offense) from a minimum fine of \$500 and one year of probation, up to a maximum fine of \$5,000 and/or two years of probation. For a second offense, from a minimum fine of \$3,500 and/or two years of probation to a maximum fine of \$7,500 and one year of suspension followed by probation. After the second offense, up to a maximum fine of \$10,000 and/or permanent revocation;

~~(hh)(jj)~~ Section 460.413(1)(bb), F.S.: advertised fee different from that submitted to payors – from a minimum fine of \$1,000 and up to one year of probation, to a maximum fine of \$5,000 and two years of probation. For a second offense, from a minimum fine of \$3,500 and/or six months of suspension up to a maximum fine of \$7,500 and two years of suspension. After the second offense, up to a maximum fine of \$10,000 and/or permanent revocation;

~~(ii)(kk)~~ Section 460.413(1)(cc), 456.062, F.S.: failure of advertisement to state usual fee when offers free or discount services – (citation offense) from a minimum fine of \$500 and one year of probation, up to a maximum fine of \$5,000 and two years of probation. For a second offense, from a minimum fine of \$3,500 and/or six months of suspension up to a maximum fine of \$7,500 and two years of suspension. After the second offense, up to a maximum fine of \$10,000 and/or permanent revocation;

~~(jj)(ll)~~ Section 460.413(1)(dd), F.S.: using acupuncture without certification – from a minimum fine of \$2,500, and/or one year of probation, up to a maximum of suspension of license for two years followed by probation and a fine of \$10,000. After the first offense, up to a maximum fine of \$10,000 and/or permanent revocation;

~~(kk)(mm)~~ Section 460.413(1)(ee), F.S.: failure to report violation in the facility – from a minimum letter of concern and/or a fine of \$500 up to a maximum fine of \$2,000 and/or six months of probation. After the first offense, a minimum of six months of probation and a fine of \$2,000 to a maximum fine of \$10,000 and/or permanent revocation;

~~(ll)(mm)~~ Section 460.413(1)(ff), 456.072(1)(b), or 456.072(1)(dd)(ee), F.S.: violating this chapter, Chapter 456, F.S., or any Board rules – from a minimum fine of \$1,000 and/or a letter of concern up to a maximum fine of \$10,000 ~~5,000~~ and/or permanent revocation ~~suspension of license for two years followed by two years of probation~~. For a second offense, from a minimum fine of \$5,000 and/or two years of probation up to a maximum fine of \$10,000 and/or permanent revocation of license. After the second offense, from a minimum fine of \$7,500 and/or six months of suspension followed by probation up to a maximum fine of \$10,000 and/or permanent revocation;

~~(mm)(oo)~~ Section 456.082, F.S.: disclosure of confidential information – from a minimum fine of \$2,000 and/or six months of probation, up to a maximum fine of \$5,000 and suspension of license for six months, followed by two years of probation. After the first offense, a minimum fine of \$5,000 and two years of probation up to a maximum fine of \$10,000 and/or permanent revocation;

~~(nn)(pp)~~ Section 456.057(4), F.S.: timely and appropriate release of medical records – from a minimum fine of \$1,000, and/or a letter of concern up to a maximum fine of \$5,000 and one year of probation. For a second offense, from a minimum fine of \$2,500 and/or one year of probation to a maximum fine of \$5,000 and three months of suspension followed by two years of probation. After the second offense, up to a maximum fine of \$10,000 and/or permanent revocation;

~~(oo)(qq)~~ Section 456.072(1)(a), F.S.: misleading, deceptive, or fraudulent representations – from a minimum of six months of probation and a fine of \$10,000 per count or offense up to a maximum of permanent revocation and a fine of \$10,000 per count or offense. After the first violation, a fine of \$10,000 per count or offense and/or a minimum of one year of suspension up to a maximum of permanent revocation;

~~(pp)(rr)~~ Section 456.072(1)(d), F.S.: improper usage of laser device – from a minimum fine of \$1,000 and/or one year of probation up to a maximum fine of \$10,000 and three years of suspension followed by probation. After the first offense, up to a maximum fine of \$10,000 and/or permanent revocation;

~~(qq)(ss)~~ Section 456.072(1)(e), F.S.: failure to comply with HIV/AIDS course requirements – from a minimum fine of \$1,000 and a letter of concern up to a maximum fine of \$7,500 and/or two years of suspension followed by two years of probation. For a second offense, from a minimum fine of \$2,500 and six months of probation up to a maximum fine of \$10,000 and/or permanent revocation. After the second offense, up to a fine of \$10,000 and/or permanent revocation;

~~(rr)(tt)~~ Section 456.072(1)(r), F.S.: improper interference with investigation, inspection, or discipline – from a minimum fine of \$1,000 and/or one year of probation up to a maximum fine of \$10,000 and/or permanent revocation. After the first offense, a minimum fine of \$2,500 up to a maximum fine of \$10,000 and/or permanent revocation;

~~(uu)~~ Section ~~456.072(1)(u)~~, F.S.: sexual misconduct – from a minimum letter of concern and/or a PRN referral for evaluation, up to a maximum fine of \$10,000 and/or permanent revocation;

~~(ss)(vv)~~ Section 456.072(1)(v), F.S.: profiling and credentialing violations – from a minimum letter of concern and/or a fine of \$1,000, up to a maximum fine of \$10,000 and/or one year of suspension followed by two years of probation. After the first offense, from a minimum fine of \$2,000 up to a maximum fine of \$10,000 and/or permanent revocation;

~~(tt)(ww)~~ Section 456.072(1)(x)(w), F.S.: failure to comply with 30-day notification of convictions and nolo pleas – from a minimum fine of \$1,000 and/or a letter of concern, up to a maximum fine of \$9,000 and/or one month suspension of license followed by probation. After the first offense, from a minimum fine of \$5,000 up to a maximum fine of \$10,000 and/or permanent revocation;

~~(uu)(xx)~~ Section 456.072(1)(aa)(z), F.S.: testing positive on drug screening – from a minimum fine of \$500 and/or two years of probation and referral for a PRN evaluation, up to a maximum of suspension of license for one year, followed by up to five years of probation, and a fine of up to \$10,000. After the first offense, from a \$2,500 fine, and/or referral for a PRN evaluation and two years of probation up to a maximum fine of \$10,000 and/or permanent revocation;

~~(vv)(yy)~~ Section 456.072(1)(bb)(aa), F.S.: wrong patient, wrong-site, or wrong or unnecessary procedure – from a minimum fine of \$1,000 and/or a reprimand, up to a maximum fine of \$10,000 and/or six months suspension of license followed by probation. After the first offense, from a minimum fine of \$5,000 and/or a year of probation up to a maximum fine of \$10,000 and/or permanent revocation;

~~(ww)(zz)~~ Section 456.039(3), F.S.: failing to update information pursuant to Section 456.039(1), F.S., in writing within 45 days after the occurrence of an event or attainment of a status required to be reported – from a minimum \$2,500 fine to a maximum of suspension to be followed by probation and \$5,000 fine for a first offense. After the first offense, from a minimum of probation and \$5,000 fine, to maximum of permanent revocation and \$10,000 fine.

~~(xx)(aaa)~~ Section 456.072(1)(hh)(gg), F.S., for being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in Section 456.076, F.S., for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program – from a minimum of suspension until compliant with contract to \$1000 fine and/or permanent revocation. For subsequent offenses, suspension until compliant with contract to \$10,000 and/or permanent revocation.

(yy) Section 456.072(1)(ii), F.S. for being convicted of or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to Medicaid program- from a minimum of permanent revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.

(zz) Section 456.072(1)(jj), F.S., for failing to remit the sum owed to state for an overpayment from Medicaid program pursuant to a final order, judgment, or stipulation or settlement – from a minimum of a letter of concern to probation and a fine of \$500 to a maximum of a reprimand to permanent revocation and fine of \$2,500 for a first offense. After the first offense, from a minimum of suspension and \$5,000 fine to maximum of permanent revocation and \$10,000 fine.

(aaa) Section 456.072(1)(kk), F.S., for being terminated from the state Medicaid program pursuant to Section 409.913, F.S., any other state Medicaid program, or the federal Medicare program, unless eligibility to participate in the program from which the practitioner was terminated has been restored – from a minimum of letter of concern and \$1,000 fine to maximum of reprimand to permanent revocation and \$5,000 fine. After the first offense, from a minimum of suspension and \$5,000 fine to maximum of permanent revocation and \$10,000 fine.

(bbb) Section 456.072(1)(ll), F.S., for being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud – permanent revocation or denial of license (minimum and maximum same).

(2) The Board may take into consideration the following factors in determining the appropriate disciplinary action to be imposed and in going outside of the disciplinary guidelines:

(a) through (m) No change.

(3) Any or all of the following conditions may be imposed as terms of probation:

(a) through (l) No change.

(m) Successful completion of the Special Purposes Examination (SPECS) examination of the National Board of Chiropractic Examiners;

(n) No change.

Rulemaking Specific Authority 456.039(3), 456.072, 456.079, 460.405, 460.413 FS. Law Implemented 456.039(3), 456.072, 456.079, 460.413(4) FS. History–New 1-10-80, Formerly 21D-16.03, Amended 1-28-87, 1-28-90, 6-24-93, Formerly 21D-16.003, Amended 10-26-93, Formerly 61F2-16.003, Amended 7-18-95, Formerly 59N-16.003, Amended 11-4-98, 6-6-02, 5-23-04, 4-13-05, 9-15-05, 2-6-06.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Chiropractic Medicine

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Chiropractic Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 6, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 2009

DEPARTMENT OF HEALTH

Board of Chiropractic

RULE NO.: 64B2-16.011
RULE TITLE: Notice of Noncompliance

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to clarify the deadline for notifying a change of address.

SUMMARY: The deadline for notifying the Board of a change of address will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 120.695, 456.073(3), 460.405 FS.

LAW IMPLEMENTED: 120.695, 456.073(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-16.011 Notice of Noncompliance.

In accordance with Sections 456.073 and 120.695, F.S., the Board shall issue a notice of noncompliance as a first response to a minor violation of a rule. Failure of a licensee to take action to correct the violation within 15 days shall result in either the issuance of a citation when appropriate or the initiation of regular disciplinary proceedings. The minor violations which shall result in a notice of noncompliance are:

(1) Failure to notify of a change of address within ~~45~~ 60 days as required by Rule 64B2-10.0055, F.A.C.

(2) No change.

Rulemaking Specific Authority 120.695, 456.073(3), 460.405 FS. Law Implemented 120.695, 456.073(3) FS. History–New 11-1-04, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Chiropractic Medicine

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Chiropractic Medicine
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 6, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 2009

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-4.009
 RULE TITLE: Applications

PURPOSE AND EFFECT: The proposed rule amendment is intended to address the five most mis-diagnosed conditions for purposes of the medical errors course required for initial licensure.

SUMMARY: The proposed rule amendment sets forth the five most mis-diagnosed conditions for the purpose of the medical errors course required for initial licensure.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule amendments will not have an impact on small business.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.031, 456.033, 458.309, 458.311, 458.3137 FS.

LAW IMPLEMENTED: 456.013(7), 456.031, 456.033, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.3165, 458.317 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-4.009 Applications.

(1) through (7) No change.

(8) The applicant must submit a statement attesting to the following: Completion of two hours of continuing medical education relating to prevention of medical errors which includes a study of root cause analysis, error reduction and prevention, and patient safety, and which is approved by any state or federal government agency, or nationally affiliated professional association, or any provider of Category I or II American Medical Association Continuing Medical Education. One hour of a two hour course which is provided by a facility licensed pursuant to Chapter 395, F.S., for its employees may

be used to partially meet this requirement. The course must include information relating to the five most misdiagnosed conditions during the previous biennium, as determined by the Board. The following areas have been determined as the five most misdiagnosed conditions: wrong-site/patient surgery; cancer; cardiac; acute abdomen; timely diagnosis of surgical complications; and failing to identify pregnancy or stage of pregnancy before beginning treatment or surgery and failing to diagnose pre-existing conditions prior to prescribing contraindicated medications.

(9) No change.

Rulemaking Authority 456.031, 456.033, 458.309, 458.311, 458.3137 FS. Law Implemented 456.013(7), 456.031, 456.033, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316 458.3165, 458.317 FS. History–New 3-31-80, Amended 12-4-85, Formerly 21M-22.09, Amended 9-7-88, 3-13-89, 1-1-92, 2-21-93, Formerly 21M-22.009, Amended 11-4-93, Formerly 61F6-22.009, Amended 11-15-94, 2-15-96, Formerly 59R-4.009, Amended 7-10-01, 1-31-02, 5-10-04, 5-20-04, 6-13-06, 12-26-06, 1-18-09, 3-17-09, 10-7-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 5, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-4.029
 RULE TITLE: Registration as a Dispensing Practitioner

PURPOSE AND EFFECT: The proposed rule is intended to incorporate the application form and set forth the requirements for dispensing practitioners.

SUMMARY: The proposed rule sets forth the requirements for those physicians who dispense drugs in his or her medical practice. The rule incorporates the required form by reference and sets forth the website address for obtaining the form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule amendments will not have an impact on small business.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 458.309, 465.0276 FS.

LAW IMPLEMENTED: 465.0276 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-4.029 Registration as a Dispensing Practitioner.

A physician may dispense drugs to his or her patient in the regular course of his or her practice provided that the physician is registered as a dispensing practitioner with the Board of Medicine. In order to register as a dispensing practitioner, the physician must:

(1) Submit application to the Board on form DH-MQA 1070, entitled "Dispensing Practitioner Registration," (10/09), which is hereby incorporated by reference and available from the Board of Medicine's website at http://www.doh.state.fl.us/mqa/medical/me_applicant.html;

(2) Comply with the provisions of Section 465.0276, Florida Statutes, regarding dispensing practitioners; and

(3) Pay the registration fee as set forth in Rule 64B8-3.006, Florida Administrative Code.

Rulemaking Authority 458.309, 465.0276 FS. Law Implemented 465.0276 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 5, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-13.001
 RULE TITLE: Continuing Education for Biennial Renewal

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the language including clarifying the definition of prevention of medical errors course.

SUMMARY: The rule amendment will modify the language including clarifying the definition of prevention of medical errors course.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 495.005, 459.008(4) FS.

LAW IMPLEMENTED: 456.013(5),(6),(7), 459.008, 459.008(4) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-13.001 Continuing Education for Biennial Renewal

(1) through (2) No change.

(3)(a) For purposes of this rule, risk management means the identification, investigation, analysis, and evaluation of risks and the selection of the most advantageous method of correcting, reducing, or eliminating identifiable risks ~~and domestic violence~~ as defined in Section 741.30, F.S.

(b) through (e) No change.

(f) For purposes of this rule, a two hour Prevention of Medical Errors course shall include a study of root cause analysis, error reduction and prevention, and patient safety. The course shall address medication errors, surgical errors, diagnostic inaccuracies, and system failures, and shall provide recommendations for creating safety systems in health care organizations. The course must include information relating to the five most mis-diagnosed conditions during the previous biennium, as determined by the Board. The following areas have been determined as the five most mis-diagnosed conditions: cancer, wrong-site/patient surgery, acute abdomen, heart conditions, and surgical complications/errors ~~ear, ear, ear, ear, ear; timely diagnosis of surgical complications and failing to diagnose pre-existing conditions prior to prescribing contraindicated medications.~~

(4) through (6) No change.

Rulemaking Authority 459.005, 459.008(4) FS. Law Implemented 456.013(5), (6), (7), 459.008, ~~459.008(4)~~ FS. History--New 10-23-79, Amended 1-29-86, Formerly 21R-13.01, Amended 12-5-89, 4-8-91, 2-16-92, Formerly 21R-13.001, Amended 1-10-94, Formerly 61F9-13.001, Amended 10-25-95, Formerly 59W-13.001, Amended 1-19-98, 6-3-98, 4-14-99, 5-26-02, 5-10-04, 7-27-04, 2-9-05, 2-14-06, 1-29-07, 5-10-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Osteopathic Medicine

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 13, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-19.002
 RULE TITLE: Violations and Penalties

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to add new language to clarify violations and penalties.

SUMMARY: The rule amendment will delete unnecessary language and to add new language to clarify violations and penalties.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

(1) Attempting to obtain, obtaining or renewing a license or certificate by bribery, fraud or through an error of the Department or board.
 (456.072(1)(h) & 459.015(1)(a), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE:	denial with ability to reapply immediately upon payment of \$5,000 fine or probation and \$5,000 fine	denial with ability to reapply in not less than 3 years or revocation and \$7,500 fine
SECOND OFFENSE:	denial with ability to ability to reapply in not less than 3 years and \$10,000 fine or suspension to be followed by probation and \$10,000 fine	denial of license with no ability to reapply or revocation and \$10,000 fine

(2) Action taken against license by another jurisdiction.
 (456.072(1)(f) & 459.015(1)(b), F.S.)

FIRST OFFENSE:	imposition of discipline comparable to discipline that would have been imposed in Florida if the substantive violation occurred in Florida and \$1000 fine	imposition of discipline comparable to discipline that would have been imposed in Florida if the substantive violation occurred in Florida and \$5000 fine
SECOND OFFENSE:	imposition of discipline comparable to discipline that would have been	revocation and \$10,000 fine or denial of license until the

RULEMAKING AUTHORITY: 456.079, 459.015(5) FS.
 LAW IMPLEMENTED: 456.072, 456.079, 456.52 FS.
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-19.002 Violations and Penalties.

In imposing discipline upon applicants and licensees, the board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The statutory language is intended to provide a description of the violation and is not a complete statement of the violation; the complete statement may be found in the statutory provision cited directly under each violation description.

	imposed in Florida if the substantive violation occurred in Florida and \$5,000 fine	licensee's license is unencumbered in the jurisdiction where disciplinary action was originally taken
(3) Guilty of crime directly relating to practice or ability to practice. (456.072(1)(c) & 459.015(1)(c), F.S.) FIRST OFFENSE:	probation and \$2,000 fine	revocation and \$5,000 fine or denial of license with ability to reapply for licensure in not less than 3 years
SECOND OFFENSE:	suspension to be followed by probation and \$5,000 fine	revocation and \$10,000 fine or permanent denial of license
(4) False, deceptive, or misleading advertising. (459.015(1)(d), F.S.) FIRST OFFENSE:	letter of concern	reprimand and \$1,000 fine
SECOND OFFENSE:	probation and \$2,000 fine	probation and \$5,000 fine
THIRD OFFENSE:	3 month suspension to be followed by probation and \$5,000 fine	1 year suspension to be followed by probation and \$5,000 fine
(5) Failure to report another licensee in violation. (456.072(1)(i) & 459.015(1)(e), F.S.) FIRST OFFENSE:	letter of concern	reprimand and \$1,000 fine
SECOND OFFENSE:	reprimand and \$2,500 fine	probation and \$2,500 fine
THIRD OFFENSE:	probation and \$5,000 fine	suspension to be followed by probation and \$5,000 fine
(6) Aiding unlicensed practice. (456.072(1)(j) & 459.015(1)(f), F.S.) FIRST OFFENSE:	probation and \$2,500 fine	denial or revocation and \$5,000 fine
SECOND OFFENSE:	suspension to be followed by probation and \$5,000 fine	denial or revocation and \$10,000 fine
(7) Failure to perform legal duty or obligation. (456.072(1)(k) & 459.015(1)(g), F.S.) FIRST OFFENSE:	reprimand and \$1,000 fine	denial with ability to reapply after no less than 2 years or revocation and \$5,000 fine
SECOND OFFENSE:	probation and \$5,000 fine	denial or revocation and \$10,000 fine
(8) Giving false testimony regarding the practice of medicine. (459.015(1)(h), F.S.) FIRST OFFENSE:	reprimand and \$2,500 fine	probation and \$5,000 fine
SECOND OFFENSE:	suspension to be followed by probation and \$5,000 fine	revocation and \$10,000 fine or denial of license
(9) Filing a false report or failing to file a report as required.		

<p>(456.072(1)(l) & 459.015(1)(i), F.S.) FIRST OFFENSE:</p>	<p>reprimand and \$5,000 fine</p>	<p>suspension to be followed by probation and \$10,000 fine or denial with ability to reapply in not less than 1 year</p>
<p>SECOND OFFENSE:</p>	<p>denial with ability to reapply in not less than 3 years or suspension to be followed by probation and \$10,000 fine</p>	<p>denial with no ability to reapply or revocation and \$10,000 fine</p>
<p>(10) Kickbacks and unauthorized fee arrangements. (459.015(1)(j), F.S.)</p>	<p>FIRST OFFENSE:</p>	<p>probation and \$2,500 fine</p>
<p>SECOND OFFENSE:</p>	<p>denial or suspension to be followed by probation and \$10,000 fine</p>	<p>denial or suspension to be followed by probation and \$5,000 fine or denial or revocation and a \$10,000 fine</p>
<p>(11) Failure to provide financial disclosure form to a patient being referred to an entity in which the referring physician is an investor. (456.053, F.S.)</p>	<p>FIRST OFFENSE: SECOND OFFENSE: THIRD OFFENSE:</p>	<p>reprimand reprimand and \$5,000 fine probation and \$7,500 fine</p>
<p>(12) Improper refusal to provide health care. (459.015(1)(k), F.S.)</p>	<p>FIRST OFFENSE: SECOND OFFENSE:</p>	<p>reprimand and \$2,500 fine probation and \$5,000 fine suspension to be followed by probation and \$10,000 fine</p>
<p>(13) Sexual misconduct within the patient physician relationship. (456.072(1)(v)(+)) & 459.015(1)(l), F.S.)</p>	<p>FIRST OFFENSE:</p>	<p>probation and \$5,000 fine suspension to be followed by probation and \$7,500 fine</p>
<p>SECOND OFFENSE:</p>	<p>probation and \$10,000 fine</p>	<p>denial of licensure or revocation and \$10,000 fine suspension to be followed by probation and \$10,000 fine</p>
<p>(14) Deceptive, untrue, or fraudulent misrepresentations in the practice of medicine. (456.072(1)(a) & (m) & 459.015(1)(m), F.S.)</p>	<p>FIRST OFFENSE:</p>	<p>denial of licensure or suspension to be followed by probation and \$10,000 fine</p>
<p>SECOND OFFENSE:</p>	<p>denial of licensure or suspension to be followed by probation and \$10,000 fine</p>	<p>denial of licensure or revocation and \$10,000 fine</p>
<p>(15) Improper solicitation of patients.</p>		

(459.015(1)(n), F.S.) FIRST OFFENSE: SECOND OFFENSE:	reprimand and \$5,000 fine suspension to be followed by probation and \$7,500 fine	probation and \$5,000 fine revocation and \$10,000 fine
(16) Failure to keep written medical records. (459.015(1)(o), F.S.) FIRST OFFENSE: SECOND OFFENSE:	reprimand and \$5,000 fine suspension to be followed by probation and \$7,500 fine	probation and \$5,000 fine revocation and \$10,000 fine
(17) Fraudulent, alteration or destruction of patient records. (459.015(1)(p), F.S.) FIRST OFFENSE: SECOND OFFENSE:	probation and \$5,000 fine suspension to be followed by probation and \$7,500 fine	suspension to be followed by probation and \$7,500 fine revocation and \$10,000 fine
(18) Exercising improper influence on patient. (456.072(1)(n) & 459.015(1)(q), F.S.) FIRST OFFENSE: SECOND OFFENSE:	probation and \$5,000 fine suspension to be followed by probation and \$7,500 fine	suspension to be followed by probation and \$7,500 fine revocation and \$10,000 fine
(19) Improper advertising of pharmacy. (459.015(1)(r), F.S.) FIRST OFFENSE: SECOND OFFENSE: THIRD OFFENSE:	letter of concern probation and \$2,000 fine probation and \$7,500 fine	reprimand and \$1,000 fine probation and \$5,000 fine suspension to be followed by probation and \$10,000 fine
(20) Performing, professional services not authorized by patient. (459.015(1)(s), F.S.) FIRST OFFENSE: SECOND OFFENSE:	reprimand and \$5,000 fine probation and \$7,500 fine	probation and \$5,000 fine revocation and \$10,000 fine
(21) Controlled substance violations. (459.015(1)(t), F.S.) FIRST OFFENSE: SECOND OFFENSE:	probation and \$5,000 fine suspension to be followed by probation and \$7,500 fine	suspension to be followed by probation and \$7,500 fine revocation and \$10,000 fine
(22) Prescribing or dispensing of a scheduled drug by the physician to himself. (459.015(1)(u), F.S.) FIRST OFFENSE: SECOND OFFENSE:	probation and \$5,000 fine suspension to be followed by probation and \$7,500 fine	suspension to be followed by probation and \$7,500 fine revocation and \$10,000 fine
(23) Use of amygdalin (Laetrile).		

(459.015(1)(v), F.S.) FIRST OFFENSE: SECOND OFFENSE:	reprimand and \$5,000 fine suspension to be followed by probation and \$7,500 fine	probation and \$5,000 fine revocation and \$10,000 fine
(24) Inability to practice medicine with skill and safety. (456.072(1)(z) & 459.015(1)(w), F.S.) FIRST OFFENSE:	denial or probation and \$2,500 fine	denial or suspension until licensee is able to demonstrate to the Board ability to practice with reasonable skill and safety to be followed by probation and \$5,000 fine denial or revocation and \$10,000 fine
SECOND OFFENSE:	denial or suspension until licensee is able to demonstrate to the Board ability to practice with reasonable skill and safety to be followed by probation and \$7,500 fine	
(25) Gross Malpractice. (459.015(1)(x), F.S.) FIRST OFFENSE:	denial or probation and \$7,500 fine	denial or revocation and \$10,000 fine
SECOND OFFENSE:	denial or suspension to be followed by probation and \$7,500 fine	denial or revocation and \$10,000 fine
(26) Repeated Malpractice as defined in Section 456.50, F.S. FIRST OFFENSE:	revocation or denial of license and fine of \$1,000	revocation or denial of license and fine of \$10,000
(27) Failure to practice medicine in accordance with appropriate level of care, skill and treatment recognized in general law related to the practice of medicine. (456.50(1)(g), F.S.), (459.015(1)(x), F.S.) FIRST OFFENSE:	letter of concern, up to one (1) year probation and \$1,000 fine	denial or revocation and \$10,000 fine
SECOND OFFENSE:	two (2) year probation and \$7,500 fine	denial or revocation and \$10,000 fine
(28) Improper performing of experimental treatment. (459.015(1)(y), F.S.) FIRST OFFENSE:	denial or reprimand and \$5,000 fine	denial or suspension to be followed by probation and \$5,000 fine
SECOND OFFENSE:	denial or suspension to be followed by probation and \$7,500 fine	denial or revocation and \$10,000 fine
(29) Practicing beyond one's scope. (456.072(1)(o) & 459.015(1)(z), F.S.) FIRST OFFENSE:	denial or reprimand and	denial or suspension to

	\$5,000 fine	be followed by probation and \$5,000 fine
SECOND OFFENSE:	denial or suspension to be followed by probation and \$7,500 fine	denial or revocation and \$10,000 fine
(30) Delegation of professional responsibilities to unqualified person. (456.072(1)(p) & 459.015(1)(aa), F.S.)		
FIRST OFFENSE:	reprimand and \$2,500 fine	denial or suspension to be followed by probation and \$5,000 fine
SECOND OFFENSE:	denial or suspension to be followed by probation and \$7,500 fine	denial or revocation and \$10,000 fine
(31) Violation of law, rule, order, or failure to comply with subpoena. (456.072(1)(q),(dd) & 459.015(1)(bb), F.S.)		
FIRST OFFENSE:	denial or reprimand and \$5,000 fine	denial or suspension to be followed by probation and \$5,000 fine
SECOND OFFENSE:	denial or suspension to be followed by probation and \$7,500 fine	denial or revocation and \$10,000 fine
(32) Restricting another from lawfully advertising services. (459.015(1)(cc), F.S.)		
FIRST OFFENSE:	letter of concern	reprimand and \$1,000 fine
SECOND OFFENSE:	probation and \$2,000 fine	probation and \$5,000 fine
THIRD OFFENSE:	3 month suspension to be followed by probation and a \$5,000 fine	1 year suspension to be followed by probation and \$5,000 fine
(33) Procuring, aiding or abetting an unlawful abortion. (459.015(1)(dd), F.S.)		
FIRST OFFENSE:	probation and \$5,000 fine	suspension to be followed by probation and \$7,500 fine
SECOND OFFENSE:	suspension to be followed by probation and \$7,500 fine	revocation and \$10,000 fine
(34) Presigning blank prescription forms. (459.015(1)(ee), F.S.)		
FIRST OFFENSE:	reprimand and \$5,000 fine	suspension to be followed by probation and \$5,000 fine
SECOND OFFENSE:	probation and \$5,000 fine	revocation and \$10,000 fine
(35) Prescribing a Schedule II substance for office use. (459.015(1)(ff), F.S.)		
FIRST OFFENSE:	reprimand and \$5,000 fine	suspension to be followed by probation and \$5,000 fine
SECOND OFFENSE:	probation and \$5,000 fine	revocation and \$10,000 fine
(36) Improper use of Schedule II amphetamine or sympathomimetic amine drug. (459.015(1)(gg), F.S.)		
FIRST OFFENSE:	reprimand and \$5,000 fine	suspension to be followed by probation and \$5,000 fine
SECOND OFFENSE:	probation and \$5,000 fine	revocation and \$10,000 fine

FIRST OFFENSE:	reprimand and \$5,000 fine	suspension to be followed by probation and \$5,000 fine
SECOND OFFENSE: (37) Failure to adequately supervise assisting personnel. (459.015(1)(hh), F.S.)	probation and \$5,000 fine	revocation and \$10,000 fine
FIRST OFFENSE:	reprimand and \$5,000 fine	suspension to be followed by probation and \$5,000 fine
SECOND OFFENSE: (38) Improper use of substances for muscle building or enhancement of athletic performance. (459.015(1)(ii), F.S.)	probation and \$5,000 fine	revocation and \$10,000 fine
FIRST OFFENSE:	reprimand and \$5,000 fine	suspension to be followed by probation and \$5,000 fine
SECOND OFFENSE: (39) Misrepresenting, concealing a material fact during licensing, or disciplinary procedure. (459.015(1)(jj), F.S.)	probation and \$5,000 fine	revocation and \$10,000 fine
FIRST OFFENSE:	denial with ability to reapply immediately upon payment of \$5,000 fine or probation and \$5,000 fine	denial with ability to reapply in not less than 3 years or revocation and \$7,500 fine
SECOND OFFENSE:	denial with ability to reapply in not less than 3 years and \$10,000 fine or suspension to be followed by probation and \$10,000 fine	denial of license with no ability to reapply or revocation and \$10,000 fine
(40) Improperly interfering with an investigation or disciplinary proceeding. (456.072(1)(r) & 459.015(1)(kk), F.S.)		
FIRST OFFENSE:	probation and \$10,000 fine	revocation and \$10,000 fine
SECOND OFFENSE:	suspension to be followed by probation and \$10,000 fine	revocation and \$10,000 fine
(41) Failing to report any licensee who has violated the disciplinary act who provides services at the same office. (459.015(1)(ll), F.S.)		
FIRST OFFENSE:	letter of concern	reprimand and \$1,000 fine
SECOND OFFENSE:	probation and \$2,000 fine	probation and \$5,000 fine
THIRD OFFENSE:	probation and \$7,500 fine	suspension to be followed by probation and \$10,000 fine
(42) Giving corroborating written medical expert opinion without reasonable investigation. (459.015(1)(mm), F.S.)		
FIRST OFFENSE:	reprimand and \$5,000 fine	suspension to be

<p>SECOND OFFENSE: (43) Failure to comply with guidelines for use of obesity drugs. (459.0135, F.S. & Rule 64B15-14.004, F.A.C.)</p>	<p>probation and \$5,000 fine</p>	<p>followed by probation and \$5,000 fine revocation and \$10,000 fine</p>
<p>FIRST OFFENSE:</p>	<p>reprimand and \$5,000 fine</p>	<p>suspension to be followed by probation and \$5,000 fine revocation and \$10,000 fine</p>
<p>SECOND OFFENSE: (44) Falsely advertising or holding oneself out as a board-certified specialist. (459.015(1)(nn), F.S.)</p>	<p>probation and \$5,000 fine</p>	<p>revocation and \$10,000 fine</p>
<p>FIRST OFFENSE: SECOND OFFENSE:</p>	<p>reprimand and \$5,000 fine suspension to be followed by probation and \$7,500 fine</p>	<p>probation and \$5,000 fine revocation and \$10,000 fine</p>
<p>(45) Failing to provide patients with information about their patient rights and how to file a complaint. (456.072(1)(u) (†) & 459.015(1)(oo), F.S.)</p>	<p>letter of concern probation and \$2,000 fine probation and \$7,500 fine</p>	<p>reprimand and \$1,000 fine probation and \$5,000 fine suspension to be followed by probation and \$10,000 fine</p>
<p>(46) Violating any rule adopted by the board or department. (456.072(1)(b), 459.015(1)(pp), F.S.)</p>	<p>denial or letter of concern and \$1,000 fine, demonstration of compliance with the rule</p>	<p>denial or suspension to be followed by probation and \$5,000 fine, a reprimand, completion of a laws and rules course, and demonstration of compliance with the rule</p>
<p>FIRST OFFENSE:</p>	<p>denial or letter of concern and \$1,000 fine, demonstration of compliance with the rule</p>	<p>denial or suspension to be followed by probation and \$5,000 fine, a reprimand, completion of a laws and rules course, and demonstration of compliance with the rule</p>
<p>SECOND OFFENSE:</p>	<p>denial or reprimand, completion of laws and rules course, demonstration of compliance with the rule, probation and \$7,500 fine</p>	<p>denial with no ability to reapply or revocation and \$10,000 fine</p>
<p>(47) Using a Class III or a Class IV laser device without having complied with the rules adopted pursuant to Section 501.122(2), F.S. (456.072(1)(d), F.S.)</p>	<p>reprimand and \$1,000 fine suspension to be followed by probation and \$7,500 fine</p>	<p>probation and \$5,000 fine revocation and \$10,000 fine</p>
<p>FIRST OFFENSE: SECOND OFFENSE:</p>	<p>reprimand and \$1,000 fine suspension to be followed by probation and \$7,500 fine</p>	<p>probation and \$5,000 fine revocation and \$10,000 fine</p>
<p>(48) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome. (456.072(1)(e), F.S.)</p>	<p>reprimand and \$2,500 fine</p>	<p>probation and \$5,000 fine</p>
<p>FIRST OFFENSE:</p>	<p>reprimand and \$2,500 fine</p>	<p>probation and \$5,000 fine</p>

<p>SECOND OFFENSE:</p> <p>(49) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee. (456.072(1)(g), F.S.)</p>	<p>suspension to be followed by probation and \$7,500 fine</p>	<p>revocation and \$10,000 fine</p>
<p>FIRST OFFENSE:</p> <p>SECOND OFFENSE:</p> <p>(50) Failing to comply with the educational course requirements for domestic violence. (456.072(1)(s), F.S.)</p>	<p>reprimand and \$5,000 fine suspension to be followed by probation and \$7,500 fine</p>	<p>probation and \$10,000 fine revocation and \$10,000 fine</p>
<p>FIRST OFFENSE:</p> <p>SECOND OFFENSE:</p> <p>(51) Failing to comply with the requirements for profiling and credentialing. (456.072(1)(w)(v), F.S.)</p>	<p>reprimand and \$2,500 fine suspension to be followed by probation and \$7,500 fine</p>	<p>probation and \$5,000 fine revocation and \$10,000 fine</p>
<p>FIRST OFFENSE:</p> <p>SECOND OFFENSE:</p> <p>(52) Failing to report to the board in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to a crime in any jurisdiction. (456.072(1)(x)(w), F.S.)</p>	<p>\$2,500 fine probation and \$5,000 fine</p>	<p>suspension to be followed by probation and \$5,000 fine revocation and \$10,000 fine</p>
<p>FIRST OFFENSE:</p> <p>SECOND OFFENSE:</p> <p>(53) Using information about people involved in motor vehicle accidents which has been derived from accident reports made by law enforcement officers or persons involved in accidents pursuant to Section 316.066, F.S., or using information published in a newspaper or other news publication or through a radio or television broadcast that has used information gained from such reports, for the purposes of commercial or any other solicitation whatsoever of the people involved in such accidents. (456.072(1)(y)(x), F.S.)</p>	<p>\$5,000 fine probation and \$5,000 fine</p>	<p>denial of licensure or suspension to be followed by probation and \$5,000 fine denial of licensure with no ability to reapply or revocation and \$10,000 fine</p>
<p>FIRST OFFENSE:</p> <p>SECOND OFFENSE:</p> <p>THIRD OFFENSE:</p> <p>(54) Action taken against any license by another jurisdiction. (456.072(1)(f), F.S.)</p>	<p>letter of concern probation and \$2,000 fine probation and \$7,500 fine</p>	<p>reprimand and \$1,000 fine probation and \$5,000 fine suspension to be followed by probation and \$10,000 fine</p>

FIRST OFFENSE:	probation and \$2,000 fine	revocation and \$5,000 fine or denial of license with ability to reapply for licensure in not less than 3 years revocation and
SECOND OFFENSE:	suspension to be followed by probation and \$5,000 fine	\$10,000 fine or permanent denial of license
(55) Testing positive for any drug on any confirmed preemployment or employer-ordered drug screening.		
(456.072(1)(aa)(z), F.S.)		
FIRST OFFENSE:	probation and \$5,000 fine	suspension to be followed by probation and \$7,500 fine
SECOND OFFENSE:	suspension to be followed by probation and \$7,500 fine	revocation and \$10,000 fine
(56) Performing or attempting to perform health care services on the wrong patient, a wrong procedure, an unauthorized, unnecessary or unrelated procedure.		
(456.072(1)(bb)(aa), F.S.)		
FIRST OFFENSE:	denial or probation and \$5,000 fine	denial or revocation and \$10,000 fine
SECOND OFFENSE:	denial or suspension and \$10,000 fine	denial or revocation and \$10,000 fine
(57) Leaving a foreign body in a patient such as a sponge, clamp, forceps, surgical needle or other paraphernalia.		
(456.072(1)(cc)(bb), F.S.)		
FIRST OFFENSE:	denial or probation and \$5,000 fine	denial or revocation and \$10,000 fine
SECOND OFFENSE:	denial or suspension and \$10,000 fine	denial or revocation and \$10,000 fine
(58) Being terminated from a treatment program for impaired practitioners, as described in Section 456.076, F.S., for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug-treatment or alcohol-treatment program.		
(456.072(1)(hh)(gg) F.S.)		
FIRST OFFENSE:	stayed suspension and probation and \$2,500 fine	suspension until licensee is able to demonstrate to the Board ability to practice with reasonable skill and safety to be followed by probation and \$5,000 fine
SECOND OFFENSE:	suspension until licensee is able to demonstrate to the Board ability to practice with	revocation and \$10,000 fine

	reasonable skill and safety to be followed by probation and \$7,500 fine.	
<u>(59) Engaging in a pattern of practice when prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients, a violation of any provision of this chapter, a violation of the applicable practice act, or a violation of any rules adopted under this chapter or the applicable practice act of the prescribing practitioner.</u> <u>(456.072(1)(gg) F.S.)</u>		
<u>FIRST OFFENSE:</u>	<u>probation and \$5,000 fine</u>	<u>suspension to be followed by probation and \$7,500 fine</u>
<u>SECOND OFFENSE:</u>	<u>suspension to be followed by probation and \$7,500 fine</u>	<u>revocation and \$10,000 fine</u>
<u>(60) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 USC s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s.1343, s. 1347, s. 1349, or s. 1518, or 42 USC ss. 1320a-7b, relating to the Medicaid program.</u> <u>(456.072(1)(ii), F.S.)</u>		
<u>FIRST OFFENSE:</u>	<u>revocation and a fine of \$10,000 or denial of application for licensure</u>	
<u>(61) Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgment, or settlement.</u> <u>(456.072(1)(jj), F.S.)</u>		
<u>FIRST OFFENSE:</u>	<u>letter of concern and a fine of \$500</u>	<u>probation, and a fine of \$1,000.</u>
<u>SECOND OFFENSE:</u>	<u>reprimand and a fine of \$500</u>	<u>revocation and a fine of \$1,000.</u>
<u>(62) Being terminated from the State Medicaid program or any other state Medicaid program, or the federal Medicare program.</u> <u>(456.072(1)(kk), F.S.)</u>		
<u>FIRST OFFENSE:</u>	<u>letter of concern and a fine of \$500</u>	<u>suspension and a fine of \$1,000</u>
<u>SECOND OFFENSE:</u>	<u>reprimand and a fine of \$500</u>	<u>revocation and a fine of \$1,000</u>

(63) Being convicted of, or entering into a plea of guilty or Nola contendere to, any misdemeanor or felony, regardless of adjudication, which relates to health care fraud.

(456.072(1)(II), F.S.)
FIRST OFFENSE:

revocation and fine of \$10,000
or denial of application for
licensure

Rulemaking Specific Authority 456.079, 459.015(5) FS. Law Implemented 456.072, 456.079, 456.50 FS. History—New 9-30-87, Amended 10-28-91, 1-12-93, Formerly 21R-19.002, 61F9-19.002, 59W-19.002, Amended 2-2-98, 2-11-01, 6-7-01, 2-26-02, 12-7-05, 11-14-06, 11-27-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Osteopathic Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 13, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: RULE TITLE:
64B15-19.007 Citations

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify rule language to clarify citations fines and penalties.

SUMMARY: The rule amendment will modify rule language to clarify citations fines and penalties.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.073, 456.077 FS.

LAW IMPLEMENTED: 456.073, 456.077 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-19.007 Citations.
(1) through (2) No change.
(3) The following violations with accompanying fines may be disposed of by citation.
(a) through (c) No change.
(d) First time failure of the licensee to satisfy continuing education hours. The fine shall be \$150 for each hour not completed or completed late. In addition, the licensee shall make up all hours not completed, and shall be required to take 1 additional hour of continuing education for each hour not completed or completed late. ~~Respondent must submit certified documentation of completion of all CEU requirements for the period for which the citation was issued prior to renewing the license for the next biennium. Respondent must document compliance with the CEU requirements for the relevant period.~~

(e) through (o) No change.
(4) If the subject does not dispute the matter in the citation in writing within 30 days after the citation is served by personal service or within 30 days after receipt by certified mail, the citation shall become a final order of the Board of Osteopathic Medical Examiners. For violations of paragraphs (3)(a) through (c) and (3)(e) through (o) above, the subject has 30 days from the date the citation becomes a final order to pay the fine and costs. For violations of paragraph (3)(d) above, the subject has one year from the date the citation becomes a final order to pay the fine and costs and to submit certified documentation of completion of all CEU requirements for the period for which the citation was issued. ~~Respondent must document compliance with the CEU requirements for the relevant period.~~

Failure to pay the fine and costs within the prescribed time period constitutes a violation of Section 459.015(1)(cc), F.S., which will result in further disciplinary action. All fines and costs are to be made payable to “Department of Health – Citation.”

(5) through (7) No change.

Rulemaking Specific Authority 456.073, 456.077 FS. Law Implemented 456.073, 456.077 FS. History—New 10-28-91, Amended 8-24-92, 11-17-92, Formerly 21R-19.007, 61F9-19.007, 59W-19.007, Amended 11-27-97, 11-12-00, 1-29-03, 7-13-03, 5-12-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Osteopathic Medicine

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 13, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-22.004
 RULE TITLE: Mandatory Registration of Unlicensed Physicians

PURPOSE AND EFFECT: The Board proposes the rule amendment to incorporate by reference the updated application for registration as an Osteopathic Physician in training, DH-MQA 1172 (Revised 11/09).

SUMMARY: The rule amendment to incorporate by reference the updated application for registration as an Osteopathic Physician in training, DH-MQA 1172 (Revised 11/09).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 459.005, 459.021 FS.

LAW IMPLEMENTED: 459.021 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-22.004 Mandatory Registration of Unlicensed Physicians.

Registration as a resident, intern, or fellow shall be accomplished by completing the board approved application form, DH-MQA 1172 (Revised: 11/09 ~~2/09~~), Application for Registration as an Osteopathic Physician in Training, which is hereby incorporated by reference, and may be obtained from the Board of Osteopathic Medicine, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256. Said application shall include the following information:

- (1) through (5) No change.

Rulemaking Authority 459.005, 459.021 FS. Law Implemented 459.021 FS. History—New 10-28-91, Amended 1-3-93, Formerly 21R-22.004, 61F9-22.004, 59W-22.004, Amended 1-19-98, 6-28-09,

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Osteopathic Medicine
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 13, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 8, 2009

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-3.003
 RULE TITLE: Licensure by Endorsement

PURPOSE AND EFFECT: To update the form to add questions to implement Section 456.0635, F.S., and to rearrange sections of the form.

SUMMARY: The amendment updates the application to comply with Section 456.0635, F.S., and to protect confidential information.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: (a) It is unknown how many applicants would be affected by the new law. (b) The only costs to be incurred are rulemaking costs. (c) through (d) None. (e) through (f) N/A.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 486.025, 486.08 FS.

LAW IMPLEMENTED: 486.081 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin C05, Tallahassee, FL 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-3.003 Licensure by Endorsement.

An applicant filing DOH Form #DH-MQA 1142 Application for Licensure, Revised 0802/09, which is available through www.doh.state.fl.us/mqa, and demonstrating that he or she meets the requirements of Rule 64B17-3.001, F.A.C., may be licensed to practice physical therapy by endorsement by presenting evidence satisfactory to the Board that the applicant has active licensure in another jurisdiction and has passed an examination before a similar, lawful, authorized examining

board in physical therapy in such other jurisdiction if their standards for licensure are as high as those maintained in Florida. The standard for determining whether the standards of another jurisdiction are as high as the standards in Florida shall be whether the written examination taken for licensure in such other jurisdiction by applicants meeting Florida's minimum educational qualifications was through the national physical therapy examination provider certified by the Department. An applicant who has failed to pass the National Physical Therapy Examination for Physical Therapists by or on the fifth attempt, regardless of the jurisdiction through which the examination was taken, is precluded from licensure.

Rulemaking Authority 486.025, 486.081 FS. Law Implemented 486.081 FS. History--New 8-6-84, Formerly 21M-7.26, Amended 5-18-86, Formerly 21M-7.026, 21MM-3.004, 61F11-3.004, 59Y-3.004, Amended 4-21-02, 11-11-02, 11-1-04, 4-9-06, 5-21-09, 8-10-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-4.001
RULE TITLE: Licensure as a Physical Therapist Assistant by Examination

PURPOSE AND EFFECT: To update the form to add questions to implement Section 456.0635, F.S., and to rearrange sections of the form.

SUMMARY: The amendment updates the application to comply with Section 456.0635, F.S., and to protect confidential information.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: (a) It is unknown how many applicants would be affected by the new law. (b) The only costs to be incurred are rulemaking costs. (c) through (d) None. (e) through (f) N/A.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 486.025, 486.102 FS.
LAW IMPLEMENTED: 456.017, 486.102(3), 486.104 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, FL 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-4.001 Licensure as a Physical Therapist Assistant by Examination.

Every physical therapist assistant who applies for licensure by examination shall file DOH Form #DH-MQA 1142 Application for Licensure, Revised 082/09, which is available through www.doh.state.fl.us/mqa, and demonstrate to the Board that the applicant:

- (1) through (3) No change.

Rulemaking Authority 486.025, 486.102 FS. Law Implemented 456.017, 486.102(3), 486.104 FS. History--New 8-6-84, Amended 6-2-85, Formerly 21M-10.20, Amended 5-18-86, Formerly 21M-10.020, 21MM-4.001, Amended 3-1-94, Formerly 61F11-4.001, Amended 12-22-94, 4-10-96, Formerly 59Y-4.001, Amended 1-23-03, 4-9-06, 9-19-06, 5-21-09, 9-22-09, 9-28-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-7.001
RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: To update the guidelines to accommodate new violations created in Section 456.072, F.S.

SUMMARY: The amendment adds a penalty range for new disciplinary grounds.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: (a) It is unknown how many licensees or applicants may be affected by the new law. (b) The cost of rulemaking, costs associated with enforcing the proposed changes, cost of compliance monitoring, and potential costs of defending legal challenges. (c) Violators will experience the cost of associated penalties. (d) Small business owners/licensees who violate the new sections will be unable to continue practicing if their licenses are revoked. Applicants found in violation of these new sections will have their applications denied, thus losing the opportunity to acquire income. (e) through (f) N/A.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.036, 456.072, 456.079, 486.025 FS.

LAW IMPLEMENTED: 456.072, 456.073, 456.079, 486.125 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, FL 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-7.001 Disciplinary Guidelines.

(1) (a) through (cc) No change.

(dd) Section 456.072(1)(ii), F.S.: Being convicted of, or entering a plea of guilty or nolo contendere to a crime under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program from a minimum of a reprimand, six months probation and a fine of \$5,000 to a maximum of revocation and a fine of \$10,000. For a second offense, a fine of \$10,000 and revocation;

(ee) Section 456.072(1)(jj), F.S.: Failing to return an overpayment from the Medicaid program from a minimum of a reprimand, a fine of \$1000 and/or suspension until the Medicaid program is reimbursed in full to a maximum of revocation and a fine of \$10,000. For a second offense, a fine of \$10,000 and revocation;

(ff) Section 456.072(1)(kk), F.S.: Being terminated from the state Medicaid program pursuant to Section 409.913, F.S., if not terminated for cause, from a minimum of a reprimand, a fine of \$1000 and/or six months probation to revocation and a \$10,000 fine. If terminated for cause or if it is the second offense, a \$10,000 fine and revocation.

(gg) Section 456.072(1)(ll), F.S., Being convicted of, or entering a plea of guilty or nolo contendere to a crime related to health care fraud. If the crime is a felony under chapter 409, chapter 817, 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396 the penalty shall be a minimum fine of \$1000 and revocation. Otherwise the penalty range is from a minimum of a reprimand, six months probation and a fine of \$5,000 to a maximum of revocation and a fine of \$10,000. For a second offense, a fine of \$10,000 and revocation.

(2) No change.

Rulemaking Specific Authority 456.036, 456.072, 456.079, 486.025 FS. Law Implemented 456.072, 456.073, 456.079, 486.125 FS. History—New 2-10-87, Formerly 21M-9.023, Amended 8-2-90, 10-14-91, 12-6-92, 3-24-93, Formerly 21MM-7.002, 61F11-7.002, 59Y-7.002, Amended 1-8-98, 8-3-00, 1-2-03, 4-9-06, 2-5-07, 4-5-07, 6-27-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-9.001
 RULE TITLE: Continuing Education

PURPOSE AND EFFECT: To rearrange the application so that confidential information can be protected.

SUMMARY: Updating Form 1144 to move the social security number and special testing accommodation question.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: (a) In FY 2007-2008, 17, 236 renewed their licenses and none applied to take the laws and rules exam for continuing education. It is unknown how many applicants would be impacted in future years. (b) The only costs to be incurred are rulemaking costs. (c) through (d) none. (e) through (f) N/A.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 486.025 FS.

LAW IMPLEMENTED: 456.013(6), 486.109(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Physical Therapy Practice Board, 4052 Bald Cypress Way, Bin #C05, Tallahassee, FL 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-9.001 Continuing Education.

(1) Every person licensed pursuant to Chapter 486, F.S., shall be required to complete twenty-four contact hours of continuing education courses approved by the Board in the twenty-four months preceding each biennial renewal period as established by the Department. However, applicants who

become licensed in the second half of the biennium are exempt from this continuing education requirement for their first renewal.

(2) A contact hour shall consist of fifty clock minutes. One half contact hour shall consist of twenty-five clock minutes. One continuing educational unit (CEU) shall be considered equivalent to ten (10) contact hours.

(3) Acceptable subject areas for physical therapy continuing education include professional ethics, clinical education, clinical practice, clinical research, clinical management, clinical science, Florida law relating to physical therapy, basic sciences, risk management, and HIV/AIDS. No more than five contact hours of courses in risk management shall be accepted within a biennium. Up to three contact hours in HIV/AIDS education pursuant to Rule Chapter 64B17-8, F.A.C., may be included in the 24 contact hours. Up to three contact hours in prevention of medical errors education pursuant to Rule Chapter 64B17-8, F.A.C., may be included in the 24 contact hours.

(4) The Board will accept up to twelve contact hours for home study during a biennium.

(5) Course instructors providing continuing education to licensees under this chapter shall receive up to six contact hours credit per biennium. This shall be awarded on a contact hour for each contact hour presented. However, instructors teaching their normal course of instruction shall not be granted contact hours toward their continuing education.

(6) The Board approves for continuing education credit:

(a) Courses sponsored by a program in physical therapy at a college or university which provides a curriculum for training physical therapists or physical therapist assistants, when approved by the physical therapy or physical therapy assistants program, which is accredited by, or has status with an accrediting agency approved by the United States Department of Education; or

(b) Courses sponsored or approved by the American Physical Therapy Association or any of its components; or

(c) Courses sponsored or approved by the Florida Physical Therapy Association, so long as they meet the criteria set forth in subsection 64B17-9.001(3), F.A.C.

(d) Attendance at Florida Board meetings where disciplinary cases are being heard if the licensee is not on the agenda or appearing for another purpose. The number of risk management contact hours for such attendance is based on the definition of contact hour as set forth in subsection (2).

(e) Members of the Board's Probable Cause Panel shall receive five hours of continuing education risk management credit per biennium for their service on the Panel.

(f) Licensees who file DOH form #DH-MQA 1144, PT Florida Laws and Rules Examination Application, Revised 0802/09, incorporated by reference, which is available through www.doh.state.fl.us/mqa, and take and pass the Florida laws and rules examination shall receive two (2) hours of continuing

education per biennium. The continuing education credit shall be awarded only for the biennium in which the examination was taken and passed. Continuing education credit shall not be awarded to licensees that take and pass the examination as a result of a disciplinary proceeding or as a board ordered condition of initial licensure, re-activation or reinstatement.

(7) The Board shall make exceptions for licensees from the continuing education requirements including waiver of all or a portion of these requirements or the granting of an extension of time in which to complete these requirements upon a finding of good cause by majority vote of the Board at a public meeting following receipt of a written request for exception based upon emergency or hardship. Emergency or hardship cases are those: 1) involving long term personal illness or illness involving a close relative or person for whom the licensee has care-giving responsibilities; 2) where the licensee can demonstrate that the required course(s) are not reasonably available; and 3) other demonstrated economic, technological or legal hardships that substantially relate to the ability to perform or complete the continuing education requirements.

(8) The licensee must retain such receipts, vouchers, certificates, or other papers as may be necessary to document completion of the appropriate continuing education offerings listed on the renewal form for a period of not less than four years from the date the offering was taken.

Rulemaking Authority 486.025 FS. Law Implemented 456.013(6), 486.109(2) FS. History--New 4-6-92, Formerly 21MM-9.001, Amended 3-7-94, Formerly 61F11-9.001, Amended 12-5-95, Formerly 59Y-9.001, Amended 2-14-02, 4-21-02, 1-2-03, 6-28-04, 4-9-06, 5-28-06, 2-17-08, 5-21-09, 8-10-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Physical Therapy Practice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 2009

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: 64B18-17.002
RULE TITLE: Board Approval of Continuing Education Programs

PURPOSE AND EFFECT: The Board proposes to amend the existing rule to replace the term "American Podiatry Medical Association" to "American Podiatric Medical Association" and the term "Council on Podiatry Education" with "Council on Podiatric Medical Education".

SUMMARY: The rule amendment will replace the term “American Podiatry Medical Association” to “American Podiatric Medical Association” and “Council on Podiatry Education” with “Council on Podiatric Medical Education”.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.025(3), 461.005, 461.007(3) FS.

LAW IMPLEMENTED: 456.013, 456.025(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-17.002 Board Approval of Continuing Education Programs.

(1) Automatic Approval.

(a) Continuing education programs, as can be reasonably related to the practice of podiatric medicine, sponsored or approved by the American Podiatric Medical Association, formerly known as the American Podiatry Medical Association (APMA), the Council on Podiatric Medical Education, formerly known as the Council on Podiatry Education (CPE), the American Medical Association (AMA), the American Osteopathic Association (AOA), the American Hospital Association (AHA) or any of their component or affiliate organizations are hereby approved by the Board. Neither those providers nor the programs they provide need be submitted to the Board for approval.

(b) through (c) No change.

(2) through (6) No change.

Rulemaking Specific Authority 456.013, 456.025(3), 461.005, 461.007(3) FS. Law Implemented 456.013, 456.025(3), 461.007(3) FS. History—New 4-29-86, Amended 6-20-88, 6-19-90, Formerly 21T-17.0015, Amended 9-29-93, Formerly 61F12-17.0015, Amended 1-1-96, 6-12-96, Formerly 59Z-17.002, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Podiatric Medicine

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 20, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 9, 2009

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.:	RULE TITLE:
64B18-17.003	Continuing Education Programs Not Requiring Pre-Approval from the Board

PURPOSE AND EFFECT: The Board proposes to clarify the existing rule language as to the continuing education requirement.

SUMMARY: The rule amendment will clarify requirements for continuing education as related to podiatric medicine.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.013, 456.033(7), 461.005, 461.007 FS.

LAW IMPLEMENTED: 456.013, 456.033(1), 461.007 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-17.003 Continuing Education Programs Not Requiring Pre-Approval from the Board.

(1) Hospital Scientific Programs. When a podiatric physician is a member of a hospital staff and attends scientific programs sponsored by the hospital and reasonably related to the practice of podiatric medicine, then attendance at such programs may be credited toward satisfaction of the Board’s continuing education requirement, except that the podiatric physician may only count four (4) hours so obtained each year of the biennium toward the forty (40) hours of continuing education required for the biennium. A podiatric physician who takes advantage of this provision and whose continuing education is audited must provide certification from the hospital authorities in charge of the hospital-sponsored scientific program which demonstrates that the podiatric physician has attended the requisite number of hours at a hospital-sponsored scientific program.

(2) through (4) No change.

Rulemaking Specific Authority 456.013, 456.033(7), 461.005, 461.007 FS. Law Implemented 456.013, 456.033(1), 461.007 FS. History—New 11-24-80, Formerly 21T-17.03, Amended 10-14-86, 2-22-87, 5-16-89, 6-19-90, Formerly 21T-17.003, Amended 7-6-94, Formerly 61F12-17.003, Amended 12-19-94, 1-1-96, 6-12-96, Formerly 59Z-17.003, Amended 8-8-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Podiatric Medicine
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 20, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 9, 2009

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE NOS.:	RULE TITLES:
64E-26.001	General
64E-26.002	Definitions
64E-26.003	Water Supply
64E-26.004	Food Service
64E-26.005	Sanitary Standards
64E-26.006	Garbage and Rubbish
64E-26.007	Housing
64E-26.008	Laundry and Dry Cleaning
64E-26.009	Bedding, Clothing and Personal Items
64E-26.010	Housekeeping
64E-26.011	Insect and Rodent Control
64E-26.012	Outdoor Areas
64E-26.013	Industries

PURPOSE AND EFFECT: In 1996, the Department of Health and Rehabilitative Services (HRS), repealed Chapter 10D-7, of the Florida Administrative Code. In June, 2006, the First District Court of Appeal, affirmed the decision of a lower court, which held that HRS’ repeal of the chapter was an invalid exercise of delegated legislative authority. Chapter 10D-7, was thus revived by judicial determination.

Having been repealed before the 1996 and 1999 amendments to the Administrative Procedures Act (APA), this chapter had not previously undergone the review required of state agencies by then subsection (2) of Section 120.536, F.S., (1996-2004), to determine whether there was sufficient legislative authority for existing agency rules. While the specific review requirements of former subsection (2) were repealed during the 2005 legislative session, Section 120.536(1), F.S., continues to mandate that agencies “. . . may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute,” and that: “[N]o agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation.”

Section 381.006(6), F.S., authorizes the Department of Health to maintain as part of its environmental health program: “[A] public facilities function, including sanitary practices relating to . . . all places used for the incarceration of prisoners and inmates of state institutions for the mentally ill.” Since the decision reversing the repeal of Chapter 10D-7, in order to comply with the legislative mandate contained in Section 120.536(1), F.S., the Department of Health as the successor agency to HRS, has been reviewing what is now Chapter 64E-26, F.A.C., to determine if changes to these rules may be necessary due to the limited authority granted the Department in Section 381.006(6), F.S. In the course of its initial review, the department identified and subsequently repealed on May 10, 2007, rules that were clearly without statutory authority to implement. Presently, the department has continued its review of Chapter 64E-26, F.A.C., to see if there are other rules within the chapter that are not supported by statutory authority provided in Section 381.006(6), F.S.

In the course of this review, the department has also found that some health and safety requirements included in Chapter 64E-26, F.A.C., are addressed by other rules administered by the department or other state and local agencies, under more substantive grants of legislative authority. For example, food service requirements are addressed by the department in Chapter 64E-11, F.A.C., based on statutory authority in Section 381.0072, F.S., which specifically includes prisons as a food service establishment under the department’s jurisdiction. Drinking water requirements are addressed by the Department of Environmental Protection (DEP) in Chapters 62-550, 62-555, and 62-560, F.A.C., which implement the provisions of, and DEP’s responsibilities under, Chapter 403, F.S. Fire Safety requirements, including occupant load, are addressed in Chapter 69A-54, F.A.C., which are within the jurisdiction of the State Fire Marshal pursuant to Chapter 633, F.S. Finally, building construction, occupant load, plumbing fixtures and fixture ratios, lighting, ventilation, and equipment requirements are addressed by the Department of Community Affairs and the Florida Building Commission in the Florida Building Code pursuant to authority granted under Chapter 553, F.S.

Thus, the purpose of this proposed rulemaking is to identify and retain requirements from this chapter that are supported by the department’s statutory authority in Section 381.006(6), F.S., and to repeal rules that are not supported by that authority. The effect will be to ensure that the department’s rules comply with the APA’s requirement that each rule of a state agency reflect a specific law the agency is required to implement, interpret, or make specific.

SUMMARY: Rules 64E-26.002, 64E-26.003 and 64E-26.004, F.A.C., are being repealed as there is insufficient authority in Section 381.006(6), F.S., to define terms and adopt requirements related to water supplies and food service, and because the requirements in these sections duplicate rules of

the department and other state agencies. Additionally, references to building construction, occupant space, plumbing fixture design and ratios, lighting, equipment, and maintenance requirements found in Rules 64E-26.005 through 64E-26.0013, F.A.C., are also repealed as the department has no authority to adopt rules in these areas for detention facilities. Requirements currently listed in the above referenced rules that are supported by statutory authority, but which are not currently addressed in other agency rules, will be retained and consolidated into one rule section.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 381.006, 381.0011(13) FS.

LAW IMPLEMENTED: 381.006(6), 381.0011(4) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Leslie Harris, Environmental Administrator, Bureau of Community Environmental Health, Bin #A08, 4052 Bald Cypress Way, Tallahassee, Florida 32399-1710. Email address is Leslie_Harris@doh.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

64E-26.001 General.

This Rule Chapter 64E-26, F.A.C., addresses sanitary practices relating to the construction, operation and maintenance of State and Local Detention Facilities. Upon receipt of a complaint of violation of this chapter, the Department of Health shall refer the complaint to the appropriate agency having inspection authority over the particular facility referenced in the complaint. The department shall work with agencies having inspection authority over detention facilities to ensure that such complaints are referred and processed, and that the department's rules and sanitary standards are met.

Rulemaking Specific Authority 381.006, 381.0011(13) FS. Law Implemented 381.006(6), 381.0011(4) FS. History--New 11-18-76, Formerly 10D-7.01, Amended _____.

64E-26.002 Definitions.

Specific Authority 381.006 FS. Law Implemented 381.006(6) FS. History--New 11-18-76, Formerly 10D-7.02, Repealed _____.

64E-26.003 Water Supply.

Specific Authority 381.006 FS. Law Implemented 381.006(6) FS. History--New 11-18-76, Formerly 10D-7.03, Repealed _____.

64E-26.004 Food Service.

Specific Authority 381.006 FS. Law Implemented 381.006(6) FS. History--New 11-18-76, Formerly 10D-7.04, Repealed _____.

(Substantial rewording of Rule 64E-26.005 follows. See Florida Administrative Code for present text.)

64E-26.005 Sanitary Standards.

(1) Drinking utensils and showers.

(a) Inmates in areas where no approved drinking fountains are available shall be provided with single service cups which shall be stored and dispensed in a manner to prevent contamination, or reusable cups that can be and are cleaned and sanitized in accordance with Rule 64E-11.006, F.A.C. Common drinking cups are prohibited.

(b) Showers. Inmates shall be allowed to take showers at least twice weekly.

(2) Housekeeping.

(a) Inmate residential areas shall be kept clean and sanitary at all times. Floors, walls, ceilings, doors, windows, bars, and all appurtenances of the structures shall be kept clean. Plumbing fixtures, such as urinals, showers, toilets and lavatories shall be cleaned daily, and sanitized on a schedule established by the detention facility that is consistent with this rule. Such fixtures and areas shall be sanitized at least daily if used daily. Sanitizers shall be used in accordance with the label directions to achieve the intended effect. EPA registered disinfectants can be used instead of sanitizers as long as they are used in accordance with the directions on the product label.

(b) Mops, brooms and other cleaning equipment shall be stored in ventilated areas. Mop sinks and other janitorial facilities shall be kept clean.

(c) Inmates shall not store perishable foods in their lockers or living areas. Perishable foods are foods that are defined in subsection 64E-11.002(31), F.A.C.

(d) All floor drains shall be kept clean. All floor drain traps shall be kept wet to prevent sewer gas from entering the building.

(e) All housing facilities shall be kept free of offensive odors.

(3) Laundry and Dry Cleaning. Where laundry facilities are provided, they shall be kept clean. If laundry facilities are not available, sheets and blankets shall be sent to commercial laundries.

(4) Garbage and Rubbish.

(a) All garbage, trash and rubbish from inmate residential areas shall be collected daily and taken to storage facilities. Garbage shall be removed from storage facilities at least twice per week. Pending disposal, wet garbage shall be collected and stored in a manner that does not create a sanitary nuisance, such as in impervious, leak proof, fly tight containers. All containers, storage areas and surrounding premises shall be kept clean and free of vermin.

(b) If public or contract garbage collection service is available, the detention facility shall subscribe to these services unless the volume makes on-site disposal feasible. If garbage and trash are disposed of on premises, the method of disposal shall not create sanitary nuisance conditions and shall comply with Chapter 62-701, F.A.C.

(5) Bedding, Clothing and Personal Items.

Beds and bedding shall be cleaned and sanitized on a schedule established by the correctional facility that is consistent with this rule. Used mattress and pillow covers shall be laundered or washed and sanitized before issued. Sanitization procedures shall follow current industry practices, such as by the use of commercial laundry laundering procedures or chemical sanitizers registered with the United States Environmental Protection Agency. Sanitizers shall be used in accordance with the label directions to achieve the intended effect. EPA registered disinfectants can be used instead of sanitizers as long as they are used in accordance with the directions on the product label. Sheets and personal clothing shall be washed at least weekly and blankets washed or dry cleaned at least quarterly. Sheets and blankets shall be stored in a clean, dry place between laundering and issue.

(6) Insect and Rodent Control. Detention facilities shall be kept free of insects and rodents. All pesticides used to control insects or rodents shall be applied in accordance with instructions and cautions on the registered product label.

(7) Outdoor Areas. If a facility has an outdoor exercise area, it shall be kept free of litter and trash and be well drained. If toilet and lavatory facilities are provided, they shall be kept clean.

Rulemaking Specific Authority 381.006 FS. Law Implemented 381.006(6) FS. History–New 11-18-76, Formerly 10D-7.05, Amended _____.

64E-26.006 Garbage and Rubbish.

Specific Authority 381.006 FS. Law Implemented 381.006(6) FS. History–New 11-18-76, Formerly 10D-7.06, Repealed _____.

64E-26.007 Housing.

Specific Authority 381.006 FS. Law Implemented 381.006(6) FS. History–New 11-18-76, Formerly 10D-7.07, Repealed _____.

64E-26.008 Laundry and Dry Cleaning.

Specific Authority 381.006 FS. Law Implemented 381.006(6) FS. History–New 11-18-76, Formerly 10D-7.08, Amended 5-10-07, Repealed _____.

64E-26.009 Bedding, Clothing and Personal Items.

Specific Authority 381.006 FS. Law Implemented 381.006(6) FS. History–New 11-18-76, Formerly 10D-7.09, Repealed _____.

64E-26.010 Housekeeping.

Specific Authority 381.006 FS. Law Implemented 381.006(6) FS. History–New 11-18-76, Formerly 10D-7.10, Repealed _____.

64E-26.011 Insect and Rodent Control.

Specific Authority 381.006 FS. Law Implemented 381.006(6) FS. History–New 11-18-76, Formerly 10D-7.012, Repealed _____.

64E-26.012 Outdoor Areas.

Specific Authority 381.006 FS. Law Implemented 381.006(6) FS. History–New 11-18-76, Formerly 10D-7.012, Repealed _____.

64E-26.013 Industries.

Specific Authority 381.006 FS. Law Implemented 381.006(6) FS. History–New 11-18-76, Formerly 10D-7.013, Amended 5-10-07, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Leslie L. Harris

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D, M.P.H.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 6, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 2, 2009

DEPARTMENT OF HEALTH

Division of Health Access and Tobacco

RULE NOS.:	RULE TITLES:
64I-1.001	Definitions
64I-1.002	Ineligibility, Eligibility and Closure
64I-1.003	Services
64I-1.004	Scope of Services
64I-1.005	Transitional Living Facility (TLF) Services

PURPOSE AND EFFECT: The Department of Health, Brain and Spinal Cord Injury Program is proposing revisions to its current rules and proposing three additional rules under Chapter 64I, F.A.C. The purpose of the proposed revisions and new rules is to the clarify and add statute and rule definitions; address eligibility for and closure from the program; define services of the program; develop an order of selection; and to define services provided by a transitional living facility and requirements they must meet prior to providing services.

SUMMARY: Proposed changes to Rule 64I-1.001, F.A.C., will provide clear and understandable definitions of terms used in Sections 381.73-.79, F.S., and Rules 64I-1.001-1.004, F.A.C. In addition, technical revisions to the rule are proposed to capitalize defined terms, use established statutory abbreviations, and to correct the name of the program. Proposed changes to Rule 64I-1.002, F.A.C., will eliminate language relating to services and will focus on eligibility for and closure from the Brain and Spinal Cord Injury Program. The proposed changes will assist the program in closing individuals' cases that should be served by the state vocational rehabilitation program and will assist the program in determining eligibility for individuals who have previously

received services from the program. Proposed Rule 64I-1.003, F.A.C., will define to whom services can be provided by the Department. In addition, the proposed rule will clearly define what services the Department will not provide. Department staff will have specific guidelines on determining what services can be purchased and who is eligible to receive them. Services will only be provided to individuals who have been determined eligible for the program and to applicants only to the extent necessary to determine eligibility. In addition, the Department will not purchase specific services for individuals being served by the Department. Proposed Rule 64I-1.004, F.A.C., will develop an order of selection in the event the Department is unable to purchase services for all eligible individuals due to budget shortfall. The proposed rule also ensures that all eligible individuals will continue to receive case management services in the event the Department is unable to purchase services. Proposed Rule 64I-1.005, F.A.C., requires that transitional living facilities will serve only those individuals who have sustained a brain or spinal cord injury as defined by Section 381.745, F.S., and sets forth requirements a transitional living facility must meet prior to providing services. Transitional living facilities must satisfactorily receive designation from the Brain and Spinal Cord Injury Program after undergoing a survey. In addition, transitional living facilities must obtain accreditation from the Commission on Accreditation of Rehabilitation Facilities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: These rules do not impact small businesses (less than 200 employees), therefore a statement of estimated regulatory cost is not applicable.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 381.011 FS.

LAW IMPLEMENTED: 381.75, 381.76, 381.79, 400.805 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, February 16, 2010, 1:30 p.m.

PLACE: Department of Health, 4025 Esplanade Way, Room 301, Tallahassee, FL 32311

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Suzanne Kelly, Department of Health, Brain and Spinal Cord Injury Program, 4052 Bald Cypress Way, Tallahassee, Florida 32399; telephone: (850)245-4110; Email address: Suzanne_Kelly@doh.state.fl.us. If you are hearing or

speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Michael Greif, Department of Health, Office of the General Counsel, 4052 Bald Cypress Way, Tallahassee, Florida 32399; telephone: (850)245-4444, extension 2027; Email address: Michael_Greif@doh.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

64I-1.001 Definitions.

(1) Definitions for terms used in Sections 381.739-.79, F.S., and Rules 64I-1.001-1.004, F.A.C., ~~this rule~~, consistent with Section 381.745, F.S.

(a) Appropriate Level of Functioning in the Community: Maintaining oneself in a Ceommunity of one's informed choosing by performing ~~all~~ activities of daily living, independently, or with support, but without the need for Services. A particular level of functioning in the Community is not an Appropriate Level of Functioning in the Community if the underlying activities of daily living:

1. Cannot be safely performed in a manner that is consistent with the Eligible Individual's limitations; or

2. Are not financially supportable for the foreseeable future.

(b) No change.

(c) Legal Resident: An individual person who currently lives in Florida, has the present intent to remain in Florida indefinitely, and has lawful permanent presence in the United States of America.

(d) Medically Stable: The Applicant's mental and physical health are sufficiently stable so that BSCIP can make a determination as to whether the Applicant is otherwise eligible for the General Program.

(e) No change.

(f) Reintegration into the Community: Maintaining oneself in a Ceommunity by performing ~~all~~ activities of daily living, independently, or with support, but without the need for Services.

(g) Unable to Provide Services for all Eligible Individuals: The General Program is unable to purchase Services within three months of the scheduled time for each such Service for each Eligible Individual due to budget shortfall.

(2) Additional definitions for terms used in Rules 64I-1.001-1.004, F.A.C. ~~this rule~~, consistent with Section 381.745, F.S.

(a) Applicant: An individual person requesting determination of eligibility for the General Program.

(b) Community: A location no more restrictive than an assisted living facility licensed under Ch. Chapter 400, Pt. Part III, F.S.

(c) Eligible Individual Person: An individual person determined eligible for the General Program.

(d) Equipment: For purposes of Section 381.79(1)(b), F.S., means personal property not required to be titled under state law and does not include fixtures to real property except as modifications to a residence.

(e)~~(d)~~ General Program: The program for which eligibility is determined under Section 381.76, F.S.

(f)~~(e)~~ Glasgow Coma Scale Score (Glasgow): The neurological assessment developed by G. Teasdale and B. Jennett Jennitte in "Assessment of Coma and Impaired Consciousness: A Practical Scale," Lancet 1974; 22: 81-84. A copy of the Glasgow may be obtained from the Department of Health, Brain and Spinal Cord Injury ~~Prevention~~ Program, 4052 Bald Cypress Way, Bin C-25, Tallahassee, Florida 32399-1744 and which is incorporated herein by reference.

(g)~~(f)~~ Rancho Los Amigos Scale, revised (Rancho): A cognitive functioning scale to determine the level or severity of a brain injury based on observations of the patient's response to external stimuli. Original Scale co-authored by Chris Hagen, Ph.D., Danese Malkmus, M.A., Patricia Durham, M.A., Communication Disorders Service, Rancho Los Amigos Hospital, 1972. Revised 11/15/74 by Danese Malkmus, M.A., and Kathryn Stenderup, O.T.R. Revised scale 1997 by Chris Hagen. A copy of the Rancho may be obtained from the Department of Health, Brain and Spinal Cord Injury ~~Prevention~~ Program, 4052 Bald Cypress Way, Bin #C25, Tallahassee, Florida 32399-1744 and which is incorporated herein by reference.

(h)~~(g)~~ Services: Services provided by the General Program.

Rulemaking Specific Authority 381.0011 FS. Law Implemented 381.76 FS. History—New 5-9-05, Amended 10-31-05,_____.

64I-1.002 Ineligibility, Eligibility and Closure Services.

(1) An Applicant shall be determined ineligible for the General Program if the Applicant: All Services must be directed specifically to an individual applicant or eligible person by prior authorization of BSCIP.

(a) Is determined eligible for the state vocational rehabilitational program funded under the Rehabilitation Act of 1973, as amended;

(b) Does not require Services to achieve Reintegration into the Community;

(c) Is below Rancho 4 or otherwise is not reasonably expected to achieve Reintegration into the Community through Services; or

(d) Is otherwise categorically ineligible under the statutory criteria.

(2) An Eligible Individual's case shall be closed if the Eligible Individual is: Services can be delivered to an applicant only to the extent necessary to determine eligibility for the General Program; and does not include:

(a) Determined eligible for the state vocational rehabilitational program funded under the Rehabilitation Act of 1973, as amended; Upgrading, replacement or maintenance of a durable medical device;

(b) At an Appropriate Level of Functioning in the Community; or Funding for consumables (those items for which the very act of using destroys their further use), except in support of services, and then only during a twenty four (24) month period beginning with the first time such funding is authorized;

(c) Not reasonably expected to return to an Appropriate Level of Functioning in the Community through Services. Change in circumstances not directly related to the applicant or eligible person's brain or spinal cord injury and capable of repetition throughout the life of the applicant or eligible person. Examples of changes in circumstances capable of repetition include moving to another location, obtaining a vehicle or, except in the case of a person below the age of eighteen, the loss of a caregiver; or

(d) Any that require approval under federal law, such as human subject research.

(3) Prior closure does not prevent an individual from becoming an Applicant. The applicant shall be determined ineligible for the General Program if the applicant:

(a) Is determined eligible for and has an approved individual plan for employment from the state vocational rehabilitation program funded under the Rehabilitation Act of 1973, as amended;

(b) Does not require services to achieve reintegration into the community;

(c) Is below Rancho 4 or otherwise is not reasonably expected to achieve reintegration into the community through services; or

(d) Is otherwise categorically ineligible under the statutory criteria.

(4) Applicants previously closed under paragraph (2)(b) for not more than twelve months prior to again becoming an Applicant shall be: The eligible person's case shall be closed if the eligible person is:

(a) Presumed to satisfy Section 381.76(1)(a)-(d), F.S.; and Determined eligible for and has an approved individual plan for employment from the state vocational rehabilitation program funded under the Rehabilitation Act of 1973, as amended, except that such case shall remain open solely for case management if such is required;

(b) Presumed to satisfy Section 381.76(1)(e), F.S., if the specific required Services: Is at an appropriate level of functioning in the community; or

1. Are needed to achieve an Appropriate Level of Functioning in the Community;

2. Were not provided previously; and

3. Are not available or in sufficient supply from any other resource.

(e) Is not reasonably expected to return to an appropriate level of functioning in the community through services.

~~(5) Previous closure under paragraph (3)(b) or (4)(b) above does not prevent an individual from becoming an applicant.~~

Rulemaking Specific Authority 381.0011 FS. Law Implemented 381.76 FS. History–New 10-31-05, Amended _____.

64I-1.003 Services.

(1) All Services must be directed specifically to an individual Applicant or Eligible Individual by prior authorization of the General Program.

(2) Services can be delivered for an Applicant only to the extent necessary to determine eligibility for the General Program and for an Eligible Individual only to the extent necessary to achieve 1.002(2) closure.

(3) Services do not include:

(a) Upgrading, replacement or maintenance of a durable medical device;

(b) Funding for consumables (those items for which the very act of using destroys their further use), except in support of Services, and then for no more than twenty four (24) months beginning with the first time such funding is authorized;

(c) Any required by a change in circumstances not directly related to the Applicant or Eligible Individual's brain or spinal cord injury and capable of repetition throughout their life. Examples of changes in circumstances capable of repetition include moving to another location, obtaining a vehicle or, except in the case of an individual below the age of eighteen, the loss of a caregiver; or

(d) Any requiring approval under federal law, such as human subject research.

Rulemaking Authority 381.0011 FS. Law Implemented 381.79 FS. History–New _____.

64I-1.004 Order of Selection.

(1) Should the General Program be Unable to Provide Services for all Eligible Individuals, all Eligible Individuals shall continue to receive case coordination regarding Services not requiring authorization under Section 381.79(1)(a), F.S.

(2) Eligible Individuals shall receive Services requiring authorization under Section 381.79(1)(a), F.S., in the following order. Should the General Program be Unable to Provide Services requiring authorization under Section 381.79(1)(a), F.S., to all Eligible Individuals within any of categories (a)-(d), individuals within that category and all remaining Eligible Individuals shall be served under paragraph (e):

(a) Within 1 week of expected completion of the last scheduled Service before 1.002(a) or 1.002(b) closure.

(b) Within 2 weeks of expected completion of the last scheduled Service before 1.002(a) or 1.002(b) closure.

(c) Within 3 weeks of expected completion of the last scheduled Service before 1.002(a) or 1.002(b) closure.

(d) Within 4 weeks of expected completion of the last scheduled Service before 1.002(a) or 1.002(b) closure.

(e) The remainder, in order from greatest to least risk of institutionalization, as determined by the General Program using the Home and Community-Based Medicaid Waiver Prioritization Screening Instrument, April 2006, as referenced in Rule 59G-13.130, F.A.C.

Rulemaking Authority 381.0011 FS. Law Implemented 381.76 FS. History–New _____.

64I-1.005 Transitional Living Facility (TLF) Services.

(1) Services:

(a) No entity can deliver TLF services without complying with this rule and before receiving a TLF license from the Agency for Health Care Administration under Section 400.805, Ch. 59A-17, F.A.C.:

(b) TLF services are solely for persons who have sustained brain or spinal cord injury as defined in Section 381.745, F.S.:

(c) TLF services do not include services as an appropriate discharge site:

(d) No entity can deliver services as a TLF before requesting and satisfactorily undergoing a Brain and Spinal Cord Injury Program survey using the Transitional Living Facility Survey Report – Brain Injury Plan and Transitional Living Facility Survey Report – Spinal Cord Injury Plan Standards and Criteria for Transitional Living Facilities, respectively, DH Forms DH-BSC 1008, 7/09 and 1009, 7/09. These forms are incorporated by reference and copies are available from the Department. Copies of these forms and requests for Brain and Spinal Cord Injury Program survey may be made by contacting the Brain and Spinal Cord Injury Program via: mail at 4052 Bald Cypress Way, Bin C-25, Tallahassee, FL 32399-1744 or telephone (850)245-4045 or toll-free (866)875-5660. Copies of the form may also be obtained at <http://www.doh.state.fl.us/demo/BrainSC/Facilities/ReviewInstruments.htm>.

(e) No entity can deliver services as a TLF except upon obtaining and maintaining Commission on Accreditation of Rehabilitation Facilities (CARF) accreditation for actions taken or intended to be taken under a TLF license. CARF may be reached via: the internet www.carf.org; telephone, (202)587-5001 or toll-free (866)888-1122 voice; fax, (202)587-5009; and by mail CARF-CCAC, 1730 Rhode Island Avenue N.W., Suite 209, Washington, DC 20036, USA.

Rulemaking Authority 381.0011 FS. Law Implemented 381.75, 400.805 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Thom DeLilla, Bureau Chief, Brain and Spinal Cord Injury Program

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 6, 2010
 DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 15, 2008, September 26, 2008 and June 26, 2009

DEPARTMENT OF FINANCIAL SERVICES

Division of Accounting and Auditing

RULE NO.: 69I-20.041
 RULE TITLE: Unclaimed Property Reporting Instructions

PURPOSE AND EFFECT: Proposed Rule 69I-20.041, F.A.C., creates an unclaimed property reporting manual for use by holders of unclaimed property. The manual contains information that holders will need to properly report and remit unclaimed property to the Department.

SUMMARY: The reporting manual created by proposed Rule 69I-20.041, F.A.C., discusses what is unclaimed property and how, when and where to report unclaimed property. The manual also discusses the due diligence requirement, whether a holder of unclaimed property may obtain an extension of the report due date, unclaimed property reporting forms, electronic reporting, record retention requirements and safe deposit box shipping requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small business. A SERC has been prepared by the agency.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 717.117(1), 717.138 FS.
 LAW IMPLEMENTED: 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.129, 717.1311, 717.134 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Thursday, February 18, 2010, 9:30 a.m.
 PLACE: Suite B 103, The Fletcher Building, 101 E. Gaines St., Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Paul Stadler, Jr., (850)413-3010. If you are hearing

or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Paul C. Stadler, Jr., Assistant General Counsel, Department of Financial Services, 200 E. Gaines St., Tallahassee, Florida 32399-4247, (850)413-3010

THE FULL TEXT OF THE PROPOSED RULE IS:

69I-20.041 Unclaimed Property Reporting Instructions.

The Department's mission is to collect and return unclaimed property to its rightful owners in accordance with the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S. To achieve these results, the Department is encouraging businesses ("Holders") inside and outside the State of Florida that are in possession of unclaimed property to comply with Florida's Unclaimed Property Law. When reporting and remitting unclaimed property to the Department, Holders must follow the procedures in Form DFS-A4-1992, Florida Unclaimed Property Reporting Instructions Manual, effective _____, incorporated by reference and available from the Florida Department of Financial Services, Bureau of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358.

Rulemaking Authority 717.117(1), 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.129, 717.1311, 717.134 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Walter Graham, Chief, Bureau of Unclaimed Property

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief Financial Officer

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 4, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 4, 2009

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-1.001
 RULE TITLE: List of Approved Forms; Incorporation by Reference

PURPOSE AND EFFECT: The purpose of the proposed amendment is to adopt three new forms that can be used by funeral establishments, direct disposal establishments and cinerator facilities to report a change of location and request an inspection of the new location by the Department.

SUMMARY: The rule adopts three new forms that can be used by funeral establishments, direct disposal establishments and cinerator facilities to report a change of location and request an inspection of the new location are being adopted. A duplicate

license fee of \$25 pursuant to Sections 497.140(4) and 497.161(1)(d), F.S., is required since licenses are not transferable.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A duplicate license fee of \$25 will be required since licenses are not transferable pursuant to Sections 497.141(10) and (12)(h), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 497.101(8), 497.103(5)(b), 497.141(2), (12)(f), 497.142(10)(g), (12), 497.146, 497.147(4)(a), (d), (5), 497.263(2)(a), 497.264(2)(a), 497.266(2), 497.269, 497.270(2), 497.272(7), 497.283(2)(c), 497.287(2), 497.367(2), 497.370(1), 497.375(1), 497.380(4), (12), 497.382(1), (2), 497.385(1)(a), (g)1., (2)(f), (g), 497.453(1)(a), (4)(b), (5)(a), (b), (7)(a), (8), 497.454(1), 497.456(13)(f), 497.461(4), (8), (12), (16), 497.462(2), (10), 497.464(3), 497.466(5)(c), (8)(a), 497.550(2), 497.551(3), 497.553(2), (6)(a), 497.554(2), 497.602(2)(a), 497.603(2), 497.604(2)(a), (6), 497.606(2)(a), (6), (9)(a), 497.608(2) FS.

LAW IMPLEMENTED: 497.101(8), 497.103(2)(c), 497.149, 497.141, 497.142, 497.143, 497.146, 497.147, 497.263, 497.264, 497.266, 497.269, 497.270, 497.272, 497.281, 497.283, 497.287, 497.365, 497.367, 497.368, 497.369, 497.370, 497.373, 497.374, 497.375, 497.378, 497.379, 497.380, 497.382, 497.385, 497.453, 497.454, 497.456, 497.461, 497.462, 497.464, 497.466, 497.550, 497.551, 497.553, 497.554, 497.602, 497.603, 497.604, 497.606, 497.608 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: February 15, 2010, 2:00 p.m.

PLACE: Alexander Building, 2020 Capital Circle S.E., Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: LaTonya Bryant-Parker at (850)413-3083 or LaTonya.Bryant-Parker@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: LaTonya Bryant-Parker, Division of Funeral, Cemetery, and Consumer Services, Alexander Building, 2020 Capital Circle, S.E., Tallahassee, FL 32399-0361, (850)413-4083

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-1.001 List of Approved Forms; Incorporation by Reference.

The following forms are hereby adopted and incorporated by reference, and can be obtained from the Department by writing to the Department of Financial Services, Division of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361, by logging on to the Department's website at <http://www.myfloridacfo.com/FuneralCemetery/>, or by telephoning (850)413-3039:

(1) through (99) No change.

(100) DFS-N1-2001, "Notice of Change in Location of Funeral Establishment." Eff. 10/09.

(101) DFS-N1-2002, "Notice of Change in Location of Cinerator Facility." Eff. 10/09.

(102) DFS-N1-2003, "Notice of Change in Location of Direct Disposal Establishment." Eff. 10/09.

Rulemaking Specific Authority 497.101(8), 497.103(5)(b), 497.141(2), (12)(f), 497.142(10)(g), (12), 497.146, 497.147(4)(a), (d), (5), 497.263(2)(a), 497.264(2)(a), 497.266(2), 497.269, 497.270(2), 497.272(7), 497.283(2)(c), 497.287(2), 497.367(2), 497.370(1), 497.375(1), 497.380(4), (12), 497.382(1), (2), 497.385(1)(a), (g)1., (2)(f), (g), 497.453(1)(a), (4)(b), (5)(a), (b), (7)(a), (8), 497.454(1), 497.456(13)(f), 497.461(4), (8), (12), (16), 497.462(2), (10), 497.464(3), 497.466(5)(c), (8)(a), 497.550(2), 497.551(3), 497.553(2), (6)(a), 497.554(2), 497.602(2)(a), 497.603(2), 497.604(2)(a), (6), 497.606(2)(a), (6), (9)(a), 497.608(2) FS. Law Implemented 497.101(8), 497.103(2)(c), 497.149, 497.141, 497.142, 497.143, 497.146, 497.147, 497.263, 497.264, 497.266, 497.269, 497.270, 497.272, 497.281, 497.283, 497.287, 497.365, 497.367, 497.368, 497.369, 497.370, 497.373, 497.374, 497.375, 497.378, 497.379, 497.380, 497.382, 497.385, 497.453, 497.454, 497.456, 497.461, 497.462, 497.464, 497.466, 497.550, 497.551, 497.553, 497.554, 497.602, 497.603, 497.604, 497.606, 497.608 FS. History—New 9-28-03, Formerly 3F-5.010, 69K-5.010, Amended 1-24-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Doug Shropshire, Director, Division of Funeral, Cemetery, and Consumer Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief Financial Officer

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 6, 2009