

(6)(5) Every investment adviser that has its principal place of business in a state other than this state shall be exempt from the requirements of this rule, provided the investment adviser is licensed in such state and is in compliance with that state's record keeping requirements.

(7)(6) All books and records described in this rule shall be preserved in accordance with the following:

(a) Those records required under subsection (1) of this rule shall be preserved for such periods of time as specified in either SEC Rule 17a-4 (17 CFR 240.17a-4), or MSRB Rule G-9, as such rules existed on February 1, 2006 July 1, 2003.

(b) Those records required under subsections (2) of this rule shall be preserved for a period of not less than five (5) years while effectively registered with the Department, nor for less than five (5) years after withdrawal or expiration of registration in this State.

(c) Books and records required to be prepared under the provisions of subsection (3) shall be maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on such record, the first two years in the principal office of the investment adviser.

(d) Books and records required to be made under the provisions of subsection (3), shall be maintained and preserved for a period of not less than five years from the end of the fiscal year during which the last entry was made on such record or for the time period during which the investment adviser was registered or required to be registered in the state, if registered less than five years.

(e) Each investment adviser registered or required to be registered in this state and which has a business location in this state shall maintain at such business location:

1. The records or copies required under the provisions of paragraphs (a)(3), (a)(7)-(10), (a)(14)-(15), (b), and (c) of SEC Rule 204-2 (17 CFR 275.204-2), as such rule existed on February 1, 2006; and

2. The records or copies required under the provisions of paragraphs (3)(a)-(j) above related to customers or clients for whom the investment adviser representative provides or has provided investment advisory services; and,

3. The records or copies required under the provisions of paragraphs (a)(11) and (a)(16) of SEC Rule 204-2 (17 CFR275.204-2), as such rule existed on February 1, 2006, which records or related records identify the name of the investment adviser representative or which identify the business locations' physical address, mailing address, electronic mailing address, or telephone number. The records will be maintained for the period described in subsections (d) and (e) of SEC Rule 204-2 (17 CFR 275.204-2), as such rules existed on February 1, 2006. The investment adviser shall be responsible for ensuring compliance with the provision of this subsection.

(8)(7) To the extent that the U.S. Securities and Exchange Commission promulgates changes to the above-referenced rules of the Investment Advisers Act of 1940, investment advisers in compliance with such rules as amended shall not be subject to enforcement action by the Department for violation of this rule to the extent that the violation results solely from the investment adviser's compliance with the amended rule.

Specific Authority 517.03(1), 517.121(1), 517.1215 FS. Law Implemented 517.121(1), 517.1215 FS. History--New 12-5-79, Amended 9-20-82, Formerly 3E-600.14, Amended 10-14-90, 8-1-91, 6-16-92, 1-11-93, 9-9-96, 6-22-98, 1-25-00, 10-30-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bridget D. Dervish, Area Financial Manager, Bureau of Securities Regulation
NAME OF SUPERVISOR OR PERSON WHO APPROVED PROPOSED RULE: Financial Services Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 14, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 23, 2005

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6B-4.010
RULE TITLE: Instructional Personnel Assessment
NOTICE OF CORRECTION

Notice is hereby given that the above proposed rule notice was submitted by the Department of Education, State Board of Education, and was changed by the publisher of the F.A.W. as shown in Vol. 32, No. 3, January 20, 2006 issue of the F.A.W.

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Community Planning

RULE CHAPTER TITLE: Governing the Procedure for Submittal and Review of Local Government Comprehensive Plans and Amendments
RULE CHAPTER NO.: 9J-11
RULE TITLES: Submittal Requirements for Proposed Local Government Comprehensive Plans
RULE NOS.: 9J-11.004
Submittal Requirements for Proposed Local Government Comprehensive Plan Amendments
9J-11.006

Action Upon Receipt of Proposed Local Government Comprehensive Plan Amendment 9J-11.009

Review of Proposed Local Government Comprehensive Plan or Proposed Plan Amendment 9J-11.010

Local Government Adoption of the Comprehensive Plan or Plan Amendment and Submittal for the Compliance Review 9J-11.011

Compliance Review and Notice of Intent 9J-11.012

Local Government Adoption of Comprehensive Plan Compliance Agreement(s) and Transmittal to the Department 9J-11.0131

Submittal Requirements for Adopted Amendments that are Exempt from State and Regional Review 9J-11.015

Evaluation and Appraisal Reports and Evaluation and Appraisal Report-Based Amendments 9J-11.018

Submittal Requirements for Public Schools Interlocal Agreement and Amended Agreements 9J-11.022

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 31, No. 50, December 16, 2005, edition of the Florida Administrative Weekly. The changes are incorporated within the amended portions as they appeared in the Florida Administrative Weekly.

9J-11.004 Submittal Requirements for Proposed Local Government Comprehensive Plans.

- (1) No change.
- (2) The local government shall submit three copies of all comprehensive plan materials, of which at least one copy shall be paper and up to the other two copies may be on CD ROM in Portable Document Format (PDF), including graphic and textual materials and support documents directly to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team and one copy directly to the appropriate agencies listed in subsection 9J-11.009(6), F.A.C. Each proposed comprehensive plan shall be accompanied by the following documents:

(a) through (d) No change.

9J-11.006 Submittal Requirements for Proposed Local Government Comprehensive Plan Amendments.

- (1) The local government shall submit three copies of each proposed amendment, of which at least one copy shall be paper and up to the other two copies may be on CD ROM in Portable Document Format (PDF), including applicable supporting documents which include data and analyses directly to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team, and one copy directly to the appropriate agencies list in subsection

9J-11.009(6), F.A.C. Proposed plan amendments, except those discussed under the exemption provisions of subparagraph 9J-11.006(1)(a)7., F.A.C., below, shall be consolidated into a single submission for each of the two plan amendment adoption times during the calendar year. The comprehensive plan submitted pursuant to Section 163.3167, F.S., shall be counted as one of the two plan amendment adoption times during the calendar year; however, only the submittal requirements of Rule 9J-11.004, F.A.C., must be followed. For each proposed plan amendment submittal package, the local governing body shall submit:

- (a) through (3) No change.
- 9J-11.009 Action Upon Receipt of Proposed Local Government Comprehensive Plan Amendment.

- (1) through (7) No change.
- (8) Local governments are prohibited from adopting some amendments to their comprehensive plans for failure to comply with the following statutory requirements:

(a) Pursuant to Section 163.3177(3)(b)1, F.S., future land use map amendments may not be adopted if the local government has failed to adopt the annual capital improvements update by December 1 each year beginning 2007, except a local government may adopt emergency amendments pursuant to Section 163.3187(1)(a), F.S.;

(b) through (f) No change.

(g) If local governments are prohibited from amending the comprehensive plan pursuant to paragraphs 9J-11.009(8)(a) through (f), F.A.C., then during the time period of the prohibition, amendments will not be processed by the Department, and will be returned to the local government. In order to secure review thereafter, the local government may readopt and resubmit the amendments in accordance with the requirements of Sections 163.3184, 163.3187, and 163.3189, F.S.

9J-11.011 Local Government Adoption of the Comprehensive Plan or Plan Amendment and Submittal for the Compliance Review.

- (1) through (4) No change.
- (5) The local government shall submit, within ten working days after adoption, three copies of all comprehensive plan and plan amendment materials, of which at least one copy shall be paper and up to the other two copies may be on CD ROM in Portable Document Format (PDF), including graphic and textual materials and support documents directly to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team and one copy directly to the appropriate agencies listed in subsection 9J-11.009(6), F.A.C., and local governments or any other interested parties that have filed a written request with the governing body for a copy of the plan or amendment. The local government must ensure that the review agencies' copy of the adopted plan remains

complete by also transmitting copies of each subsequently adopted plan amendment and related documents to review agencies at the time of each adoption.

(a) through (7) No change.

(8) In the case where the local government amends the capital improvement element, the following information will be required:

(a) If the ~~local government amendment~~ adopts corrections and modifications of the capital improvements element concerning costs, revenue sources, or acceptance of facilities pursuant to dedications that are consistent with the plan pursuant to Section 163.3177(3)(b), F.S., a copy of the executed ordinance shall be submitted to the Department within ten working days after adoption. Copies of the referenced executed ordinances in this section of Rule 9J-11.011, F.A.C., shall be sent to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team and will not be subject to a compliance review.

(b) through (10) No change.

9J-11.0131 Local Government Adoption of Comprehensive Plan Compliance Agreement Amendment(s) and Transmittal to the Department.

(1) through (2) No change.

(3) Within ten working days after the local government has adopted the compliance agreement plan amendment(s), the local government shall submit to the Department a complete compliance agreement plan amendment(s) package consisting of: a transmittal cover letter signed by the chief elected official indicating compliance with paragraphs 9J-11.0131(2)(a), (b) and (c), F.A.C., the executed ordinance(s) adopting the compliance agreement plan amendment(s) and three copies of the compliance agreement plan amendment(s), of which at least one copy shall be paper and up to the other two copies may be on CD ROM in Portable Document Format (PDF). This material shall be sent directly to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team. The local government shall also submit one copy of the adopted compliance agreement plan amendment(s) to the appropriate regional planning councils, local governments or government agency in the state that has filed a written request and intervenors as indicated in Section 163.3184(16)(d), F.S.

9J-11.015 Submittal Requirements for Adopted Amendments that are Exempt from State and Regional Review.

(1) The local government shall submit, within ten working days after adoption, one copy of all plan amendment materials, which may be on CD ROM in Portable Document Format (PDF) or on paper, including graphic and textual materials and support documents directly to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team.

(a) through (2) No change.

9J-11.018 Evaluation and Appraisal Reports and Evaluation and Appraisal Report-Based Amendments.

(1) No change.

(2) TRANSMITTAL REQUIREMENTS FOR PROPOSED EVALUATION AND APPRAISAL REPORT.

(a) If local government elects to submit a proposed Evaluation and Appraisal Report 90 days prior to the evaluation and appraisal report schedule, the local planning agency shall prepare and transmit a proposed evaluation and appraisal report to the local governing body for review and contemporaneously send a copy to the Department, which may be on CD ROM in Portable Document Format (PDF) or on paper, and each review agency as listed under subsection 9J-11.009(6), F.A.C. The local planning agency shall submit a transmittal letter which specifies the date or dates on which the local planning agency held the public hearing and the date that the proposed evaluation and appraisal report was transmitted to each review agency as listed under subsection 9J-11.009(6), F.A.C. At a minimum, the format and content of the proposed report will include a table of contents; numbered pages; element headings; section headings within elements; a list of included tables, maps and figures; titles and sources for all included tables, maps and figures; where applicable, maps shall include major natural and man-made geographic features, city, county and state lines; maps shall contain a legend indicating a north arrow, map scale and date; a preparation date; and the name of the preparer.

(b) through (e) No change.

(3) SUBMITTAL REQUIREMENTS FOR ADOPTED EVALUATION AND APPRAISAL REPORT.

(a) Within 90 days after receiving the proposed evaluation and appraisal report from the local planning agency, the local governing body shall adopt, or adopt with changes, the proposed evaluation and appraisal report. Within ten working days of adoption of the report, the local governing body shall submit three copies of the adopted report, of which at least one copy shall be paper and up to the other two copies may be on CD ROM in Portable Document Format (PDF), to the Department. If a proposed report was provided, the local government shall provide a copy of the report to the reviewing agencies which provided comments for the proposed report to the local government. If a proposed report was not provided pursuant to Section 163.3191(5), F.S., the local government shall provide a copy of the report to all reviewing agencies as listed under subsection 9J-11.009(6), F.A.C., including adjacent local governments.

(b) through (5) No change.

(6) SUBMITTAL OF COMPLETE UPDATED PLAN.

The local government shall submit a complete copy of the updated comprehensive plan, which may be on CD ROM in Portable Document Format (PDF) or on paper, within 6 months after the effective date of the evaluation and appraisal report-based amendments.

9J-11.022 Submittal Requirements for Public Schools Interlocal Agreement and Amended Agreements.

(1) through (2)(a) No change.

(b) The local government shall submit three copies, of which at least one copy shall be paper and up to the other two copies may be on CD ROM in Portable Document Format (PDF), of the executed interlocal agreement or amended agreement to the Department, one copy to the Office of Educational Facilities and SMART Schools Clearinghouse.

(c) through (4) No change.

THE PERSON TO BE CONTACTED REGARDING THE NOTICE OF CHANGE IS: Ray Eubanks, Community Program Administrator, Division of Community Planning, Bureau of State Planning, Plan and DRI Processing Unit, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

AGENCY FOR HEALTH CARE ADMINISTRATION

Division of Health Quality Assurance

RULE NO.: 59A-3.281
 RULE TITLE: Spontaneous Fetal Demise
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 32, No. 3, January 20, 2006, issue of the Florida Administrative Weekly. Changes are made on the basis of comments and recommendations received from the Joint Administrative Procedures Committee.

TEXT OF PROPOSED RULE CHANGES:

59A-3.281 Spontaneous Fetal Demise.

When a spontaneous fetal demise occurs after a gestation of less than 20 completed weeks, the health care facility identified in subsection 383.33625(4), F.S., shall follow the provisions of that section and shall provide AHCA Form 3100-0006, January 2005, Notification of Disposition of Fetal Demise, to the mother for her completion. AHCA Form 3100-0006, January 2005 is incorporated in this rule by reference and available at http://ahca.myflorida.com/MCHO/Health_Facility_Regulation/Hospital_Outpatient/hospital.shtml, or from the

Hospital and Outpatient Services Unit at 2727 Mahan Drive MS #31, Tallahassee, FL 32308. A copy of the signed and completed form shall be retained in the mother’s birth center file and shall be available for review by the Agency or Department of Health.

Specific Authority 383.33625(6) FS. Law Implemented 383.33625, 395.1055(1)(b), 395.3025(4)(c) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Bill McCort, Bureau of Health Facility Regulation, Division of Health Quality Assurance

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-1.010
 RULE TITLE: Definitions
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 31, No. 49, December 9, 2005, issue of the Florida Administrative Weekly. These changes are in response to written comments received from the Joint Administrative Procedures Committee.

59G-1.010 Definitions.

~~(1) “Abuse” is as defined in Section 409.913(1)(a), F.S. means provider practices that are inconsistent with sound fiscal, business, or professional practices and result in an unnecessary cost to the Medicaid program, or in reimbursement for medical or allied care, goods, or services that are not medically necessary or that fail to meet professionally recognized standards for health care. It includes any unintentional violation of federal or state laws, regulations, rules, policies, directives or agreements relating to the Medicaid program. It also includes, or misutilization, whether intentional or inadvertent, including inappropriate prescribing, dispensing, or otherwise furnishing drugs or other medical or allied care, goods, or services by a provider. It also includes recipient practices that result in unnecessary cost to the Medicaid program.~~

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE NO.: 61J2-3.008
 RULE TITLE: Pre-licensing Education for Broker and Sales Associates Applicants
 NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 30, No. 22, May 28, 2004, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE NO.: 61J2-3.009
 RULE TITLE: Continuing Education for Active and Inactive Broker and Sales Associates Licensees

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 30, No. 22, May 28, 2004, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE NO.: 61J2-3.020
 RULE TITLE: Post-licensing Education for Active and Inactive Broker and Sales Associates Licensees

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 30, No. 22, May 28, 2004, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NOS.: 64B18-14.002, 64B18-14.010
 RULE TITLES: Penalties, Citations

NOTICE OF CHANGE

Notice is hereby given that the following additional changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 31, No. 32, of the August 12, 2005, issue of the Florida Administrative Weekly. The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The change is as follows:

1. Paragraph 64B18-14.002(2)(rr) shall read as:

(rr) Failure to submit or update required information. The Board shall impose a penalty ranging from a reprimand up to probation plus a fine from \$2,500.00 to \$5,000.00 pursuant to Section 456.039(3), Florida Statutes.

Specific Authority 456.039(3), 456.073(3), 456.079, 461.003, 461.005, 461.013 FS.

2. Subsection 64B18-14.010 shall read as:

(j) Failure to comply with Section 456.039(3)(b) a fine of \$50.00 per day.

Specific Authority 456.057, 456.072, 456.077, 456.077(2), 461.012, 461.13(7) FS.

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

FINANCIAL SERVICES COMMISSION

Office of Insurance Regulation

RULE NO.: 69O-125.003
 RULE TITLE: Unfair Discrimination Because of Travel Plans
NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule, in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 31, No. 47, November 23, 2005, of the Florida Administrative Weekly. These changes are being made for clarification.

Subsection (1) of Rule 69O-125.003, F.A.C., is revised to remove the word "solely" from the text of the rule.

The remainder of the rule reads as previously published.

**Section IV
 Emergency Rules**

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**Section V
 Petitions and Dispositions Regarding Rule Variance or Waiver**

DEPARTMENT OF COMMUNITY AFFAIRS

NOTICE IS HEREBY GIVEN that the Department of Community Affairs received a Petition for Emergency Waiver on February 10, 2006, from Volusia County. The petitioner