

69B-211.320 Curriculum Standards for Special Designation.
 Pursuant to Section 626.221(1), F.S., the Department of Financial Services establishes the following curriculum standards:

- (1) No change.
- (2) For designation as an Accredited Claims Adjuster (ACA), ~~or~~ Professional Claims Adjuster (PCA), Professional Property Insurance Adjuster (PPIA) or Certified Claims Adjuster (CCA), the requirement is at least 40 course hours:

(a) through (b) No change.

Specific Authority 626.221 FS. Law Implemented 626.221 FS. History—New 11-6-01, Amended 8-7-03, Formerly 4-211.320, Amended 1-17-05, _____.

Section II Proposed Rules

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."

AGENCY FOR HEALTH CARE ADMINISTRATION Health Quality Assurance

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
59A-31	Disputed Reimbursement Rule
RULE NOS.:	RULE TITLES:
59A-31.002	Disputed Reimbursement
59A-31.003	Petition Form
59A-31.004	Carrier Response Form
59A-31.005	Petition Requirements
59A-31.006	Consolidation of Petitions
59A-31.007	Service of Petition on Carrier and Affected Parties
59A-31.008	Computation of Time
59A-31.009	Carrier Response Requirements
59A-31.010	Effect of Non-Response by Carrier
59A-31.011	Complete Record
59A-31.012	Joint Stipulation of the Parties
59A-31.013	Petition Withdrawal
59A-31.014	Overutilization Issues Raised in Reimbursement Dispute Resolution
59A-31.015	Managed Care Arrangements

PURPOSE AND EFFECT: The purpose of the proposed rules is to substantially reword the existing rule to establish uniform procedures and form filing requirements for health care providers and employer/carriers regarding AHCA resolution of workers' compensation reimbursement disputes.

SUMMARY: The proposed rule enumerates the procedural requirements of the Agency's Reimbursement Dispute process.
 SUMMARY OF THE STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 440.13(7), 440.134(25)(e), 440.591 FS.

LAW IMPLEMENTED: 440.13(7) FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: August 11, 2006, 10:00 a.m. – 12:00 Noon
 PLACE: Room 104-J, Hartman Bldg., 2012 Capital Circle, S.E., Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Beverly J. Williams, Medical Health Care Program Analyst, AHCA, Workers' Compensation Unit, 2012 Capital Circle, Southeast, Tallahassee, Florida 32399-4232

THE FULL TEXT OF THE PROPOSED RULES IS:

59A-31.002 Disputed Reimbursement.

Specific Authority 440.13(7) FS. Law Implemented 440.13(2)(a)(i) FS. History—New 5-15-1991, Formerly 38F-7.517, 4L-7.517, F.A.C. Amended 4-2-06, Repealed _____.

59A-31.003 Petition Form.

(1) The Petition for Resolution of Reimbursement Dispute Form (AHCA Form 3160-0023) is hereby incorporated by reference. This form may be obtained on the Internet at <http://www.fldfs.com/wc/forms.html> or by contacting the Agency at (850)413-1613.

(2) A petition to contest carrier disallowance or adjustment of payment pursuant to Section 440.13(7)(a), F.S., must be on the Petition for Resolution of Reimbursement Dispute form. Any submission seeking to contest the disallowance or adjustment of payment by a carrier pursuant to Section 440.13(7)(a), F.S., must include a completed Petition for Resolution of Reimbursement Dispute form.

Specific Authority 440.13(7)(e) FS. Law Implemented 440.13(7)(a) FS. History—New _____

59A-31.004 Carrier Response Form.

(1) The Carrier Response to Petition for Resolution of Reimbursement Dispute form (AHCA Form 3160-0024) is hereby incorporated by reference. This form may be obtained on the Internet at <http://www.fldfs.com/wc/forms.html> or by contacting the Agency at (850)413-1613.

(2) The Carrier Response to Petition for Resolution of Reimbursement Dispute form shall be considered a required element of the requested documentation to the Agency under Section 440.13(7)(b), F.S. The Carrier Response to Petition for Resolution of Reimbursement Dispute form shall be the only form accepted by the Agency upon which a carrier may submit to the Agency its response to a Petition for Resolution of Reimbursement Dispute. Any submission by a carrier pursuant to Section 440.13(7)(b), F.S., that does not include a completed Carrier Response to Petition for Resolution of Reimbursement Dispute form shall result in a notice of deficiency by the Agency. A carrier shall have 10 calendar days from receipt of the notice of deficiency to cure the deficiency identified in the Agency notice of deficiency. Failure to timely cure the deficiency shall constitute failure to submit requested documentation to the Agency.

Specific Authority 440.13(7)(e) FS. Law Implemented 440.13(7)(b) FS. History--New _____.

59A-31.005 Petition Requirements.

(1) All documents and records that support the allegation contained in the petition must accompany the petition. A petition that is accompanied by all items specified below will not be dismissed for failure to submit supporting documents and records:

(a) A copy of each Explanation of Bill Review received from the carrier providing notice of disallowance or adjustment of payment in this dispute.

(b) A copy of the medical bill or medical bills or request for reimbursement for which payment was disallowed or adjusted by the carrier on the contested Explanation of Bill Review(s).

(c) All medical documentation and records submitted to the carrier in support of the medical bill(s) or request(s) for reimbursement, which are the subject of this dispute.

(d) If the answer to question 5 on the Petition for Resolution of Reimbursement Dispute form is yes, a copy of all applicable provision(s) of the reimbursement contract.

(e) Provider's documentation of authorization by carrier for non-emergency treatment for the date(s) of service covered by the petition.

(f) Documentation of health care provider notification to the carrier, pursuant to Section 440.13(3)(b), F.S., for emergency treatment for the date(s) of service included in the petition.

(2) If the petitioner does not submit a completed Petition for Resolution of Reimbursement Dispute form, accompanied by all of the items specified in subsection 59A-31.005(1), F.A.C., the petitioner will be notified by the Agency of the deficiency in submission. The petitioner shall have 10 calendar days from receipt of the notice of deficiency to care the deficiency by providing to the Agency the items specified in the Agency notice along with proof of proper service of the

curative documentation on the carrier. If the Agency does not receive the curative documentation and proof of service of the curative documentation on the carrier within 10 days after petitioner's receipt of the notice of deficiency, the petition will be dismissed with prejudice.

(3) Documents and records accompanying the petition must be submitted in hard copy.

Specific Authority 440.13(7)(e), 440.591 FS. Law Implemented 440.13(7) FS. History--New _____.

59A-31.006 Consolidation of Petitions.

(1) If multiple petitions addressing the same substantive issue(s) have been filed by petitioner contesting disallowance or adjustment of payment by the same carrier, the Agency may, in its discretion, consolidate the petitions into a single determination.

(2) If the Agency consolidates multiple petitions into a single determination, the timetable for rendering a determination upon a consolidated petition shall be expanded to 120 days after Agency receipt of all documentation.

Specific Authority 440.13(7)(e), 440.591 FS. Law Implemented 440.13(7)(e) FS. History--New _____.

59A-31.007 Service of Petition on Carrier and Affected Parties.

(1) The petitioner shall effectuate service on the carrier and on all affected parties by serving a copy of the petition and all documents and records in support of the petition, by United States Postal Service (USPS) certified mail on the entity identified on the Explanation of Bill Review as the entity the carrier designates to receive service on behalf of the carrier and all affected parties. If the Explanation of Bill Review does not specifically identify the name and mailing address of the entity the carrier designates to receive service on behalf of the carrier and all affected parties, as required by paragraph 69L-7.602(5)(q), F.A.C., the petitioner may effectuate service of the petition on the carrier and all affected parties by serving a copy of the petition and all documents and records in support of the petition by United States Postal Service (USPS) certified mail, on the entity who issued the Explanation of Bill Review at the address from which the Explanation of Bill Review was issued.

(2) A Petition for Resolution of Reimbursement Dispute must be served on the carrier and all affected parties by United States Postal Service (USPS) certified mail. Service on the carrier shall include all documents and records submitted to the Agency in support of the petition.

(3) Service by certified mail means service by United States Postal Service (USPS) certified mail. Service by United States Postal Service (USPS) delivery other than certified mail or service by common carrier does not constitute service by certified mail, as required by statute, even if carrier delivery and receipt of the petition are confirmed.

(4) If a carrier has not been properly served in accordance with this subsection, the petitioner will be notified by the Agency of the deficiency in service. The petitioner shall have 10 calendar days from receipt of the notice of deficiency in service to provide the Agency with proof the deficiency in service identified in the notice of deficiency has been cured by proper service. If the Agency does not receive proof of proper service within 10 days after petitioner's receipt of the notice of deficiency, the petition will be dismissed with prejudice. For purposes of this rule, "proof of proper service" means that a copy of the petition and all documents and records in support of the petition have been sent by United States Postal Service (USPS) certified mail to the proper entity at the proper address as set forth in this rule, and a certified mail receipt number is provided to the Agency to confirm mailing.

Specific Authority 440.13(7)(e), 440.591 FS. Law Implemented 440.13(7)(a) FS. History--New _____.

59A-31.008 Computation of Time.

(1) Pursuant to paragraph 69L-7.602(5)(q), F.A.C., notice of disallowance or adjustment of payment, which begins the 30 day time period in Section 440.13(7), F.S., shall only be through receipt of an Explanation of Bill Review issued by or on behalf of a carrier. Therefore, the 30 day time period within a petition must be served upon the Agency begins upon receipt of the Explanation of Bill Review by the health care provider or by an entity designated by the provider to receive such notice on behalf of the health care provider. The health care provider shall document receipt of the Explanation of Bill Review using a date stamp, which clearly reflects date of receipt, or by using a verifiable login process. Documentation of receipt through a date stamp or verifiable login process shall accompany the petition. A date stamped Explanation of Bill Review will be accepted as proof of date of receipt by date stamp. A copy of the applicable portion of the login roster showing the date of login of the Explanation of Bill Review will be accepted as proof of receipt through a verifiable login process. If receipt cannot be established through a date stamp or verifiable login process, the health care provider may provide with the petition a copy of the envelope in which the Explanation of Bill Review was sent which clearly and legibly shows the postmark date, in which case receipt will be deemed to be 5 calendar days from the postmark date on the envelope in which the Explanation of Bill Review was sent. If the health care provider does not establish the date of its receipt of the Explanation of Bill Review by any of the methods set forth in this paragraph through documentation accompanying the Petition, the health care provider receipt of the Explanation of Bill Review will be deemed to be 5 calendar days from the issue date on the Explanation of Bill Review. An affidavit attesting to date of receipt will not be accepted as proof of date of receipt.

(2) Petitioning the Agency shall be effectuated upon service of the petition upon the Agency. The timeliness of a Petition for Resolution of Reimbursement Dispute shall be calculated based upon service of the petition upon the Agency. Service upon the Agency shall be by United States Postal Service (USPS) mail, by common carrier, or by hand delivery. If service is by United States Postal Service mail, the date of service shall be postmark date. If service is by common carrier, the date of service shall be the common carrier pick-up date. If service is by hand delivery, the date of service is the date the petition is hand delivered to: Receptionist, Hartman Building, 2012 Capital Circle, Southeast, Tallahassee, Florida. Service by hand delivery is available Monday through Friday between 8:00 a.m. and 5:00 p.m., Eastern Time, excluding state holidays.

(3) Carrier date of receipt of the petition by certified mail will be established by reference to the United States Postal Service (USPS) certified mail receipt date. Timely submission by the carrier of the Carrier Response to Petition for Resolution of Reimbursement Dispute form and accompanying documentation to the Agency shall be determined based upon the date of service of the Carrier Response to Petition for Resolution of Reimbursement Dispute form and accompanying documentation to the Agency. If service is by United States Postal Service mail, the date of service shall be the postmark date. If service is by common carrier, the date of service shall be the common carrier pick-up date. If service is by hand delivery, the date of service is the date the petition is hand delivered to: Receptionist, Hartman Building, 2012 Capital Circle Southeast, Tallahassee, Florida. Service by hand delivery is available Monday through Friday between 8:00 a.m. and 5:00 p.m., Eastern Time, excluding state holidays.

(4) Neither the request for, nor the conducting of, an on-site audit or referral of the health care provider for peer review consultation or independent medical examination shall toll the timeframe for petitioning the Agency for the resolution of a reimbursement dispute as set forth in Section 440.13(7)(a), F.S., or for the carrier to submit requested documentation under Section 440.13(7)(b), F.S.

Specific Authority 440.13(7)(e), 440.591 FS. Law Implemented 440.13(7)(a), (b) FS. History--New _____.

59A-31.009 Carrier Response Requirements.

(1) The Carrier Response to Petition for Resolution of Reimbursement Dispute form, accompanied by all requested information, must be served on the Agency within 10 days after receipt of a copy of the petition by certified mail. The carrier's response to the petition must include a completed Carrier Response to Petition for Resolution of Reimbursement Dispute form (AHCA form 3160-0024). Failure of the carrier to meet these requirements constitutes waiver of all objection to the petition.

(2) The carrier shall provide the petitioner, using a delivery method which provides confirmation of date of delivery, at the petitioner's mailing address on the Petition for Resolution of Reimbursement Dispute form, copies of the Carrier Response to Petition for Resolution of Reimbursement Dispute form and all accompanying information served on the Agency in response to the petition.

(3) Documents and records accompanying the carrier's Response to Petition for Resolution of Reimbursement Dispute form must be in hard copy.

Specific Authority 440.13(7)(e), 440.591 FS. Law Implemented 440.13(7)(b) FS. History--New _____.

59A-31.010 Effect of Non-Response by Carrier.

(1) Failure of the carrier to timely submit a Carrier Response to Petition for Resolution of Reimbursement Dispute form (AHCA form 3160-0024) and accompanying documentation substantiating its disallowance or adjustment of payment constitutes a waiver of all objections to the petition. Waiver of all objections to the petition shall result in the Agency determination and final order being based solely upon the allegations and supporting documentation submitted by the petitioner.

(2) If a carrier has waived all objections to the petition under Section 440.13(7), F.S., with regard to a particular disallowance, adjustment or denial of payment, the carrier has also waived relief under Section 440.13(8) or 440.13(11), F.S., with regard to the payment(s) that was in dispute in the petition under Section 440.13(7), F.S.

Specific Authority 440.13(7), 440.591 FS. Law Implemented 440.13(7)(b) FS. History--New _____.

59A-31.011 Complete Record.

The evidentiary record upon which the Agency determination will be made shall be the Petition for Resolution of Reimbursement Dispute and all supporting documents and records accompanying the petition and the Carrier's Response to Petition for Resolution of Reimbursement Dispute and all accompanying documents. However, if the petitioner and carrier enter into a joint stipulation of the parties pursuant to Rule 59A-31.012, F.A.C., the evidentiary record upon which the Agency determination will be made shall also include all additional supporting documentation submitted to the Agency by the parties within the 10 calendar day period provided for in Rule 59A-31.012, F.A.C.

Specific Authority 440.13(7)(e), 440.591 FS. Law Implemented 440.13(7)(c) FS. History--New _____.

59A-31.012 Joint Stipulation of the Parties.

Within 14 calendar days subsequent to service on the Agency of the carrier response, the petitioner and carrier may serve on the Agency a joint stipulation of the parties, mutually stipulate in writing that the reimbursement dispute be held in abeyance

for a specified time period, not to exceed 60 calendar days, for the parties to seek a resolution of the reimbursement dispute without the need for a determination by the Agency. Service of a joint stipulation of the parties on the Agency shall be by one of the methods by which a petition is served on the Agency in subsection 59A-31.008(2), F.A.C. At the conclusion of the specified time period in the joint stipulation of the parties, or upon earlier notice in writing served upon the Agency and the other party(ies) to the joint stipulation by any party to the joint stipulation of the parties that the negotiations to resolve the reimbursement dispute are at an impasse, the Agency will proceed to make a determination on the reimbursement dispute. At the time the abeyance of the dispute is concluded, the Agency will allow both parties 10 calendar days to serve any additional supporting documentation a party wishes to be considered in making a determination on the dispute. If a reimbursement dispute is held in abeyance pursuant to a joint stipulation of the parties, the 60-day time period for the Agency to issue a determination shall commence when the 10-day period for serving additional documentation ends.

Specific Authority 440.13(7)(e), 440.591 FS. Law Implemented 440.13(7) FS. History--New _____.

59A-31.013 Petition Withdrawal.

(1) Prior to the issuance of a determination the petitioner may voluntarily withdraw its Petition for Resolution of Reimbursement Dispute.

(2) Withdrawal of a petition shall be in writing and must clearly indicate:

(a) The name of the health care provider or facility requesting withdrawal;

(b) The name of the carrier against whom the petition has been initiated;

(c) The date(s) of service covered by the petition; and,

(d) The identity of the injured employee to whom medical services were delivered.

(3) The result of receipt by the Agency of a request for withdrawal of a petition shall be dismissed of the determination case by the Agency.

Specific Authority 440.13(7)(e), 440.591 FS. Law Implemented 440.13(7)(a), (c) FS. History--New _____.

59A-31.014 Overutilization Issues Raised in Reimbursement Dispute Resolution.

If the carrier, in its response to the petition for Resolution of Reimbursement Dispute, asserts and submits documentation substantiating that a basis for disallowing petitioner's claim for payment is overutilization and the Agency, in its discretion, determines that the reimbursement dispute cannot be resolved without addressing issue, the Agency will issue a determination pursuant to Section 440.13(7), F.S., that the

reimbursement dispute cannot be resolved under Section 440.13(7), F.S., and is being converted to a proceeding under Section 440.13(8) and/or 440.13(11), F.S.

Specific Authority 440.13(7)(e), 440.591 FS. Law Implemented 440.13(7)(b), (c) FS. History—New

59A-31.015 Managed Care Arrangements.

A health care provider may not elect to contest under Section 440.13(7), F.S., disallowance or adjustment of payment by a carrier for services rendered pursuant to a managed care arrangement.

Specific Authority 440.13(7)(e), 440.134(25)(e), 440.591 FS. Law Implemented 440.13(7) FS. History—New

NAME PERSON ORIGINATING PROPOSED RULE:
Beverly J. Williams, Medical Health Care Program Analyst
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Tom Warring, Chief, Bureau of
Managed Health Care, Division of Health Quality Assurance
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: June 28, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: March 17, 2006

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: RULE TITLE:
59G-4.230 Physician Services

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference update September 2006 to the Florida Medicaid Physician Services Coverage and Limitations Handbook. The handbook update contains the policies and forms for the Recipient Assignment Program (R.A.P.). The 2004 Florida Legislature mandated that the Florida Medicaid Program implement a program to prevent excessive and inappropriate utilization of Medicaid goods and services by recipients in the MediPass and fee-for-service programs. The new program, referred to as the Recipient Assignment Program (R.A.P.), is similar to managed care in regard to the assignment of health care services to a primary care physician (PCP). The accepting PCP will act as a case manager or “gatekeeper” for coordination of the recipient’s non-emergency medical services. Certain services are exempt from management by the PCP. The effect will be to incorporate by reference in rule update September 2006 to the Florida Medicaid Physician Services Coverage and Limitations Handbook.

In the Notice of Rule Development published in Vol. 31, No. 52, December 30, 2005, issue of the Florida Administrative Weekly, we stated that the effective date of the update was January 2006. We changed the effective date to September 2006.

SUMMARY: The purpose of this rule amendment is to incorporate by reference in the rule update September 2006 to the Florida Medicaid Physician Services Coverage and Limitations Handbook. The effect will be to incorporate by reference in rule update September 2006 to the Florida Medicaid Physician Services Coverage and Limitations Handbook.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.907, 409.908, 409.9081 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, August 24, 2006, 2:00 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room B, Tallahassee, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathy Canfield, Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)414-0913

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.230 Physician Services.

(1) No change.

(2) All physician services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Physician Services Coverage and Limitations Handbook, January 2004, updated January 2005-1, and January 2005-2, and September 2006, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent’s website at <http://floridamedicaid.acs-inc.com>. Click on Provider Support, and then on Handbooks agent. Paper copies of the handbooks may be obtained by calling Provider Inquiry at (800)377-8216.

(3) No change.

(4) The following forms that are included in Chapter 4 of the Florida Medicaid Physician Services Coverage and Limitations Handbook are incorporated by reference: Enrollment Notification Letter, September 2006, two pages; Enrollment Notification Letter, Spanish version, September 2006, two pages; Request for Change of Address for Recipient Assignment Program (R.A.P.), September 2006, one page;

Request for Change of Address for Recipient Assignment Program (R.A.P.), Spanish version, September 2006, one page; and the Recipient Assignment Program, Enrollee Physician Notification form, September 2006, two pages. The forms are available from the Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop #20, Tallahassee, Florida 32308.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.907, 409.908, 409.9081 FS. History—New 1-1-77, Revised 2-1-78, 4-1-78, 1-2-79, 1-1-80, Amended 2-8-82, 3-11-84, Formerly 10C-7.38, Amended 1-10-91, 11-5-92, 1-7-93, Formerly 10C-7.038, Amended 6-29-93, 9-6-93, Formerly 10P-4.230, Amended 6-13-94, 2-9-95, 3-10-96, 5-28-96, 3-18-98, 9-22-98, 8-25-99, 4-23-00, 8-5-01, 2-20-03, 8-5-03, 6-27-04, 8-3-04, 8-18-05, 8-31-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kathy Canfield
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Alan Levine, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 5, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 30, 2005

DEPARTMENT OF MANAGEMENT SERVICES

Division of Administrative Hearings

RULE CHAPTER NO.: RULE CHAPTER TITLE:

60Q-6 Rules of Procedure for Workers' Compensation Adjudications

RULE NOS.: RULE TITLES:

- 60Q-6.101 Scope
- 60Q-6.102 Definitions
- 60Q-6.103 Pleadings and Proposed Orders
- 60Q-6.104 Representation and Appearance of Counsel
- 60Q-6.105 Commencing a Case; Subsequent Petitions
- 60Q-6.106 Consolidation and Venue
- 60Q-6.107 Amendment and Dismissal of Petition for Benefits
- 60Q-6.108 Filing and Service
- 60Q-6.110 Mediation, Generally
- 60Q-6.111 Authority and Duties of Mediator
- 60Q-6.113 Pretrial Procedure
- 60Q-6.114 Discovery
- 60Q-6.115 Motion Practice
- 60Q-6.116 Prosecution of Claims and Petitions for Benefits
- 60Q-6.117 Emergency Conferences
- 60Q-6.118 Expedited Hearings
- 60Q-6.119 Abbreviated Final Orders
- 60Q-6.120 Summary Final Order
- 60Q-6.121 Evidence
- 60Q-6.122 Motion for Re-hearing and Amending or Vacating Order

60Q-6.123 Settlements under Section 440.20(11), Florida Statutes

60Q-6.124 Payment of Attorney's Fees and Costs Other Than Pursuant to Section 440.20(11), Florida Statutes

60Q-6.125 Sanctions

60Q-6.127 Procedure for Relief from Appellate Filing Fee and Costs

60Q-6.128 Destruction of Obsolete Records

PURPOSE AND EFFECT: Procedural rules for workers' compensation claims resolution were implemented on February 23, 2003, pursuant to the mandate in Section 440.45, Florida Statutes, that the Division of Administrative Hearings adopt procedural rules. Since Sections 440.015 and 440.44(2), Florida Statutes, require that the workers' compensation system be efficient and self-executing and that the Division of Administrative Hearings assume an active and forceful role in achieving that goal, it is necessary to amend the existing rules to conform with subsequent statutory changes and to incorporate changes that will improve the adjudicatory process based upon experience in utilizing the existing rules.

SUMMARY: The procedural rule revisions improve definitions, provide for confidentiality of exempt information, provide for electronic filing, revise motion practice, prohibit the filing of unnecessary documents, clarify summary final order procedures, specifically detail the contents of settlement agreements, and provide for the destruction of obsolete records, with a resulting more efficient and self-executing adjudicatory process.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of regulatory cost was prepared.

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

SPECIFIC AUTHORITY: 61.14(8)(a), 440.25(4)(h) (i), 440.44(7), 440.45(1)(a), (4) FS.

LAW IMPLEMENTED: 61.14(8)(a), 440.192(1), 440.20(11), 440.25(1)-(4), 440.271, 440.29(2), 440.30, 440.32, 440.33(1), 440.34, 440.345, 440.44(7), 440.45(1)(a), (4), (5) FS.

A HEARING WILL BE HELD AT THE DATES, TIMES AND PLACES SHOWN BELOW:

DATE AND TIME: Wednesday, August 16, 2006, 8:00 a.m.
PLACE: Grand Ballrooms 1 and 2, Convention Level, Marriott World Center, 8701 World Center Drive, Orlando, Florida 32821

DATE AND TIME: Friday, August 25, 2006, 10:30 a.m.
PLACE: Room E-112F, Florida Community College of Jacksonville, 3939 Roosevelt Boulevard, Jacksonville, FL 32205

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Administrative Law Judge Linda M. Rigot, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, FL 32399-3060, (850)488-9675

THE FULL TEXT OF THE PROPOSED RULES IS:

60Q-6.101 Scope.

These rules of procedure apply in all workers' compensation proceedings before the judges of compensation claims ~~and replace workers' compensation rules of procedure 4.010 through 4.900 and all forms referenced therein.~~

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.45(1)(a), (4) FS. History–New 2-23-03, Amended.

60Q-6.102 Definitions.

(1) through (2) No change.

(3) "Division" means the Division of Workers' Compensation, Department of Financial Services Insurance.

(4) through (9) No change.

(10) "Pleading" means a petition for benefits or an amended petition, a motion, a response to a petition or a motion, a voluntary dismissal, a voluntary agreement to provide benefits, a stipulation changing the issues pending in a case, or a notice any document seeking relief under Chapter 440, Florida Statutes.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.192(1), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended.

60Q-6.103 Pleadings and Proposed Orders.

(1) No change.

(2) Exempt information. Except for the employee's social security number or equivalent on petitions for benefits and responses thereto, no pleading shall contain information exempt from public records disclosure. Exempt information shall be supplied in connection with a pleading only to the extent it is necessary to the judge's determination of disputed matters or required by Florida Statutes and shall be appended to a pleading in a separate document conspicuously marked "Exempt Information".

(3)(2) All pleadings filed in paper form shall contain in the bottom 1 1/2 inches of each page only the following: "OJCC Case #" followed by the case number, "Bar #" followed by The Florida Bar number of the attorney or the word "none" if the party is not represented, "pleading #" followed by the title of the pleading, and "page #" followed by the page number, and "of #" followed by the number of pages of the pleading.

(4)(3) Proposed Orders. Except as provided in subsection 60Q-6.115(3), F.A.C., proposed orders shall not be submitted unless requested by the judge, and shall be accompanied by pre-addressed, postage-paid envelopes. They shall be clearly identified as proposed orders and shall be sent to all other

parties or, if represented, their attorneys of record prior to being submitted to the judge. Proposed orders shall be a separate document and not be included as a part of the motion request for the order. Proposed orders shall not be filed.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.192(1), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended.

60Q-6.104 Representation and Appearance of Counsel.

(1) Appearance of Counsel. An attorney who files a petition or claim on behalf of a party has entered an appearance and shall be deemed the party's attorney of record. All other attorneys appearing for a party in an existing case shall file promptly with the ~~OJCC and the~~ judge a notice of appearance and serve copies on all other parties or, if represented, their attorneys of record. The notice of appearance shall include the style of the proceeding; the case number; the name of the party on whose behalf the attorney is appearing; and the name, mailing address, telephone number, and Florida Bar number of the attorney.

(2) Substitution or Withdrawal of Counsel. During the pendency of any issues before the judge, a An attorney of record remains the attorney of record until either:

(a) A stipulation for substitution has been filed with the ~~OJCC and the~~ judge and served on all other parties or, if represented, their attorneys of record; or

(b) No change.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.45(1)(a), (4) FS. History–New 2-23-03, Amended.

60Q-6.105 Commencing a Case; Subsequent Petitions.

(1) An employee or claimant seeking an award of benefits party commences a new case by filing a petition for benefits pursuant to Section 440.192, Florida Statutes, when there is not an existing case pertaining to the same employee claimant and date of accident.

(2) When the employee claimant and date of accident are the same as in an existing case, any subsequent petition for benefits or claim relating to that employee claimant and date of accident shall be filed in the existing case.

(3) No change.

(4) An employee or claimant who asserts he or she cannot provide a social security number or who asserts a legal basis for refusing to provide one shall file a verified motion for assignment of substitute identification number along with the initial petition or request for assignment of case number. All petitions, whether initial or subsequent, shall contain all known claims which are ripe, due, and owing on the date the petition is filed.

(5) No change.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.192, 440.45(1)(a), (4) FS. History–New 2-23-03, Amended.

60Q-6.106 Consolidation and Venue.

(1) The judge, on the judge's own initiative or on the motion of any party, may consolidate any claims or petitions pending before the judge for the purpose of a hearing or for any other purpose, except for a claim for reimbursement from the Special Disability Trust Fund, with any pending petition for the purpose of a hearing or for any other purpose.

(2) Any motion to consolidate cases belonging in the same venue shall be filed in only the lowest-numbered case sought to be consolidated and shall be resolved by the judge to whom that case is assigned.

~~(3) Any motion to consolidate cases belonging in different venues shall be filed in the case assigned to the judge being asked to transfer the case to the other venue and shall contain the signatures of all parties, or, if represented, their attorneys of record.~~

(4) through (6) renumbered (3) through (5) No change.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(d), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended _____.

60Q-6.107 Amendment and Dismissal of Petition for Benefits.

(1) No change.

(2) A petition may only be amended by stipulation of the parties or by order of the judge, except that changes of addresses or phone numbers of parties or, if represented, their attorneys of record can be accomplished by filing a notice of change with the assigned judge.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.192, 440.45(1)(a), (4) FS. History–New 2-23-03, Amended _____.

60Q-6.108 Filing and Service.

(1) Filing.

(a) All petitions, amended petitions, responses to petitions, and requests for assignment of case number and initial pleadings relating thereto, ~~and other documents identified by the deputy chief judge by order~~ shall be filed with the OJCC. Except as otherwise provided in these rules, all motions, notices, pleadings, voluntary dismissals, any stipulations changing the issues pending in the case, or other documents shall be filed only with the judge.

(b) No change.

~~(c) Filing by electronic transmission is complete when the filing party receives an electronic acknowledgement of receipt.~~

~~(c)(d)~~ No change.

~~(d)(e)~~ No change.

~~(e)(f)~~ Any document, whether filed by electronic or other means, received by the OJCC or the judge after 5:00 p.m. shall be deemed filed as of 8:00 a.m. on the next regular business day.

(f) Any attorney, party, or other person who elects to file any document by electronic transmission shall be responsible for any delay, disruption, interruption of the electronic signals, and readability of the document, and accepts the full risk that the document may not be properly filed as a result.

(2) through (6) No change.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.192, 440.45(1)(a), (4) FS. History–New 2-23-03, Amended _____.

60Q-6.110 Mediation, Generally.

(1) All petitions and claims pending at the time a mediation conference is held are deemed consolidated and will be mediated at that conference ~~unless the judge orders otherwise.~~

~~(2) After state mediation has been scheduled, p~~Parties who have agreed to private mediation or to re-schedule private mediation shall file with the judge at least 30 days prior to ~~any~~ the scheduled state mediation conference a notice substituting private mediation for state mediation or re-scheduling private mediation. The notice shall include the name of the private mediator, along with the date and time of the ~~state and~~ private mediations and shall state that the private mediation meets the statutory deadline, unless the deadline is waived by all parties.

(3) through (6) No change.

(7) Immediately following the conclusion of the mediation conference, the mediator, whether state, adjunct, or private, shall prepare a report stating which whether any of the issues or claims in dispute are resolved and which remain unresolved, and whether the parties completed a pretrial stipulation. The report shall identify by filing date each petition mediated. The claimant shall file with the judge within five days of the mediation conference the mediator's report and mediation settlement agreement, if any, together with any pretrial stipulation executed by the parties. ~~If the parties reached a settlement agreement, it shall be filed with the judge for approval only if the judge's approval is required by statute.~~

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(1)-(4), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended _____.

60Q-6.111 Authority and Duties of Mediator.

(1) Authority of Mediator.

(a) through (b) No change.

(c) The mediator shall have discretion to allow any party to appear at the mediation conference by telephone upon the party's written request furnished to the mediator and the opposing party or, if represented, the party's attorney of record no fewer than 5 days prior to the mediation conference.

(2) Duties of Mediator. The mediator shall inform the parties at the beginning of the mediation conference:

(a) through (f) No change.

(g) that any agreement reached at the mediation conference will be by mutual consent of the parties; reduced to writing; and may be subject to the approval of the presiding judge ~~if required by statute~~; and

- (h) No change.
- (3) through (4) No change.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(1)-(4), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended _____.

60Q-6.113 Pretrial Procedure.

(1) No change.

(2) ~~In pretrial stipulations and a~~At any pretrial hearing conference necessitated by the failure of the parties to complete a pretrial stipulation at the mediation conference, the parties shall:

- (a) State and simplify the issues including bifurcation of compensability;
- (b) Stipulate to such facts and the admissibility of documentary evidence as will avoid unnecessary proof;
- (c) through (f) No change.

(3) Where mediation has been waived by the deputy chief judge, the parties shall file a pretrial stipulation that conforms to the requirements of subsection (2) of this Rule no later than 30 days following the waiver order before the final hearing.

(4) Witness lists, exhibit lists, supplements, and amendments served, and exhibits exchanged less than 30 days before the final hearing must be approved by the judge or stipulated to by the parties.

- (5) No change.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(2)-(4), 440.29(2), 440.33(1), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended _____.

60Q-6.114 Discovery.

(1) Any party may commence with discovery methods specifically authorized by statute, including depositions, issuance of subpoenas and requests for production, prior to invoking the jurisdiction of the judge.

~~(2)~~(1) Depositions.

- (a) No change.
- (b) Approval of the judge is not necessary to take a deposition by telephone. If a deposition is taken by telephone, the oath shall be administered in the physical presence of the witness by a notary public or other person authorized by law to administer oaths, ~~unless the physical presence is waived by all the parties.~~

~~(3)~~(2) No change.

~~(4)~~(3) No change.

~~(4) Surveillance.— Any evidence in the nature of surveillance is subject to discovery when it will be used at the final hearing provided the party intending to use the evidence is first given a reasonable opportunity to depose the party or witness who is the subject of the surveillance.~~

- (5) No change.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.30, 440.33(1), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended _____.

60Q-6.115 Motion Practice.

(1) Any request for an order or for other relief shall be by motion and shall have a title describing the relief requested. The judge may treat a non-standard request for relief from an unrepresented party as a motion. All motions shall be in writing unless made on the record during a hearing and shall fully state the relief requested and the grounds relied upon.

(2) Except for motions to dismiss for lack of prosecution, prior to filing any motion, the movant shall personally confer with the opposing party or parties or, if represented, their attorneys of record to attempt to amicably resolve the subject matter of the motion. All motions shall include a statement that the movant has personally conferred or has used good-faith efforts to confer with all other parties or, if represented, their attorneys of record and shall state whether any party has an objection to the motion.

(3) A motion which is unopposed shall state why an order is necessary to execute the parties' agreement and, unless filed electronically, shall be accompanied by a proposed order which has a title describing the action being taken. The motion and proposed order shall specify the relief being requested or ordered in reasonable detail and not merely by reference to any other document.

~~(3) If the motion cannot be amicably resolved, does not require the taking of evidence, and does not require more than ten minutes to argue, the movant shall notice the motion to be heard on the judge's motion calendar. The movant shall coordinate the motion hearing with the other parties or, if represented, their attorneys of record but not with the judge's office. The motion shall be served at that time; however, the motion shall not be filed with the judge until three days before the motion calendar on which it has been set. No written response to the motion is necessary. The movant shall bring to the motion calendar a proposed order, which allows the judge to mark that the motion is granted or denied, together with stamped envelopes for mailing the order to the parties.~~

(4) If the motion has For other motions which have not been amicably resolved, the movant shall file the motion, which shall include a statement as to whether a hearing on the motion is necessary and, if so, the basis for requesting a hearing. The other parties may, within ten ~~seven~~ days of service of the written motion, file a response in opposition, which shall include a statement as to whether a hearing on the

motion is necessary and, if so, the basis for requesting a hearing. ~~The judge may dispose of Unless the judge determines that a hearing is necessary based upon the statements in the motion and/or response as to why a hearing is necessary, written motions will normally be disposed of without a hearing within ten days following the expiration of the time for service of a response by the other party or parties. If no order is entered within that ten-day period, the movant shall schedule a hearing time with the opposing party or parties or, if represented, their attorneys of record. If no hearing is scheduled within fourteen days following that ten-day period, the request for a hearing is deemed withdrawn.~~ Motion hearings may be conducted either in person or telephonically as the judge deems necessary.

(5) through (6) No change.

Specific Authority 440.25(4)(h), 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(h), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended _____.

60Q-6.116 Prosecution of Claims and Petitions for Benefits.

(1) through (2) No change.

(3) The judge may conduct any proceedings by telephone conference. Testimony may be taken by telephone with the agreement of all parties ~~or and~~ approval by the judge.

(4) In the event that testimony is taken by telephone, the oath shall be administered in the physical presence of the witness by a notary public or officer authorized to administer oaths ~~unless the physical presence of the notary public or officer is waived by the parties.~~

(5) No change.

(6) Any attorney or unrepresented claimant who has filed a petition for benefits must file a pleading with the judge in order to cancel the corresponding final hearing. The pleading must be filed prior to the scheduled final hearing and shall indicate the manner in which each issue was resolved.

(7) At least two full business days prior to the final hearing, each party is required to file a brief memorandum consisting of a statement of relevant facts and written argument. All depositions a party intends to offer into evidence shall be filed with the memorandum.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(4), 440.29(2), 440.33(1), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended _____.

60Q-6.117 Emergency Conferences.

(1) A written request for an emergency conference shall be filed with the judge and served on all other parties or, if represented, their attorneys of record. It shall set forth in detail the facts giving rise to the request, its legal basis, the factual or medical basis for the claim that there is a bona fide emergency

involving the health, safety, or welfare of an employee, and the specific relief sought. Any documents relied upon should be specifically referenced and attached.

(2) After reviewing the merits of the request, the judge may summarily enter an order denying the request for an emergency conference or, after proper notice, conduct an evidentiary hearing to consider the request.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(g), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended _____.

60Q-6.118 Expedited Hearings.

(1) Scope. This rule applies in those cases deemed by the judge appropriate for required to be expedited hearing pursuant to statute or by agreement of the parties.

(2) No change.

(3) No mediation conference and pretrial hearing shall be held unless requested in writing by a party within 10 days of service of the notice of expedited hearing.

(4)(3) No change.

Specific Authority 440.25(4)(i), 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(i), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended _____.

60Q-6.119 Abbreviated Final Orders.

~~In cases in which compensability is not disputed, Any party may request within ten days from the date of an abbreviated final order that an the abbreviated final order be vacated and that a final compensation order containing separate findings of fact and conclusions of law be entered. The request shall be made by motion and shall be filed within 10 days of the date of the abbreviated final order sought to be vacated.~~

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(d), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended _____.

60Q-6.120 Summary Final Order.

(1) The judge may enter a summary final order when such an order would be dispositive of the issues raised by the subject petition. Issues that would be dispositive include, but are not limited to, are whether there is coverage, whether the statute of limitations has run, whether the accident or occupational disease is compensable, whether the claim is barred by res judicata or a prior settlement, whether the judge has jurisdiction over the subject matter, whether the benefit sought has been paid, and whether the alleged employee is an independent contractor.

(2) Any party may file a motion for a summary final order when there is no genuine issue as to any material fact and the granting of the motion would be dispositive of the issues raised by the subject petition. A summary final order shall be rendered if the judge determines from the pleadings and depositions, together with affidavits, if any, that no genuine issue as to any material fact exists and that the moving party is

entitled as a matter of law to the entry of a final order. A summary final order may be rendered on the issue of entitlement to a benefit alone although there is a genuine issue as to the amount of the benefits. No motion for summary final order may be filed less than 45 ~~30~~ days prior to a scheduled final hearing.

(3) The opposing party shall file a response to motion for summary final order together with supporting depositions, affidavits and/or other documents within 30 days of service of the motion for summary final order. The judge shall grant an extension for good cause shown.

~~(4)(3)~~ When a motion for summary final order is denied, the judge shall impose sanctions pursuant to Rule 60Q-6.125~~(5)(4)~~ and ~~(6)(5)~~, F.A.C., if the judge determines that the motion violates subsection 60Q-6.125~~(2)(4)~~, F.A.C.

~~(5)(4)~~ No change.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(h), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended.

60Q-6.121 Evidence.

(1) No change.

(2) An objection to the admissibility of evidence not ruled on by the judge is deemed adverse to the party making the objection.

(2) through (4) renumbered (3) through (5) No change.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.45(1)(a), (4) FS. History–New 2-23-03, Amended.

60Q-6.122 Motion for Re-hearing and Amending or Vacating Order.

(1) No change.

(2) The motion shall be limited to the following reasons:

~~(a) to call attention to typographical or technical errors;~~

~~(a)(b)~~ To challenge rulings that were outside the scope of the issues presented; or

~~(b)(c)~~ No change.

(3) No change.

(4) Abbreviated final orders are not subject to a motion for re-hearing.

(5) A judge, on the judge's own initiative or on the motion of any party, may vacate or amend an order not yet final to correct clerical or technical errors, or where due consideration of a motion for re-hearing cannot be made before the order becomes final.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.45(1)(a), (4) FS. History–New 2-23-03, Amended.

60Q-6.123 Settlements Under Section 440.20(11), Florida Statutes.

(1) Settlements under Section 440.20(11)(a) or (b), F.S., involving unrepresented claimants.

(a) When a joint petition signed by the all parties is filed pursuant to Section 440.20(11)(a) or (b), F.S., it shall be accompanied by:

1. The settlement stipulation executed by the all attorneys of record and the employee or claimant;

2. A copy of any prior joint petition and order if indemnity benefits were previously settled, or, if unavailable, an affidavit from the claimant that indemnity was previously settled;

3. No change.

4. The employee's current work status and other sources of income, if not addressed in the joint stipulation social security disability, and, if any, monthly benefit amounts;

~~5. documentation establishing overall physical maximum medical improvement and psychiatric maximum medical improvement, if either is applicable;~~

~~6. when an estimate of future medical needs is not included, a statement that the parties elect to settle without this information;~~

~~7. A status statement letter from the Department of Revenue and a status statement from or the Clerk of the Circuit and County Courts, Central Depository, as to whether the claimant has or owes any child support arrearage or owes past due support, and, if so, the amount thereof;~~

6. A sworn statement by the employee that all existing child support obligations have been disclosed in the joint petition;

~~7.8. A letter from counsel stating that the carrier will issue a check in the amount of the arrearage and/or past due support or such other amount to be approved by the judge and that the check will be sent to the Department of Revenue or the Clerk of the Circuit and County Courts, Central Depository;~~

~~8.9. Any other documents evidence in the possession of the parties or and their attorneys, including any prior attorney's fee lien, that is material to the disposition of the settlement;~~

~~9.10. No change.~~

10.11. For settlements under Section 440.20(11)(b), F.S., the required notice to the employer, a maximum medical improvement report establishing overall physical maximum medical improvement and psychiatric maximum medical improvement if the latter applies, available documentation of the permanent impairment rating, information concerning the need for future medical care or an explanation as to why the information cannot be reasonably obtained, and other essential medical information.

(b) through (d) No change.

(2) Settlements under Section 440.20(11)(c), (d), and (e), F.S.

(a) When a motion for approval of attorney's fees and child support allocation is filed pursuant to Section 440.20(11)(c), (d), or (e), F.S., it shall be signed by the claimant and the claimant's attorney, furnished to all other parties, and contain be accompanied by:

1. A statement that the parties have reached a total settlement of the case;

2. The total monetary amount of the settlement payable by the employer/carrier;

3. The amount of attorney's fees and costs agreed to and payable by the claimant pursuant to the contract of representation and the net settlement proceeds to be disbursed to the claimant;

4. The amount of child support arrearages, if any, owed by the claimant, together with the amount of child support allocation the claimant requests be deducted from the settlement proceeds, after fees and costs, and remitted to the appropriate child support depository;

~~5.1.~~ An attorney's fee data sheet setting forth the benefits obtained by claimant's counsel and the value of those benefits sufficient information to justify the amount of the attorney's fee and setting forth the benefits obtained by the claimant's attorney, and, depending upon the date of accident and the type of benefit involved, if the claimant's attorney seeks a fee in excess of the statutory percentage, an affidavit specifying the particular statutory criteria factors forming the basis for the variance if the claimant's attorney seeks an attorney's fee in excess of the statutory percentage fee; and

~~6.2.~~ A status statement letter from the Department of Revenue and a status statement from ~~or~~ the Clerk of the Circuit and County Courts, Central Depository, as to whether the claimant has an arrearage or owes past due child support and, if so, the amount thereof, and a letter from counsel stating that the carrier will issue a check in the amount of the arrearage and/or past due child support or such other amount to be approved by the judge or that claimant's counsel will deposit the settlement proceeds in a trust account and will issue a check in the amount of the arrearage and/or past due child support or such other amount to be approved by the judge and that the check will be sent to the Department of Revenue or the Clerk of the Circuit and County Courts, Central Depository.

(b) No change.

(3) Settlement approval when more than one current support order exists. When more than one current support order exists, the judge may approve a proposed settlement only if it provides for an equitable share of settlement proceeds.

Specific Authority 61.14(8)(a), 440.45(1)(a), (4) FS. Law Implemented 61.14(8)(a), 440.20(11), 440.345, 440.45(1)(a), (4), (5) FS. History--New 2-23-03, Amended _____.

60Q-6.124 Payment of Attorney's Fees and Costs Other Than Pursuant to Section 440.20(11), Florida Statutes.

(1) Payment of Undisputed Attorney's Fees and Costs by Claimant. The claimant and his or her attorney may jointly move for the judge to approve the payment of an attorney's fee and reimbursement of costs. The motion shall be served on all parties and include a statement that claimant's counsel has not previously secured or received a fee on the benefits for which a

fee is now being sought, the claimant's signature, and an attorney's fee data sheet setting forth the benefits secured by claimant's counsel and the value of the benefits. If claimant's counsel is seeking payment of a fee from the claimant which exceeds the statutory fee, counsel must submit an affidavit establishing the basis for approval of the fee.

(2) Payment of Undisputed Attorney's Fees and Costs by Employer/Carrier/Service Agent. The employee and the employer/carrier/service agent may stipulate to the payment of attorney's fees and costs. The stipulation submitted for the judge's approval shall be accompanied by an attorney's fee data sheet. If claimant's counsel is seeking payment of a fee from the employer/carrier which exceeds the statutory fee, counsel must submit an affidavit establishing the basis for approval of the fee. The claimant must be provided with notice of sign any stipulation providing for an employer/carrier-paid attorney's fee.

(3) Payment of Disputed Attorney's Fees and Costs.

(a) Any motion for attorney's fees and costs shall be filed, ~~under oath,~~ and shall include:

1. through 3. No change.

4. The statutory fee based on the benefit secured,

~~5.4.~~ A detailed chronological listing of all time devoted to the claim, if applicable, and

~~6.5.~~ No change.

(b) Within 30 ~~20~~ days after the motion is served, the opposing party or parties shall file a response to the motion, which includes a detailed recitation of all matters which are disputed in the form outlined in subsection 3(a)1-6. Failure to file a timely and specific full response to a motion for attorney's fees and costs shall, absent good cause, may result in acceptance of the allegations in the motion as true, ~~imposition of sanctions, or both.~~

(c) through (d) No change.

(e) The Statewide Uniform Guidelines for Taxation of Costs in Civil Actions shall be considered by the judge in determining the reasonableness of an award of cost reimbursement.

(4) No later than October 1 of each year, all self-insurers, third-party administrators, and carriers shall report by electronic transmission to the OJCC the amount of all attorney's fees paid to their defense attorneys in connection with workers' compensation claims during the prior July 1 through June 30 fiscal year.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.32, 440.34, 440.345, 440.45(1)(a),(4), (5) FS. History--New 2-23-03, Amended _____.

60Q-6.125 Sanctions.

(1) Generally. Failure to comply with the provisions of these rules or any order of the judge may subject a party or attorney to one or more of the following sanctions: striking of

claims, petitions, defenses, or pleadings; imposition of costs or attorney’s fees; or such other sanctions as the judge may deem appropriate.

~~(2)(1)~~ Representations to the Judge. By filing a pleading or other document or presenting argument before the judge at hearing, an attorney or unrepresented party is certifying to the best of that person’s knowledge, information, and belief, formed after inquiry reasonable under the circumstances, that:

(a) through (b) No change.

(c) the allegations and other factual contentions are true and have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;

(d) the denials of factual contentions are true and warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

~~(3)(2)~~ Determination of Violation. If, after notice and a reasonable opportunity to respond, the judge determines that subsection ~~(2)(1)~~ has been violated, the judge may impose an appropriate sanction.

~~(4)(3)~~ How Initiated.

(a) A motion for sanctions under this rule shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subsection ~~(2)(1)~~. It shall be served but shall not be filed with or presented to the judge unless the challenged paper, claim, defense, allegation, or denial is not withdrawn or appropriately corrected within 21 days after service of the motion. If warranted, the judge may award to the party prevailing on the motion the cost of the proceeding and attorney’s fees incurred in presenting or opposing the motion.

(b) On his or her own initiative, the judge may enter an order describing the specific conduct that appears to violate subsection ~~(2)(1)~~ and directing an attorney or party to show cause why sanctions should not be imposed.

~~(5)(4)~~ Nature of Sanctions.

(a) No change.

(b) Monetary sanctions may not be awarded against a represented party for a violation of subsection ~~(2)(1)~~(b).

~~(6)(5)~~ No change.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.32, 440.33(1), (2), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended _____.

60Q-6.127 Procedure for Relief from Appellate Filing Fee and Costs.

The procedure for relief from payment of the appellate filing fee and from the costs of the preparation of the record on appeal for the review of any order of a judge on the ground of indigency shall be in accordance with Fla. R. App. P. 9.180.

Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.271 FS. History–New _____.

60Q-6.128 Destruction of Obsolete Records.

(1) All case files that have been closed and inactive for a period of two years are declared to be obsolete and may be destroyed. Designated personnel of the OJCC shall be responsible for the destruction of obsolete records and reports in accordance with applicable statutes and administrative rules.

(2) Recordings of hearings held before a judge shall become obsolete two years subsequent to the date of the hearing.

(3) Any forms, documents, reports or other records filed where this rule chapter specifically provides that filing is not required or requested shall be destroyed by the judge’s office upon filing.

Specific Authority 440.44(7), 440.45(1)(a), (4) FS. Law Implemented 440.44(7) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Judge Linda M. Rigot

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Director and Chief Judge Robert S. Cohen and Deputy Chief Judge of Compensation Claims David W. Langham

DATE OF PROPOSED RULE APPROVED BY AGENCY HEAD: June 20, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 14, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Surveyors and Mappers

RULE NO.: 61G17-2.001 RULE TITLE: Grounds for Discipline

PURPOSE AND EFFECT: The Florida Board of Professional Surveyors and Mappers is revising paragraph 61G17-2.001(6)(g), F.A.C., to delete a citation to a repealed Rule.

SUMMARY: The Florida Board of Professional Surveyors and Mapper is deleting a citation to a repealed rule in Rule 61G17-2.001(6)(g), F.A.C.

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

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

SPECIFIC AUTHORITY: 455.227, 472.008, 472.033(2) FS.
LAW IMPLEMENTED: 455.227, 472.008, 472.015, 472.025, 472.033(1)(f), (g), (h), (2), 472.027 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: Rick Morrison, Executive Director, Board of Professional Surveyors and Mappers, 1940 North Monroe Street, Tallahassee, Florida 32399-0767

THE FULL TEXT OF THE PROPOSED RULE IS:

61G17-2.001 Grounds for Discipline.

(1) through (6)(f) No change.

(g) ~~Except as provided in Rule 61G17-2.0013, F.A.C.,~~ Licensees, whether individual people or business entities holding certificates of authorization, may not engage in any professional conflict of interest. An example of a professional conflict of interest would be a situation in which a county employee engages in the private practice of surveying and mapping on a project over which that person, as a county employee, has approval authority.

(h) through (7) No change.

Specific Authority 455.227, 472.008, 472.033(2) FS. Law Implemented 455.227, 472.008, 472.015, 472.025, 472.033(1)(f), (g), (h), (2), 472.027 FS. History—New 1-3-80, Formerly 21HH-2.01, Amended 9-1-88, Formerly 21HH-2.001, Amended 6-1-95, 10-13-97,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Surveyors and Mappers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Surveyors and Mappers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 12, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 16, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Surveyors and Mappers

RULE NO.: 61G17-2.0015 RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The Florida Board of Professional Surveyors and Mappers is updating Rule 61G17-2.0015, F.A.C., to revise the disciplinary guideline penalties for Violations of Sections 472.033(1)(h), 472.033(1)(i), and 455.227(1)(k) of the Florida Statutes.

SUMMARY: The Florida Board of Professional Surveyors and Mappers is increasing its disciplinary guideline penalties for violations of Sections 472.033(1)(h), 472.033(1)(i), and 455.227(1)(k) of the Florida Statutes.

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

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

SPECIFIC AUTHORITY: 472.008, 472.033 FS.

LAW IMPLEMENTED: 472.033 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: Rick Morrison, Executive Director, Board of Professional Surveyors and Mappers, 1940 North Monroe Street, Tallahassee, Florida 32399-0767

THE FULL TEXT OF THE PROPOSED RULE IS:

61G17-2.0015 Disciplinary Guidelines.

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

(h) Failing to perform any statutory or legal obligation placed upon a licensed surveyor and mapper; violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing; or failing to comply with a lawfully issued subpoena of the department; (472.033(1)(h) & 455.227(1)(k), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$250 fine, <u>probation</u> , and compliance with legal obligation	\$500 fine and <u>probation or</u> suspension until compliance with legal obligation
SECOND OFFENSE	\$500 fine <u>and probation or</u> and suspension until compliance with legal obligation	\$750 <u>fine</u> and <u>probation or</u> suspension until compliance with legal obligation plus extended probation

THIRD OFFENSE	\$750 fine and <u>probation or</u> suspension until compliance with legal obligation plus extended probation	\$1000 fine and revocation
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(i) Practicing on a revoked, suspended, inactive, or delinquent license; (472.033(1)(i), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$ 1000 500 <u>fine</u> and probation	\$ <u>1000</u> 750 fine, denial or suspension followed by probation or if already suspended an extended suspension followed by probation
SECOND OFFENSE	\$ <u>1000</u> 750 fine and denial or suspension followed by probation or if already suspended an extended suspension followed by probation	\$1000 fine and revocation

(j) through (4) No change.

Specific Authority 472.008, 472.033 FS. Law Implemented 472.033 FS. History--New 3-13-03, Amended 3-17-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Surveyors and Mappers
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Surveyors and Mappers
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 12, 2006
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 16, 2006

DEPARTMENT OF ENVIRONMENTAL PROTECTION
 Notices for the Department of Environmental Protection 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 HEALTH
Board of Clinical Social Work, Marriage and Family and/or Mental Health Counseling

RULE NO.: 64B4-3.008
 RULE TITLE: Supervision Required Until Licensure

PURPOSE AND EFFECT: The Board proposes to update the existing language to clarify supervision.

SUMMARY: The proposed rule amendment is for updating the existing language to clarify supervision.

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

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

SPECIFIC AUTHORITY: 491.004(5), 491.014(4)(c), 491.005(6) FS.

LAW IMPLEMENTED: 491.012, 491.014(4)(c), 491.046(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B4-3.008 Supervision Required Until Licensure.

(1) An AH applicants who practice clinical social work, marriage and family therapy and/or mental health counseling must continue in "supervision" as defined in Rule 64B4-2.002, F.A.C., and use the term "registered clinical social work intern, registered marriage and family therapy intern, or registered mental health counseling intern" until ~~he or she is they are~~ in receipt of a license to practice the profession for which ~~he or she has they have~~ applied or a letter from the Department stating ~~he or she is they are~~ licensed, even if the two (2) year post-masters supervision requirement has been satisfied.

(2) All provisional licensees who practice clinical social work, marriage and family therapy and/or mental health counseling must continue in supervision as defined in Rule 64B4-2.002, F.A.C., until he or she is in receipt of a license or a letter from the Department stating he or she is licensed as a clinical social worker, marriage and family therapist, or mental health counselor.

Specific Authority 491.004(5), 491.014(4)(c), 491.005(6) FS. Law Implemented 491.012, 491.014(4)(c), 491.0046(3) FS. History--New 3-14-94, Formerly 61F4-3.008, 59P-3.008, Amended 10-28-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Social Work, Marriage and Family Therapy and/or Mental Health Counseling

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and/or Mental Health Counseling

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 5, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 2, 2006

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
65C-5	Batterer Intervention Program Certification Minimum Standards
RULE NOS.:	RULE TITLES:
65C-5.001	Purpose
65C-5.002	Definitions
65C-5.003	Application for Certification
65C-5.004	Program Requirements
65C-5.005	Program Content
65C-5.006	Facilitator Eligibility
65C-5.007	Assessment Requirements
65C-5.008	Assessor Eligibility
65C-5.009	Trainer Requirements
65C-5.010	Monitoring
65C-5.011	Conflicts of Interest

PURPOSE AND EFFECT: These rules establish the minimum standards and procedures for the provision of intervention and assessment of batterers and for the approval of persons wishing to provide intervention and assessment services.

SUMMARY: Provides minimum standards for both programs and personnel who provide direct services to persons who are court ordered, referred by the department or other referral source, or volunteer to attend a batterer intervention program. Establishes procedures for the certification and monitoring of these providers.

SPECIFIC AUTHORITY: 741.325 FS.

LAW IMPLEMENTED: 741.32, 741.325, 741.327 FS.

SUMMARY OF THE STATEMENT OF ESTIMATED REGULATORY COST: No statement of regulatory cost was prepared.

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

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: August 17, 2006, 2:30 – 4:30 p.m.

PLACE: 1317 Winewood Boulevard, Building 2, Room 302W, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Renee Starrett, (850)921-4766

THE FULL TEXT OF THE PROPOSED RULES IS:

65C-5.001 Purpose.

(1) The purpose of these rules is to establish the minimum standards and procedures for the provision of intervention and assessment of individuals who have committed a domestic violence offense and for the approval of persons wishing to provide intervention and assessment services to these individuals.

(2)(a) The purpose of a certified batterer intervention program shall be to provide the justice system with standardized programming to further the safety of victims and their children and to hold the perpetrators of domestic violence accountable for their acts.

(b) Batterer intervention programs are part of a coordinated community response and serve only as an additional tool that the community can use to hold batterers accountable. Courts should use batterer intervention programs in addition to, not instead of, appropriate legal sanctions such as jail, probation, restitution, fine or a combination of these.

(3) The purpose of a certified assessor shall be to determine if the batterer who has been referred to a batterer intervention program should also be referred for further evaluation.

Specific Authority 741.32, 741.325 FS. Law Implemented 741.32, 741.325 FS. History--New _____.

65C-5.002 Definitions.

For the purposes of this chapter, the following definitions apply:

(1) “Assessment” means a psychosocial evaluation to determine if those persons referred to a batterer intervention program would benefit from mental health or substance abuse treatment programs prior to or concurrent with batterer intervention.

(2) “Assessor” means a person who is certified hereunder to perform the psychosocial assessment for individuals who have been referred to a certified batterer intervention program.

(3) “Batterer” means a perpetrator of domestic violence, as defined in Section 741.28, F.S., or dating violence, as defined in Section 784.046, F.S.

(4) “Batterer Intervention Program” means a 29-week program that addresses the perpetration of violence by an intimate partner, spouse, ex-spouse, or a person who shares a child in common or who is a cohabitant in an intimate relationship for the purpose of exercising power and control by one over the other.

(5) “Certification” means a process of satisfying the requirements and minimum standards as set forth herein and in statute for establishing a certified batterer intervention program or certified assessor.

(6) “Certification Fee” means a fee charged by the department for state certification as a batterer intervention program or as an assessor.

(7) “Curriculum” means the approved educational content for a certified batterer intervention program.

(8) “Dating Violence” means violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature as defined in Section 784.046(1)(d), F.S.

(9) “Department” means the Florida Department of Children and Families.

(10) “Direct service staff” means the on-site director responsible for the day to day operation of a certified batterer intervention program, or persons who are employed or contracted by a program to conduct orientation, facilitate groups or conduct assessments.

(11) “Domestic Violence” means the perpetration of violence between intimate partners, spouses, ex-spouses, or those who share a child in common or who are cohabitants in an intimate relationship for the purpose of exercising power and control by one over the other.

(12) “Facilitator” means a group leader for a certified batterer intervention program.

(13) “Good moral character” means a personal history of honesty, fairness, and respect for the rights of others and for laws of this state and nation.

(14) “Monitoring” means a process of reviewing the administrative and programmatic components of a certified batterer intervention program and certified assessor to ensure compliance with minimum standards as set forth herein and in statute.

(15) “Office of Certification and Monitoring” means the unit within the department responsible for the certification and monitoring of batterer intervention programs and assessors.

(16) “Participant” means an individual who is adjudged to have committed an act of domestic violence as defined in Section 741.28, F.S., or dating violence as defined by Section 784.046, F.S., those against whom an injunction for protection against domestic violence is entered, those referred by the department, and those who volunteer to attend a program.

(17) “Participant Fee” means the fee that shall be paid to the department by an individual who has been ordered by the court to attend a certified batterer intervention program, as provided for in Section 741.327(2), F.S.

(18) “Power and Control Model” means intervention that recognizes domestic violence where one partner in an intimate relationship systematically uses tactics of emotional and physical abuse in order to maintain power and control over the other.

(19) “Program” means the certified organization that provides a 29-week educational intervention for individuals who have committed an act of domestic violence. The program includes intake/enrollment, assessment, orientation, and 24 weekly group sessions.

(20) “Program Fee” means the fee assessed by the program as payment by the participant for services, as provided for in Section 741.325(6), F.S.

(21) “Provider” means the batterer intervention program and/or assessor certified by the department’s Office of Monitoring and Certification of Batterer Intervention Programs.

(22) “Psychoeducational Model” means a critical thinking program model that uses structured didactic interventions with batterers.

(23) “Victim” means an intimate partner, spouse, ex-spouse or those who share a child in common or who are cohabitants in intimate relationships against whom the batterer has committed an act of domestic violence.

Specific Authority 741.32, 741.325, 741.327, 784.046, 948.038 FS. Law Implemented 741.32, 741.325, 741.327 FS. History—New _____.

65C-5.003 Application for Certification.

(1) Program Certification.

(a) Application for initial certification shall be made on form CF 831, Batterer Intervention Program Certification Application, which is incorporated by reference. The program’s policy and procedure manual, as set forth herein, forms, informational brochures and staff, educational, experiential, and training documentation shall be attached to the application and sent to the department’s Office of Certification and Monitoring. An application may be obtained from the department’s website. All program locations within a judicial circuit are included in the application and application

fee. Branch or satellite offices existing in other judicial circuits shall submit a separate application and application fee for each circuit.

(b) The individual owner, or the designated representative of a corporation or partnership shall sign the application.

(c) A non-refundable application fee of \$300 will be assessed per applicant for certification and shall be submitted with the application. Submission of an application and application fee does not ensure state certification.

(d) A batterer intervention program certification is issued in the name of the owner, corporation or partnership, is non-transferable, and is valid only for the program and location or locations named in the application, which has been approved by the department.

(e) If the provider wishes, during the certification period, to change the location of service or open additional locations within the circuit where certified, the provider shall notify the department, in writing, at least 45 days prior to the change. If the provider wishes to open additional locations in a circuit where it is not currently certified, the provider shall submit an initial application and application fee for certification.

(f) The certificate issued by the department or a copy thereof, shall be displayed within public view at the program's location or locations.

(g) Initial certification is provisional and valid for six (6) months. Upon the department's satisfaction that all minimum standards have been met as required herein and in statute, certification may be extended for an additional six (6) months. Thereafter, certification may be renewed for one (1) year. Certification shall be denied, suspended or revoked for failure to comply with any of the requirements detailed herein or in statute.

(h) Application for certification renewal shall be made on form CF 831, Application for Certification, Batterer Intervention Program. An application may be obtained from the department's website.

(i) A non-refundable fee of \$150 will be assessed per applicant for certification renewal and shall be received by the department's Office of Certification and Monitoring at least 30 days prior to the expiration date of the current certification to ensure that a lapse of certification does not occur. Submission of an application and application fee does not ensure renewal of state certification.

(2) Assessor Certification.

(a) Application for initial certification shall be made on form CF 840, Assessor Certification Application, which is incorporated by reference, and sent to the department's Office of Certification and Monitoring. An application may be obtained from the department's website.

(b) A non-refundable application fee of \$100 will be assessed per applicant for certification and shall be submitted with the application to the department. Submission of an application and application fee does not ensure state certification by the department.

(c) Certification is for one (1) year and may be denied, suspended or revoked for failure to comply with any of the requirements detailed herein or in statute.

(d) Certification is non-transferable and valid only for the person named in the certificate issued by the department.

(e) The certificate issued by the department or a copy thereof, shall be displayed at the location of service within public view.

(f) Application for certification renewal shall be made on form CF 840, Assessor Certification Application. A nonrefundable fee of \$75 will assessed per applicant for certification renewal and shall be received by the department's Office of Certification and Monitoring at least 30 days prior to the expiration date of the current certification expiration date to ensure that a lapse of certification does not occur. Submission of an application and application fee does not ensure renewal of state certification.

Specific Authority 741.325, 741.327 FS. Law Implemented 741.325, 741.327 FS. History–New _____.

65C-5.004 Program Requirements.

(1) To qualify for certification, a batterer intervention program shall meet and comply with minimum standards as set forth herein and in statute.

(a) Community Collaboration and Coordination. To be effective in protecting victims and their children, as outlined in Section 741.32(1), F.S., the program must coordinate its efforts within the community, particularly with the local justice system, social service agencies, including the domestic violence centers, and state and local governments.

(b) Intake/Enrollment.

1. A list of certified programs compiled and updated by the department's Office of Certification and Monitoring will be provided to the batterer by the referral source, which may be accessed at the department's website. The program selected by the batterer shall perform the intake/enrollment, which shall include:

a. Explanation of program fees and sliding fee scale.

b. Enrollment form, CF 832, which is incorporated by reference.

c. Program contract, CF 833, which is incorporated by reference.

d. Participant fee payment agreement, CF 843, which is incorporated by reference, and

e. List of certified assessors.

2. The program shall not accept a participant who has been or is currently enrolled in another certified batterer intervention program unless approval to change programs is obtained, in writing, from the referral source, probation and parole, if applicable, and the previous program director.

3. Services shall not be denied to any person because of ethnicity, national origin, religion, age or disability. A non-discrimination clause shall be included in the program's policy and procedure manual.

(c) Fees.

1. Programs shall be self-supporting and funded with fees from the program participant as payment for intervention. The program shall establish a sliding fee scale method of payment for program fees and provisions to accept indigent clients into the program. Payment for services is important to the participant taking responsibility for the act of violence, however, programs shall not decline the admittance of a batterer based on the ability to pay. A program shall not collect from a participant that portion of the program fee that is exempted by Section 741.325(6), F.S.

2. The program shall collect a \$30 participant fee from each participant for attendance at each 29-week program and submit to the department's Office of Certification and Monitoring.

3. The batterer shall not be allowed to participate in a program or be formally assessed until payments of the appropriate fees are made in accordance with the established program policy.

(d) Orientation. The program shall conduct an orientation session prior to the start of the intervention with a minimum time period of one (1) hour and 30 minutes, excluding breaks. An outline of the orientation shall be given to each participant and a signed statement acknowledging attendance shall be placed in the participant's file. The orientation shall include:

1. Definition of domestic violence,

2. Domestic violence statistics,

3. Introduction of the power and control wheel,

4. Introduction of the equality wheel,

5. Overview of program rules, regulations, and expectations,

6. Outline of program content showing the dynamics of power and control, the effects of abuse on the victim, children and others, gender roles, socialization, and nature of the violence.

(e) Assessments. The program shall ensure that only those assessors certified by the department's Office of Certification and Monitoring conduct the psychosocial evaluations required herein.

(f) Groups.

1. The program shall use a 29-week psychoeducational group model that incorporates power and control dynamics in the curriculum.

2. The program shall conduct 24 weekly group sessions. Each session shall be for a time period of one (1) hour and 30 minutes, excluding breaks.

3. The program shall maintain a maximum group size of 24 participants with two (2) facilitators or 15 participants with one (1) facilitator. The minimum group size shall be three (3) members.

4. The program shall accept new members into the group on an ongoing basis.

5. The program shall ensure that all participants in the group are the same gender.

6. The program conducting a non-English speaking group shall have a facilitator who is fluent in that language.

7. The program shall use interpreters only when there are no approved facilitators within the local area who are fluent in the language of one or more of the participants.

8. The program must insure that a person who serves in the role of interpreter be duly qualified to interpret. Interpreters must not have a familial or personal relationship with the participant. A list of qualified interpreters may be found through the local court or from the Florida State Courts' website.

9. The program shall ensure group meetings are not suspended or cancelled for a period of more than one week.

(g) Victim Notification.

1. The program shall notify the victim, in writing, within three (3) business days of the batterer's enrollment in the program. The letter shall include contact information for the local certified domestic violence center, law enforcement, probation or parole, if applicable, and the state attorney's office. The letter shall include information on the goals and objectives of the certified batterer intervention program and advise the victim that information disclosed by the victim to program staff is not privileged communication as defined in Section 90.5036, F.S. The letter shall include a copy of A Partner's Guide to Batterer Intervention Program Classes for Men, which shall be furnished to the program by the department.

2. The program shall notify the victim, in writing, within three (3) business days of the batterer's discharge from the program. The letter shall include the reason for discharge: completion, termination, or transfer. The letter shall include contact information for the local certified domestic violence center, law enforcement, probation or parole, if applicable, and the state attorney's office.

3. The program shall keep copies of all notification letters to the victim in the batterer's file. Letters shall not disclose the physical address or any other contact information for the victim.

(h) Personnel.

1. The provider must have zero tolerance for domestic violence on the part of their employees. The provider must be as vigorous in their response to suspected crimes on the part of

their own employees as they are to all other domestic violence crimes. However, the provider shall also uphold their duty to the employee in terms of providing employee assistance; preventing harm to self or family; and continuing employment where appropriate, safe, and within the provider agency guidelines and statute.

2. All direct service personnel employed or contracted by a provider shall be required to undergo security background investigations as a condition of employment and continued employment. Background investigations shall be a level 1 screening as defined in Section 435.03, F.S., and shall include local criminal records checks through local law enforcement agencies, and statewide criminal records checks through the Florida Crime Information Center (FCIC), including a check for registered sex offenders/sexual predators, and injunctions for protection against domestic violence. The local law enforcement screening shall also be conducted for the employee's or contractor's previous address if she or he has lived in the current jurisdiction less than one (1) year. Such background investigations shall be conducted at the expense of the employing agency.

3. All direct service staff employed or contracted by a certified provider shall complete annually, as a condition of employment and continued employment, form CF 1649D, Affidavit of Good Moral Conduct, which is incorporated by reference.

4. A provider shall not employ an individual who has been a perpetrator of domestic violence or subject of an injunction for protection against domestic violence unless the applicant has successfully completed a certified batterer intervention program.

5. A provider shall not hire an individual under any form of community supervision including probation, pre-trial diversion, or parole.

6. A provider may grant an exemption from disqualification for employment, except as stipulated in paragraphs (h)4.-5. above, if the applicant can provide documentation that she or he has not been convicted of any of the disqualifying offenses for a minimum period of five (5) years.

7. The provider shall terminate the employment or contract of any direct service staff convicted or found guilty, regardless of adjudication, or having entered a plea of nolo contendere, to any disqualifying offense and notify the department's Office of Certification and Monitoring of the termination within 72 hours.

8. The provider shall ensure that direct service staff employed or contracted by the program meet all moral conduct, educational, experiential, and training requirements as required by rule.

9. The provider shall notify the department's Office of Certification and Monitoring, in writing, of any replacements in direct service staff and forward copies of their credentials prior to hiring for approval by the department.

(i) Policy and Procedure Manual.

1. The provider shall develop and maintain written policies and procedures that direct the operation of the batterer intervention program, at a minimum, on the following:

a. Mission Statement and Philosophy,

b. Days and Hours of Operation and Group Schedules,

c. Intake/Enrollment Procedure,

d. Orientation Outline,

e. Curriculum Outline and Description,

f. Recording Keeping and Reporting Policy and Procedures,

g. Fee Collection and Remittance Policy and Procedure,

h. Sliding Fee Scale Policy and Procedure,

i. Acceptance of Indigent Participants Policy and Procedure,

j. Non-discrimination Policy,

k. Accessibility to Persons with Disabilities Policy and Procedure,

l. Duty to Warn and Reporting of Criminal Behavior Policy and Procedure,

m. Reporting of Enrollment, Progress, and Discharge Information to Referral Source and Probation and Parole, if applicable, Policy and Procedure,

n. Personnel Policy,

o. Equal Opportunity Employer Policy,

p. Position Descriptions with educational, experiential and training requirements,

q. Continuing Education Requirements,

r. Code of Professional Ethics and Moral Conduct Policy,

s. Confidentiality Policy,

t. Non-fraternization Policy,

u. Conflict of Interest Policy,

v. Violence Free Life Style Policy,

w. Drug Free Workplace Policy,

x. Sexual Harassment Policy, and

y. Domestic Violence in the Workplace Policy.

2. The program procedures and policy manual shall be submitted with the certification application to the Office of Certification and Monitoring for approval.

(j) Record Keeping and Reporting Requirements.

1. General Requirements.

a. A provider shall maintain complete and accurate records regarding the program, personnel and program participants at the program's office. Records shall be available for review during the hours of operation by authorized department staff or its authorized department agents.

b. Copies of required records are acceptable for documentation.

2. Personnel Records.

a. The provider shall maintain complete and accurate records on each direct service staff employed or contracted by the program, which shall contain the following signed and dated information:

b. Name, address, home phone number, and date of birth,

c. Proof of identity, in the form of a copy of a government issued photo identification,

d. Proof of employment history check and security background investigations,

e. Job description,

f. A resume or employment application,

g. Documentation of required education and work experience,

h. Documentation of required training,

i. For individuals licensed under Chapters 490 and 491, F.S., a signed privacy act statement acknowledging confidentiality of information received,

j. Receipt of the program's policy and procedure manual, and

k. Affidavit of Good Moral Conduct, form CF 1649D, renewed annually.

3. Program Participant Records.

a. The provider shall maintain individual files on each program participant and retain the records for a minimum of five (5) years from the date of discharge. Files shall include the following signed and dated information:

b. Proof of identity, in the form of a government issued photo identification,

c. Copy of the court order and police report, if applicable,

d. Financial assessment,

e. Completed form CF 832, Participant Enrollment, which is incorporated by reference,

f. Completed form CF 833, Contract for Participation in a Certified Batterer Intervention Program, which is incorporated by reference,

g. Completed assessment,

h. Completed form CF 843, Participant Fee Payment Agreement, which is incorporated by reference,

i. Record of attendance at orientation and groups with the number of sessions attended, missed and made up, include excused and unexcused absences,

j. Record of payment of fees, including dates and amounts,

k. Copies of all notification letters to the victim. Letters shall not disclose the physical address or any other contact information for the victim,

l. Weekly progress notes,

m. Copies of progress reports to the referral source and probation and parole, if applicable,

n. Copy of non-compliance reports, if any, to the referral source and probation and parole, if applicable, and

o. Copy of the discharge report to the referral source and probation and parole, if applicable,

p. Reporting and Payment Requirements.

q. The provider shall submit completed form CF 832, Participant Enrollment Form, for each program participant discharged during the preceding month to the department's Office of Certification and Monitoring,

r. The provider shall submit a provider check no later than the 10th day of each month for the total amount of the participant fees collected during the preceding month to the department's Office of Certification and Monitoring. Provider checks are to be made payable to the Florida Department of Children and Families, and

s. The provider shall provide the referral source and probation and parole, if applicable, with periodic, written progress reports for each program participant.

(k) Discharge Criteria.

1. There are three categories of discharge from a certified program: completion, termination, and transfer.

a. Completion indicates that the participant has completed the assessment performed by a certified assessor, has been in compliance with the program's rules and contract, participated in the group at an acceptable level as determined by the provider, and paid required fees, both to the provider and the department.

b. Termination indicates the participant is inappropriate for the program according to the screening criteria outlined in rule as determined by a certified assessor or the program, or has not successfully met the requirements of the program as specified in the contract or program rules, and

c. Transfer indicates the participant has relocated to another program with the approval of the referral source, outgoing and incoming program directors. Each participant requesting transfer of credit must obtain a letter of referral from the previous program and present it to the new program prior to receiving any credit(s) for weeks completed. The referral letter shall include attendance dates at intake/enrollment, orientation, and group sessions, as well as dates of any excused absences and unexcused absences.

2. When a participant is discharged from the program, the provider shall complete the following:

a. Document the reason(s) for discharge for placement in the participant's file,

b. Inform the victim, referral source, and probation and parole, if applicable, in writing, of the discharge within three (3) business days, and

c. Submit the participant's original enrollment form, CF 832, to the department no later than the 10th day of the subsequent month.

(l) Health Insurance Portability and Accountability Act (HIPPA). Where applicable, the providers shall comply with the Health Insurance Portability and Accountability Act (HIPPA) pursuant to 42 U.S.C. 132d, as well as all regulations promulgated under 45CFR Parts 160, 162 and 164.

(m) Electronic Communication. The department's primary communication with providers will be electronic. Providers shall have the capability to access the Internet and to electronically submit certification documentation as may be required by the department. Providers shall maintain a functional email address with the capability of receiving attachments and provide that address to the department.

Specific Authority 741.32, 741.325 FS. Law Implemented 741.32, 741.325 FS. History--New _____.

65C-5.005 Program Content.

(1) Program content shall be based on an intervention model that recognizes domestic violence as the result of one person in an intimate relationship systematically using tactics of emotional and physical abuse in order to maintain power and control over the other.

(2) The curriculum for a certified batterer intervention program shall incorporate the following elements:

(a) An educational approach that assigns responsibility for the violence solely to the batterer and provides a strategy for assisting the batterer in taking responsibility for the violence.

(b) Content that encourages the participant to develop critical thinking skills that will allow the participant to rethink their behavior and identify behavior choices other than violence.

(c) Content that supports the belief that domestic violence is primarily a learned behavior.

(d) Content that supports the belief that domestic violence is not provoked or the result of substance abuse.

(e) Content designed to improve the batterer's ability to identify and articulate feelings.

(f) Content designed to improve communication skills and listening with empathy.

(g) Content designed to improve negotiation and conflict resolution skills.

(h) Content that challenges stereotypical gender role expectations.

(i) Content that includes strategies for helping the batterer to develop and improve support systems.

(j) Content that identifies the effects of distorted thinking on emotions and behavior.

(k) Content that identifies the effects of domestic violence on children, and

(l) Content that includes information on the relationship of substance abuse to domestic violence.

(3) Curriculum shall not include the following elements:

(a) Content that includes couples, marriage or family therapy, or any manner of victim participation.

(b) Content that includes anger management techniques that identify anger as the cause of domestic violence.

(c) Content that includes theories or techniques that identify poor impulse control as the primary cause of the domestic violence or identify psychopathology on the part of either party as a primary cause of domestic violence.

(d) Content that includes fair fighting techniques, and

(e) Content that includes faith-based ideology associated with a particular religion or denomination.

(4) Program curriculum shall be submitted with the certification application to the Office of Certification and Monitoring, which will review the curriculum for rule compliance.

Specific Authority 741.325 FS. Law Implemented 741.325 FS. History--New _____.

65C-5.006 Facilitator Eligibility.

(1) Facilitator Screening. A facilitator employed or contracted by a provider is required to undergo background screening as a condition of employment and continued employment as specified in subsection 65C-5.004(3), F.A.C.

(2) Facilitator Employment Credentials. A facilitator employed or contracted by a provider shall meet the following educational, experiential, and training requirements:

(a) Bachelor's degree, or, in lieu of a bachelor's degree, two (2) years of equivalent experience working with domestic violence victims and batterers.

(b) Completion of 21 hours of facilitator training by department-approved trainers on the power and control model of intervention, and

(c) Completion of 84 hours facilitating or co-facilitating batterer intervention groups in a state certified program:

1. The 84 hours shall not be completed in less than six (6) months.

2. A minimum of six (6) of the 84 hours shall be spent in observation, and

(d) Completion of 40 hours of department-approved domestic violence victim-centered training.

(e) Completion of twelve (12) hours of additional department-approved training on domestic violence issues which shall include:

1. Eight (8) hours of training on the relationship of substance abuse to domestic violence by department-approved trainers, and

2. Four (4) hours of court attendance during domestic violence cases. Court personnel, as designated by the court, must verify attendance in writing, and

(f) Documentation for all facilitator training shall be submitted to the Office of Certification and Monitoring for approval prior to facilitating groups on their own.

(3) Facilitator Continuing Education Training.

(a) Completion of a minimum of 12 hours of department-approved continuing education training on domestic violence issues annually, and

(b) Documentation for all continuing education training shall be kept in the facilitator's personnel file.

Specific Authority 741.325 FS. Law Implemented 741.325 FS. History--New _____.

65C-5.007 Assessment Requirements.

(1) The court makes the determination as to whether or not domestic violence has occurred prior to referring the individual to a certified batterer intervention program. The role of the certified assessor is to perform a psychosocial assessment on each individual referred to a program for the following purposes:

(a) To identify persons who will benefit from concurrent mental health or substance abuse treatment programs.

(b) To screen-out those persons who have substance abuse problems that make them unable to participate in the group program even with concurrent or preliminary treatment.

(c) To screen out those persons who have severe mental illness or mental deficiency who would not benefit from the program.

(d) To screen out those persons who have criminal records of violence and who would not benefit from the program, and

(e) To screen out those individuals whose offense or history does not involve domestic violence as defined in Section 741.325(8), F.S.

(2) The assessment shall elicit information on the domestic violence incident that may be used by the provider during the intervention program.

(3) The assessor shall conduct written assessments and provide a copy to the program within five (5) business days of the assessment.

(4) If the individual is determined ineligible for a certified batterer intervention program, the assessor shall include in the written assessment the reasons for the determination and specific recommendations for alternative intervention or treatment.

(5) Upon the program's receipt of the written assessment with the ineligible determination, the program shall advise the referral source and probation and parole, if applicable, of the assessor's determination and recommendations.

Specific Authority 741.325 FS. Law Implemented 741.325 FS. History--New _____.

65C-5.008 Assessor Eligibility.

(1) Assessor Credentials. To qualify for certification, an assessor shall meet the following educational, experiential and training requirements:

(a) Licensed under Chapters 490 or 491, Florida Statutes. a. Assessors certified by the department prior to the date of promulgation of this rule are exempt from this requirement.

(b) Completion of 21 hours of facilitator training by department-approved trainers on the power and control model of intervention.

(c) Completion of eight (8) hours of training on the relationship of substance abuse to domestic violence by department-approved trainers.

(2) Assessor Continuing Education Training. Completion of 12 hours of department-approved continuing education on domestic violence issues annually.

(3) Good Moral Conduct.

(a) All applicants seeking certification shall complete annually, as a condition of certification and certification renewal, an Affidavit of Good Moral Conduct, form CF 1649D, which is incorporated by reference.

(b) An applicant is not eligible for certification who has been a perpetrator of domestic violence or subject of an injunction for protection against domestic violence unless the applicant has successfully completed a batterer intervention program certified by the department.

(c) An applicant is not eligible for certification if the applicant is under any form of community supervision including probation, pre-trial diversion, or parole.

(d) The department may grant an exemption from disqualification for certification, except as stipulated in paragraph (3)(b)-(c) above, if the applicant can provide documentation that she or he has not been convicted of any of the disqualifying offenses for a minimum period of five (5) years.

(e) The department shall terminate certification if the assessor is convicted or found guilty, regardless of adjudication, or entered a plea of nolo contendere, to any disqualifying offense. The assessor shall notify the department's Office of Certification and Monitoring of the disqualifying offense within 72 hours.

Specific Authority 741.32 FS. Law Implemented 741.325 FS. History--New _____.

65C-5.009 Trainer Requirements.(1) Trainer Credentials.

(a) To conduct the 21-hour department-approved facilitator training as required by, all proposed trainers shall meet the following qualifications:

1. Completion of department-approved advanced facilitator training on the power and control model of intervention, and

2. Minimum of three (3) years experience facilitating or co-facilitating a certified batterer intervention group using the power and control model of intervention. This experience shall be within five (5) years of application.

(b) To conduct the eight (8) hour substance abuse training, all proposed trainers shall meet the following qualifications:

1. Bachelor's degree,
2. Certified Addictions Professional or Certified Criminal Justice Addictions Professional or individual licensed under Chapters 490 or 491, F.S.
3. Minimum of three (3) years of professional experience providing substance abuse treatment, and
4. Minimum of three (3) years of professional experience in the field of domestic violence.

(2) Trainer Approval. Requests for trainer approval shall be mailed to the department's Office of Certification and Monitoring and shall include the following:

- (a) A course outline with goals, objectives, associated time frames, and number of credit hours that will be offered, and
- (b) A current resume with proof of educational, experiential, and training as required by rule.

Specific Authority 741.325 FS. Law Implemented 741.325 FS. History--New _____.

65C-5.010 Monitoring.

(1) Authorized department staff or department authorized agents will conduct monitoring of certified programs and of certified assessors annually to ensure compliance of the minimum standards as set forth herein and in statute.

(2) The first monitoring of a certified batterer intervention program and assessor may be conducted on-site within six (6) months after initial certification. Thereafter, a certified batterer intervention program and assessor will be monitored annually, on-site or desktop, as determined by the department. Monitoring may occur at any time there is a complaint to the department from an interested party.

(3) On-site monitoring will include a review of all records and documentation that support the provider's compliance with minimum standards as set forth herein and in statute. On-site monitoring of a program will include observation of group activity.

(4) Desktop review monitoring will require the provider to submit documentation to the department pertinent to the provider's compliance with minimum standards as set forth herein and in statute.

(5) Within 60 days after the monitoring, the provider will receive a written report from the department indicating whether or not standards have been met.

(6) If department monitoring indicates that a provider has violated or otherwise does not meet the standards set forth in statute or rule, a corrective action plan will be required. The severity of the noncompliance may affect the period of time allowed for correction, but in no event shall the corrective action period exceed 90 days.

(7) Failure to successfully complete the corrective action plan may result in revocation of certification. The department may immediately revoke a certification in a case of egregious or recurring violations of applicable statutes or rules.

(8) A provider whose certification is revoked may not apply for new certification for a period of one (1) year from the date of revocation.

Specific Authority 741.325 FS. Law Implemented 741.325 FS. History--New _____.

65C-5.011 Conflicts of Interest.

(1) It is essential to the proper operation of batterer intervention programs that direct-service staff, program employees, assessors, concurrent treatment providers, and program participants not engage in any activity that presents a conflict of interest or the appearance of a conflict of interest. When conflicts occur, the nature of the conflict shall be disclosed to the program director and all parties in accordance with the established program policy.

(2) If a certified assessor determines that the batterer who has been referred to a batterer intervention program should also be referred for further evaluation, the assessor shall provide a list of licensed or certified providers to the batterer. The assessor may not self-refer.

(3) Staff providing direct services to program participants must not engage in direct counseling or therapy with the victim and/or current partner of the program participant.

Specific Authority 741.325 FS. Law Implemented 741.325 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Renee C. Starrett, Office of Domestic Violence Program

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Trula E. Motta, Director, Office of Domestic Violence Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 27, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 7, 2006

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67-37.002	Definitions
67-37.005	Local Housing Assistance Plans
67-37.007	Uses of and Restrictions Upon SHIP Local Housing Distribution Funds for Local Housing Assistance Plans
67-37.008	Local Housing Assistance Trust Fund

PURPOSE AND EFFECT: This rule establishes the procedures by which the Florida Housing Finance Corporation shall administer the State Housing Initiatives Partnership (SHIP) Program which provides funds to Local Governments as an incentive to create Partnerships to produce and preserve

affordable housing. Revisions to the Rule are required to implement technical and clarifying changes. The adoption of these revisions will increase the efficiency and effectiveness of local program service delivery and will provide greater clarification of the program.

SUMMARY: Revisions to the Rule are required to implement technical and clarifying changes. The adoption of these revisions will increase the efficiency and effectiveness of local program service delivery and will provide greater clarification of the program.

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

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

SPECIFIC AUTHORITY: 420.907 FS.

LAW IMPLEMENTED: 420.9071, 420.9072 420.9073, 420.9075, 420.9076, 420.9078, 420.9079 F.S.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: August 14, 2006, 11:00 a.m.

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor Seltzer Room, Tallahassee, Florida 32301-1329

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: Robert Dearduff, SHIP Administrator, (850)488-4197 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: Robert Dearduff, SHIP Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329

THE FULL TEXT OF THE PROPOSED RULE IS:

67-37.002 Definitions.

As used in this rule chapter, the following definitions shall apply:

(1) through (5) No change.

(6) “Essential Service Personnel” means pursuant to Chapter 2006-69, Laws of Florida, persons in need of affordable housing who are employed in occupations or professions in which they are considered essential service personnel, as defined by each county and eligible municipality within its respective local housing assistance plan pursuant to Section 420.9075(3)(a), F.S.

~~(7)(6)~~ “Expended” or “Spent” means the affordable housing activity is complete and funds deposited to the local affordable housing trust fund have been transferred from the local housing assistance trust fund account to pay for the cost of the activity.

(8) “Extremely low income household” or “ELI” means one or more natural persons or a family that has a total annual gross household income that does not exceed 30 percent of the area median income adjusted for family size for households within the metropolitan statistical area, the county, or the non-metropolitan median for the state, whichever is greatest.

~~(9)(7)~~ “Home Ownership Activities” means the use of the local affordable housing trust fund moneys for the purpose of providing owner-occupied housing. Such uses include construction, rehabilitation, purchase, and lease-purchase financing where the primary purpose is the eventual purchase of the housing by the occupant within twenty-four months from initial execution of a lease agreement or within 24 months of the applicable fiscal year, whichever occurs first, to meet the requirement of subsection (8).

~~(10)(8)~~ “Institutional First Mortgage Lender” means any financial institution or governmental agency authorized to conduct business in this state and which customarily provides service or otherwise aids in the financing of mortgages on real property located in this state.

~~(11)(9)~~ “Interlocal Entity” means an entity created pursuant to the provisions of Chapter 163, Part I, F.S., for the purpose of establishing a joint local housing assistance plan pursuant to the provisions of Section 420.9072(5), F.S.

~~(12)(10)~~ “Loan” means an award from the local housing assistance trust fund that is recorded in the county or eligible municipalities Official Records, to an eligible sponsor or eligible person to partially or fully finance the acquisition, construction, or rehabilitation of eligible housing with requirement for repayment or provision for forgiveness of repayment if the condition of the award is maintained

~~(13)(11)~~ “Persons Who Have Special Housing Needs” means individuals who have incomes not exceeding moderate-income and, because of particular social, economic, or health-related circumstances, may have greater difficulty acquiring or maintaining affordable housing. Such persons may have, for example, encountered resistance to their residing in particular communities, and may have suffered increased housing costs resulting from their unique needs and high risk of institutionalization. Such persons include: persons with developmental disabilities; persons with mental illnesses or chemical dependency; persons with Acquired Immune Deficiency Syndrome (“AIDS”) and Human Immunodeficiency Virus (“HIV”) disease; runaway and abandoned youth; public assistance recipients; migrant and seasonal farm workers; refugees and entrants; the elderly; and disabled adults.

~~(14)(42)~~ “Rehabilitation” means repairs or improvements which are needed for safe or sanitary habitation, correction of substantial code violations, or the creation of additional living space. Local plans may more specifically define local rehabilitation standards.

~~(15)(43)~~ “Review Committee” means the committee established pursuant to Section 420.9072(3)(a), F.S.

~~(16)(44)~~ “SHIP” or “SHIP Program” means the State Housing Initiatives Partnership Program created pursuant to the State Housing Initiative Partnership Act, Sections 420.907-.9079, F.S.

~~(17)(45)~~ “State” means the State of Florida.

(18) “Welfare Transition Program” means a program pursuant to the provisions of Chapter 2000-165, Laws of Florida.

Specific Authority 420.9072(9) FS. Law Implemented 420.9072 FS. History—New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 9I-37.002, Amended 12-26-99, 9-22-03, 1-30-05, _____.

67-37.005 Local Housing Assistance Plans.

(1) To be eligible for SHIP funding for a state fiscal year, a county or eligible municipality must submit and receive approval of its local housing assistance plan and amendments thereto as provided in Rule 67-37.006, F.A.C. Plans must be submitted to the Corporation by May 2 preceding the end of the fiscal year in which the current plan expires. New Plans must be submitted utilizing the LHAP Template (6 06), adopted and incorporated herein by reference with an effective date of _____ . A copy of the LHAP Template (6 06) may be obtained at www.floridahousing.org or by contacting Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301. In the case of new eligible municipalities, plans must be submitted to the Corporation by May 2 of the state fiscal year prior to the state fiscal year they are eligible for funding. No SHIP local housing distribution funds shall be distributed in any fiscal year to any county or eligible municipality unless and until an approved plan is in place with respect to such fiscal year.

(2) through (5)(c) No change.

(d) The proposed sales price of new and existing units, which can be lower but may not exceed 90 percent of median area purchase price established by the U.S. Treasury Department, or as required by Section 420.9075(5)~~(4)~~(c), F.S.;

(e) through (i) No change.

(6) Each local housing assistance plan shall also include a statement, and evidence thereof, that the county or eligible municipality:

(a) No change.

1. through 3. No change.

(b) The advertisement may include other such information that the local governments deem necessary such as:

1. An estimated amount of SHIP local housing distribution per strategy;

2. Income set asides for each strategy along with applicable income limits;

3. A deion of the selection criteria for each strategy;

4. The maximum housing value limitation for each strategy; or

5. A statement that SHIP local housing distribution may not be used to purchase, rehabilitate, or repair mobile homes.

6. Once a waiting list has been exhausted and funds remain unencumbered, advertise as instructed in Section 420.9075(3)(b), F.S.

7. Has developed a qualification system and selection criteria for applications for Awards to eligible sponsors, which includes a deion that demonstrates how eligible sponsors that employed personnel from the Welfare Transition Program WAGES and Workforce Development Initiatives programs will be given preference in the selection process, adopted criteria for selection of eligible persons, and adopt a maximum Award schedule or system of amounts consistent with the intent and budget of its local housing assistance plan, with Sections 420.907-.9079, F.S.;

(c) through (e) No change.

(f) No change.

1. through 5. No change.

(7) No change.

(8)(a) Each county and eligible municipality shall include a definition of essential service personnel for the county or eligible municipality. Such definition may include teachers and educators, other school district, community college, and university employees, police and fire personnel, health care personnel, skilled building trades personnel, and other job categories as required by Section 420.9075(3)(a), F.S.

(b) Each county and eligible municipality may develop a strategy within its local housing assistance plan that emphasizes the recruitment and retention of Essential Service Personnel pursuant to Section 420.9075(3)(b), F.S.

(c) Each county and eligible municipality may develop a strategy within its local housing assistance plan that addresses the needs of persons who are deprived of affordable housing due to the closure of a mobile home park or the conversion of affordable rental units to condominiums pursuant to Section 420.9075(3)(c), F.S.

(d) For plans adopted prior to the effective date of this rule, the Corporation shall not require submission of an amendment to include a strategy for Essential Service Personnel until such time as the current plan expires. If a county or eligibility municipality creates a strategy as referenced above before the current plan expires, an amendment must be submitted to the Corporation in underline and strikethrough format as provided in subsection 67-37.005(9), F.A.C.

~~(9)(8)~~ A copy of the local housing assistance plan shall be submitted to the Corporation, via U.S. Mail or electronic submission. If submitted electronically, a mailed copy shall be

sent to the Corporation within three working days of the plan being electronically transmitted. The mailed copy submitted to the corporation shall bear the original signature of the authorized official which includes: Mayor, Commissioner, County Manager or City Manager or the authorized official's designee and a certification that the document being submitted is the county's, eligible municipality's or interlocal entity's local housing assistance plan and that all provisions of the plan conform to the requirements of Section 420.9072, F.S., et seq., and Rule Chapter 67-37, F.A.C. Each local housing assistance plan shall be printed on 8 1/2" x 11" paper or electronic submission and contain a table of contents or checklist, which specifies exactly where in the documentation certain required items shall be located. Each local housing assistance plan amendment shall be coded with text which is being deleted struck through and text being added underlined. Within two weeks after receipt of final approval letter, the local government shall provide to the Corporation a clean copy (no strike through or underline) for Corporation files.

Specific Authority 420.9072(9) FS. Law Implemented 420.9072(2), 420.9075 FS. History--New 11-26-92, Amended 5-2-93, 2-9-94, 12-28-94, 1-6-98, Formerly 9I-37.005, Amended 12-26-99, 9-22-03, 1-30-05,_____.

67-37.007 Uses of and Restrictions Upon SHIP Local Housing Distribution Funds for Local Housing Assistance Plans.

(1) through (5) No change.

(6) The sales price or value of new or existing homes which are sold or rehabilitated under the SHIP Program may not exceed 90 percent of the average area purchase price in the statistical area in which the housing is located. The local government at its discretion may set the sales price or value below the 90 percent benchmark. The maximum area purchase price used must be that established by the United States Department of Treasury or that calculated in accordance with Section 420.9075(5)(4)(c), F.S.

(7) through (12) No change.

(13) The local government may require that housing units receiving assistance from local housing distribution funds deposited to the local housing assistance trust fund be located within the boundaries of the local government's ~~governmental's~~ jurisdiction which has been approved for receipt of local housing distribution funds.

(14) No change.

(15) The Corporation shall monitor the activities of the local governments to determine compliance with program requirements as noted in Rule 67-53.005, F.A.C., and Section 420.9075(3)(e), F.S.

Specific Authority 420.9072(9) FS. Law Implemented 420.9072 FS. History--New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 9I-37.007, Amended 12-26-99, 9-22-03,_____.

67-37.008 Local Housing Assistance Trust Fund.

(1) No change.

(2) The local housing assistance trust fund shall be separately stated as a special revenue fund in a county's or eligible municipality's audited financial statements. Copies of such audited financial statements shall be forwarded annually to the Corporation no later than June ~~April~~ 30th of the following fiscal year. In addition to providing audited financial statements, all participating jurisdictions must provide evidence of compliance with the Florida Single Audit Act, as referenced in Section 215.97(6), F.S.

(3) An interlocal entity shall have its local housing assistance trust fund separately audited for each State fiscal year, which audit shall be forwarded to the Corporation as soon as available, but no later than June ~~April~~ 30th of the following fiscal year.

(4) No change.

Specific Authority 420.9072(9) FS. Law Implemented 420.9075(5) FS. History--New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 9I-37.008, Repromulgated 12-26-99, Amended 9-22-03, 1-30-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Darlene Raker, Program Manager, State Housing Initiatives Partnership (SHIP) Program, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197, extension 1156

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Robert Dearduff, Program Administrator, State Housing Initiatives Partnership (SHIP) Program, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 23, 2006

**Section III
Notices of Changes, Corrections and
Withdrawals**

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE CHAPTER NO.: RULE CHAPTER TITLE:

5E-3 Feed

RULE NO.: RULE TITLE:

5E-3.003 Inspection; Sampling; Analysis; Reporting Rejecting Feed and Feedstuff; Reduced Sampling