

PURPOSE AND EFFECT: The purpose of this rule development is to ensure that medical records are retained during the period of the statute of limitations.

SUBJECT AREA TO BE ADDRESSED: Patient Records.

RULEMAKING AUTHORITY: 456.057(16), 468.802 FS.

LAW IMPLEMENTED: 456.057(16), 468.802 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B14-7.002 Patient Records.

(1) through (2) No change.

(3) The licensee shall retain the patient record for at least seven ~~two~~ years from the date of last entry, unless otherwise provided by law.

Rulemaking Specific Authority 456.057(16), 468.802 FS. Law Implemented 456.057(16), 468.802 FS. History—New 7-1-98, Amended

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-21.0015	Definitions
68B-21.003	Prohibition of Sale of Snook
68B-21.004	Seasons
68B-21.005	Size Limits
68B-21.006	Bag and Possession Limits
68B-21.007	Restrictions on Gear and Methods Used to Take Snook

PURPOSE AND EFFECT: The primary purpose of the proposed rule amendments is to clarify that the Commission prohibits the sale of snook harvested or taken within or without the state in order to fully protect the snook resources from illegal sales or importation.

SUBJECT AREA TO BE ADDRESSED: Snook.

RULEMAKING AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600; (850)487-1764

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**Section II
Proposed Rules**

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE NOS.:	RULE TITLES:
9B-1.002	Definitions
9B-1.003	Administration and Department Responsibilities
9B-1.004	Adoption of Model Codes
9B-1.006	Certification of Agencies
9B-1.007	Manufacturer Certification
9B-1.009	Design Plan and Systems Approval
9B-1.0095	Component System
9B-1.010	Manufacturer’s Quality Control Manual Procedures
9B-1.011	Alterations and Relocation
9B-1.016	Department Insignia
9B-1.017	Insignia Application and Issuance
9B-1.018	Insignia Denial
9B-1.019	Removal of Insignia
9B-1.020	Schedule of Fees
9B-1.0211	Change in Manufacturer’s Status
9B-1.0221	Manufacturer’s Obligations Upon Sale of Building Oversight, Complaint
9B-1.023	Factory-built Schools, Certifications
9B-1.026	Factory-built Schools, Inspections
9B-1.028	and Work Progress Reports
9B-1.030	Factory-built Schools, Insignia and Data Plate

PURPOSE AND EFFECT: To eliminate rule provisions that duplicate requirements of the Florida Building Code; improve accountability of third-party agencies; and institute programmatic changes to increase compliance with the Florida Building Code.

SUMMARY: Clarify and ensure consistency of current rule with statute and internally in use of terms. New requirements are limited and include annual verification that insurance information is valid, requiring specification of site related items subject to local government jurisdiction on a single plan page, and specifying the location of the data plate insignia of approval.

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

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

RULEMAKING AUTHORITY: 553.37(1), (b), (e), 553.37(1)(b), (2), (7), 553.38, 553.38(1), (2), 553.381, 553.39, 553.73(2), 553.76(4), 553.415 FS.

LAW IMPLEMENTED: 553.36(5), 553.37, 553.37(1), 553.37(1)(a), (b), (c), (2), (3), (4), (5), (7), (8), 553.38, 553.38(1), 553.73(2), 553.381, 553.415, 553.73, 553.73(1), (2), 553.76(4) FS.

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

DATE AND TIME: April 23, 2009, 1:00 p.m.

PLACE: Randall Kelley Training Room, Third Floor, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

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 7 days before the workshop/meeting by contacting: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100; (850)922-6091. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100; (850)922-6091

THE FULL TEXT OF THE PROPOSED RULES IS:

9B-1.002 Definitions.

(1) Department – The Florida Department of Community Affairs.

(2)(1) Third Party Agency (Agency) – An individual or entity, which may be a private sector entity, a state department with building construction responsibilities or a local government determined by the Department to be qualified pursuant to this chapter to review plans for or inspect the

construction of manufactured building units, systems, or the component parts thereof together with the plans, specifications, and quality control procedures to ensure that such units, systems, or component parts are in full compliance with the codes and standards herein adopted and to assign and attach the insignia of the Department to such units complying with those standards.

(3)(2) Building System – The plans, specifications and documentation for a system of manufactured buildings or for a type or a system of building components, which may include structural, electrical, mechanical, plumbing and fire protection systems and other building systems affecting life safety.

(4)(3) Building Code Information System (BCIS) at www.floridabuilding.org – the official website of the Florida Building Commission and the Florida Building Codes and Standards Office.

(5)(4) Closed Construction – A building, component, assembly, subassembly, or system manufactured in such a manner that all portions cannot be readily inspected at the installation site without disassembly or destruction thereof.

(6)(5) Component – Any three dimensional assembly, subassembly, or combination of elements for use as a part of a building, which may include structural, electrical, mechanical, plumbing and fire protection systems, and other building systems affecting life safety.

(7)(6) Dealer – Any person, corporation or business engaged in leasing, selling, or both leasing and selling manufactured buildings.

~~(7) Department – The Florida Department of Community Affairs.~~

(8) Equipment – All equipment, material, appliances, devices, fixtures, fittings or accessories installed in or used in the manufacture and assembly of a manufactured building.

(9) Insignia – An approved device or seal issued by the Department to indicate compliance with the provisions of this chapter. The term “insignia” includes recertification insignias.

(10) Installation – The assembly of a manufactured building component or system on site and the process of affixing a manufactured building component or system to land, a foundation, or an existing building, or service connections which are part thereof.

(11) Labeled – Shall be as defined in ~~Chapter 2~~ of the Florida Building Code.

(12) Building Official – The officer or other designated authority or their duly authorized representative charged with the administration of the applicable technical codes in the subject jurisdiction. This term is synonymous with “building official” as that term is defined in Section 468.603(1), F.S.

~~(13) Enforcement Agency – An agency of state or local government with authority to make inspections of buildings and to enforce the codes which establish standards for design,~~

~~construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures or facilities.~~

~~(13)(14) Manufacture~~ – The process of making, modifying, fabricating, constructing, forming or assembling or reassembling a product from raw, unfinished, semifinished, or finished materials.

~~(14)(15) Manufactured Building, Modular Building, or Factory-Built Building~~ – A closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured in manufacturing facilities for installation or erection, ~~with or without other specified components~~, as a finished building or as part of a finished building, which shall include but not be limited to residential, commercial, institutional, storage, and industrial structures. The term includes buildings not intended for human habitation such as lawn storage buildings and storage sheds manufactured and assembled offsite by a certified manufacturer.

~~(15)(16) Manufacturer~~ – Any person who, or entity which, has been certified to produce, modify, or produce and modify manufactured buildings for placement in the State of Florida.

~~(16)(17) Model~~ – A specific design of manufactured buildings, which is based on size, room arrangement, method of construction, location, arrangement or size of plumbing, mechanical or electrical equipment and systems therein in accordance with plans submitted to the Department.

~~(17)(18) Modification~~ – Any change to a manufactured building which affects the structural, electrical, thermal, mechanical, plumbing systems, life safety, means of egress, material flammability/flame spread or accessibility of the building to persons with disabilities in accordance with the Florida Accessibility Code for Building Construction.

~~(18)(19) Occupancy Classification~~ – The characterization of the intended purpose for which the building will be used as determined in accordance with the Florida Building Code. The purpose for which a building, or part thereof, is used or intended to be used as defined in the codes and standards adopted herein.

~~(19)(20) Open Construction~~ – Any manufactured building, building component, assembly or system manufactured in such a manner that all parts or processes of manufacture can be readily inspected at the installation site without disassembly, damage to or destruction thereof.

~~(20)(21) Quality Control Manual~~ – A manual which contains all aspects of quality control procedures to be utilized by an entity or individual performing a function regulated hereby.

~~(21)(22) Recertified Building~~ – A manufactured building which has been previously approved by the Department and which has been subjected to the supplemental procedures provided in this chapter for subsequent approval.

~~(22)(23) Residential Building~~ – Shall be as defined in the Florida Building Code. Any structure in which sleeping accommodations are provided which is not classified as an Institutional Occupancy as defined in the Florida Building Code, including but not limited to, dwellings, multiple-family dwellings, hotels, motels, dormitories and lodging houses.

~~(23)(24) Standard Design~~ – Any building system, model, series or component intended for duplication or repetitive manufacture.

~~(24)(25) Storage Shed~~ – A closed construction building that is not designed for human habitation, without regard to whether the storage unit is used for residential or commercial purposes. This term does not include a building used to house communications equipment.

~~(25)(26) System~~ – The structural, plumbing, electrical, mechanical, thermal efficiency and life safety elements, materials or components of a building.

~~(26)(27) Traveler~~ – A form utilized in a manufacturing facility in conjunction with the manufacturer’s quality control program to indicate that all quality control inspections are conducted during the manufacturing process and that all inspections indicate compliance with the approved plans.

Rulemaking Specific Authority 553.76(4), 553.415 FS. Law Implemented 553.37, 553.415, 553.73 FS. History—New 1-17-72, Amended 2-23-75, 12-8-75, 3-1-80, 9-29-82, Formerly 9B-1.02, Amended 1-1-87, 3-1-92, 3-1-95, 9-13-01, 7-16-03, 5-13-07.

9B-1.003 Administration and Department Responsibilities.

(1) Forms – The following forms are hereby adopted by reference for use in administering this part.

(a) FMBP 1-00 Manufacturer Application for State Approval, effective 10/1/05;

(b) FMBP 2-00 Agency Application for State Approval, effective 10/1/05;

(c) FMBP PS-1-00 School District Application, effective 10/1/05;

(d) FMBP 4-00 ~~Third-Party~~ Agency Renewal Form, effective 10/1/05;

~~(e) FMBP 6-00 Insignia Disposition Report, effective 10/1/05. [These forms may be obtained online at www.floridabuilding.org, click on Manufactured Buildings and then Forms.]~~

(2) Certification – The Department shall certify manufacturers and ~~third party~~ Agencies in accordance with this rule chapter. Certifications shall be for a period of three years from the date of initial certification. All certifications, licenses and approvals granted by the Department pursuant to Rule Chapter 9B-1, F.A.C., are subject to revocation for failure to adhere to Rule Chapter 9B-1, F.A.C., the codes and

standards adopted herein, or Chapter 553, F.S. Proceedings against certifications, insignia and approvals shall be in accordance with Section 120.60, F.S.

(3) Monitoring – The Department, through its employees or its designated performance auditors, shall monitor the performance of ~~third-party~~ Agencies and manufacturers. Each certified manufacturer and each certified ~~third-party~~ Agency shall be subject to a performance audit at a minimum of once every three years. Unannounced visits to offices and manufacturing facilities shall be utilized unless impractical based upon the nature of the business to be monitored. Information obtained through monitoring shall remain confidential to the extent permitted by law. Agencies and manufacturers shall provide the auditor access to records, facilities and personnel as requested by the auditor. The auditor shall collect information through interviews, examination of documents and observation of activity to determine whether the manufacturer or ~~third-party~~ Agency complies with the codes and standards adopted herein and this chapter. Any determination of nonconformance with any applicable provision shall be reported to the Department and the manufacturer or ~~third-party~~ Agency or both the ~~third-party~~ Agency and the manufacturer. The report shall identify the facts that support the finding of nonconformity and recommend corrective action. The Department shall determine the appropriate corrective action subject to the requirements of Section 120.60, F.S.

(4) Testing and Evaluations of Products – Shall be in accordance with the Florida Building Code, ~~and~~ Rule 9B-72, F.A.C., ~~or~~ Section 553.825, F.S.

Rulemaking Specific Authority 553.37(1), (2), 553.73(2), 553.76(4) FS. Law Implemented 553.37(1), (2), 553.73(2), 553.76(4), 553.381 FS. History–New 1-17-72, Amended 2-23-75, 3-1-80, 11-1-84, Formerly 9B-1.03, Amended 1-1-87, 1-1-89, 3-1-92, 3-1-95, 9-7-00, 9-13-01, 7-16-03, 5-13-07, _____.

9B-1.004 Adoption of Model Codes.

(1) Building Code – The design and fabrication of manufactured buildings and components shall comply with the requirements of the Florida Building Code as defined in Rule 9B-3.047, F.A.C., and adopted herein by reference.

(2) Florida Fire Prevention Code – Buildings designed and manufactured by these rules shall conform to the requirements of the Florida Fire Prevention Code, referenced in Sections 633.022 and 633.025, F.S.

~~(3) Building Official – For purpose of this chapter, where reference is made in any of the above mentioned codes in Rule 9B-1.004, F.A.C., to the building official, the plumbing or mechanical inspector, to the administrative authority or enforcement official, or to any such authoritative person, it shall mean the Manufactured Buildings Program Manager.~~

~~(3)(4)~~ A copy of the above referenced Florida Building Code has been filed with the Secretary of State. The Florida Building Code is also available for reference and inspection at the Department of Community Affairs, Building Codes & Standards Office or online at www.floridabuilding.org.

~~(4)(5)~~ The above shall not apply to any building exempted pursuant to Section 553.73, Part IV, F.S.

~~(5)(6)~~ Notwithstanding the above, the service connections and foundations prepared at the installation site shall be regulated by the local building official according to the Florida Building Code.

~~(6)(7)~~ Notwithstanding the foregoing provisions of this section, factory-built schools shall be subject to the following:

(a) Existing Buildings. Factory-built schools utilized as educational facilities prior to July 1, 2001, are hereby designated as existing buildings and shall comply with the requirements of Section 423, Florida Building Code.

(b) New Construction. Factory-built schools other than existing buildings shall be manufactured and installed as required by the Florida Building Code, including Section 423.

Rulemaking Specific Authority 553.37(1), 553.415, 553.73(2), 553.76(4) FS. Law Implemented 553.37(8), 553.38(1), 553.415, 553.73(1), (2) FS. History–New 1-17-72, Amended 6-19-74, 2-23-75, 12-21-76, 3-20-79, 3-1-80, 6-24-80, 9-29-82, 1-29-84, 11-1-84, Formerly 9B-1.04, Amended 1-1-87, 1-1-89, 1-1-90, 3-1-92, 3-1-95, 9-13-01, 7-16-03, 5-13-07, _____.

9B-1.006 Certification of ~~Third Party~~ Agencies.

(1) Individuals or entities who desire to perform plan review, inspection, or both plan review and inspection of manufactured buildings shall be certified by the department. Those inspectors and plans reviewers employed by entities to perform the delegated functions do not require individual certification as an agency to the extent that the delegated functions are performed within the scope of the individuals' regular course of employment. Individuals or entities performing delegated functions as an independent contractor for ~~a third-party~~ an Agency shall be individually certified.

(2) Application – The applicant shall submit a completed application (Form FMBP 2-00) with application fee amount stated in the Schedule of Fees. The application shall contain the following information.

(a) Name, address, and phone number of the applicant. If the applicant is a corporation, the application shall identify the officers and directors of the corporation, as well as the identity of any shareholders that hold controlling ownership interest in the corporation. If the applicant is a partnership, the application shall identify each partner.

(b) Names and professional license types and numbers of all employees or contractors employed or otherwise utilized for inspections or plans review or both inspections and plans review within the State of Florida.

(c) A statement of independence which shall be signed by the individual, each of the partners of a partnership, or the chief operating officer of a corporation to be certified. The statement shall be notarized and dated within the twelve months immediately preceding its submission. The statement shall affirm that the Agency, any independent contractors utilized by the Agency and its employees are not owned, operated, or controlled by any manufacturer or dealer.

(d) An affirmation that the Agency shall comply with the Florida Manufactured Buildings Act and the Rule Chapter 9B-1, F.A.C.

(e) Proof of general liability insurance with minimum coverage limits of \$1,000,000, which shall be renewed annually and posted on the Building Code Information System at www.floridabuilding.org.

(3) Agency's Quality Control Assurance Program Manual – The applicant shall submit a quality control assurance manual to the department with the application which shall at a minimum contain the following sections.

(a) An introduction to the agency – A brief history, types of services provided.

(b) Outline of internal quality control plan and personnel ~~person~~ in charge of quality control. How the Agency plans to meet duties and responsibilities stated in subsection (4) below.

(c) An organizational chart showing relationship between administration, operation, and quality control responsibilities including plan reviewers and inspectors by name and title. Identify if they are employees or under contract.

(d) Personnel resumes shall be included for architects, engineers, plan reviewers, inspectors, and their supervisors. Applicable education, experience, and license number shall be indicated in the resume.

(e) Training program – Programs for required continuing education, seminars, discussions on code compliance, plan reviews, inspections, department requirements, etc.

(f) Inspection procedures – Including inspection checklists for code compliance, inspection records, correction notice, reinspection, inspection visits and scope of inspections.

(g) Procedure for control of insignia;

(h) Procedure for maintenance of approved plans and other public records in accordance with Chapter 19, Florida Statutes.

(4) Duties and Responsibilities – Upon certification, the Agency shall be entitled to conduct such plans review and inspection services for which it is qualified pursuant to these rules and shall comply with Chapter 120, F.S., and the following general duties and responsibilities.

(a) The Agency shall act faithfully on behalf of the Department implementing the laws and rules of the Manufactured Buildings Program.

(b) The primary duty and responsibility of the Agency is to assure that the buildings and components manufactured are compliant with the Florida Building Code applicable codes.

(c) Upon Agency's approval of plans, satisfactory inspection of a building, or both approval of plans and a building constructed in accordance with those plans, the approved plans, the inspection report, or the plans and inspection report shall be transmitted to the Department through the Building Code Information System.

(d) The Agency shall triennially evaluate the manufacturer's quality ~~assurance (control)~~ program to coincide with the change in the Florida Building Code. The Agency shall post the Quality Control (QC) Manual on the BCIS and maintain copies on file, available for monitoring.

(5) The Agency shall maintain its independence as certified until the expiration or resignation of its certification. An Agency shall not perform plans review or inspect buildings that are designed by the Agency, its employees or those of its contractors working on such review or inspection.

(6) Renewal – The ~~third-party~~ Agency shall renew its certification once every three years and update the information provided in its initial application using the Building Code Information System. The Agency will be notified electronically at least 90 days prior to the expiration date of the manufacturer's certification. If the ~~Third-Party~~ Agency does not complete the renewal information and submit correct fees by the certification expiration date, certification becomes null and void. The Agency must meet the qualifications in effect upon the date of renewal to have its certification renewed.

Rulemaking Specific Authority 553.37(1), 553.38(1), 553.73(2), 553.76(4) FS. Law Implemented 553.37(1)(c), (8) FS. History—New 1-17-72, Amended 2-23-75, 12-8-75, 11-14-76, 3-23-77, 3-1-80, 9-29-82, 4-21-83, 11-1-84, Formerly 9B-1.06, Amended 1-1-87, 3-1-92, 3-1-95, 9-13-01, 7-16-03, 5-13-07, _____.

9B-1.007 Manufacturer Certification.

(1) All individuals or entities manufacturing buildings or components for installation in Florida must be certified by the Department. In the event that a manufacturer has more than one facility producing manufactured buildings, the manufacturer shall obtain certification for each such facility individually.

(2) Initial Certification Requirements – A manufacturer must submit to the ~~Third-Party~~ Agency for validation to the Department the following for certification:

(a) Application Package – A completed application; application fee; certificate of product liability insurance with coverage not less than \$1,000,000, which shall be renewed and posted on the Building Code Information System at www.floridabuilding.org annually; and a copy of a contract with a certified ~~third-party~~ Agency for plan review and inspection services.

(b) Identification of principals which shall at a minimum include the positions of partners if the manufacturer is a partnership or its officers, directors, controlling owners and registered agent if the manufacturer is a corporation.

(c) Description of manufacturing facility including, at a minimum, the size of shed(s) for weather protection of building materials and buildings under construction or repair, the size of yard at the facility for storing buildings and a site plan of the facility.

(d) A Quality Control Assurance Program Manual which also may be called Quality Control Manual (QC Manual).

(3) The manufacturer shall submit a separate application for each of its plant locations. The Quality Control Assurance Program Manual shall be kept at each location.

(4) Renewal – The manufacturer shall renew its certification once every three years and update the information provided in its initial application using the Building Code Information System. Manufacturers will be notified electronically at least 90 days prior to the expiration date of the manufacturer's certification. If the manufacturer does not complete the renewal information and submit correct fees by the certification expiration date, certification becomes null and void. The manufacturer must meet the qualifications in effect upon the date of renewal to have its certification renewed.

Rulemaking Specific Authority 553.37(1), 553.38(1), 553.381, 553.73(2), 553.76(4) FS. Law Implemented 553.37(8), 553.381 FS. History–New 1-17-72, Amended 2-23-75, 11-14-76, 3-1-80, 11-4-84, Formerly 9B-1.07, Amended 1-1-87, 1-1-89, 3-1-95, 9-7-00, 9-13-01, 7-16-03, 5-13-07, _____.

9B-1.009 Design Plan and Systems Approval.

(1) General. A final design plan approval shall be contingent upon compliance with these rules and the building codes specified in Rule 9B-1.004, F.A.C. The manufacturer shall submit plans for approval by the ~~Third Party~~ Agency. The ~~Third Party~~ Agency reviewing the plans shall notify a manufacturer of any apparent errors or omissions and request any additional information necessary to evaluate the plans submitted within thirty days of receipt of the plans. The Department shall have the authority to seek revocation of a plan approval by an Third Party Agency if, through monitoring activities, the Department discovers that the plans fail to comply with the standards adopted herein.

(2) Approved Plans Design Plan Submittal. Plans are approved for all code related items installed at the manufacturing facility in accordance with Sections 553.37(1) and 553.38, F.S. All code related items not installed at the manufacturing facility shall be clearly noted on the plans cover page as "Items to be site installed and subject to local code review and compliance."

(3) Completed sets of design plans and specifications, prepared by an architect or engineer licensed to practice in the State of Florida, except as exempted by Florida law; supporting calculations and any required test results for each system and prototype to be approved. Based on compliance with the codes in Rule 9B-1.004, F.A.C., the ~~Third Party~~ Agency's plans examiner licensed under Chapter 468, F.S., shall approve or disapprove the manufacturer's submittal. If the submittal is

approved, the Agency individual shall affix a stamp authorized by the Department on each sheet. Plans drawn to a scale less than 1/8" to the foot are not acceptable. Plans shall be legible for reproduction purposes, including verbiage.

~~(4)(3)~~ System Approval. The manufacturer may submit through the ~~Third Party~~ Agency for Department approval a system of construction which may include any or all elements of building systems such as structural, mechanical, plumbing, and electrical elements or components. Such submission shall include all documents and data providing complete information necessary for evaluation of the systems' performance and capabilities for its intended use.

~~(5)(4)~~ The Agency shall conduct a A-licensed modular plan reviewer shall review of each set of documents so submitted, including the plans, specifications and design calculations, for compliance with the appropriate code and this part and shall utilize a checklist. The plans review and the checklist utilized therewith shall at a minimum contain the following elements and comply with Rule Chapter 9B-72, the plan review requirements of the Florida Building Code, adopted pursuant to Rule 9B-3.047, F.A.C.:

~~(a)~~ For commercial buildings:

1. ~~Building including determination of occupancy group and special occupancy requirements, and determination of minimum type of construction;~~

2. ~~Fire resistant construction requirements including fire resistant separations, fire resistant protection for type of construction, protection of openings and penetrations of rated walls, fire blocking and draftstopping and calculated fire resistance;~~

3. ~~Fire suppression systems including early warning, smoke evacuation systems schematic, fire sprinklers, standpipes, pre-engineered systems, and riser diagram;~~

4. ~~Life Safety systems including occupant load and egress capacities, early warning systems, smoke control, stair pressurization, and systems schematic;~~

5. ~~Occupancy Load/Egress Requirements including gross and net occupancy load, means of egress including exit access, exit and exit discharge, stairs construction/geometry and protection, doors, emergency lighting and exit signs, specific occupancy requirements, construction requirements, and horizontal exits/exit passageways;~~

6. ~~Structural requirements including termite protection, design loads, wind requirements, building envelope, structural calculations (if required), wall systems, floor systems, roof systems, threshold inspection plan, and stair systems;~~

7. ~~Materials including wood, steel, aluminum, concrete, plastic, glass, masonry, gypsum board and plaster, insulating (mechanical), roofing and insulation;~~

8. ~~Accessibility requirements including accessible route, vertical accessibility, toilet and bathing facilities, drinking fountains, equipment, special occupancy requirements and fair housing requirements;~~

9. Interior requirements including interior finishes (flame spread/smoke develop), light and ventilation and sanitation;

10. Special systems including elevators, escalators and lifts;

11. Electrical including wiring services, feeders and branch circuits, overcurrent protection, grounding, wiring methods and materials, and GFCI's, equipment, special occupancies, emergency systems, communication systems, low-voltage, and load calculations;

12. Plumbing including minimum plumbing facilities, fixture requirements, water supply piping, sanitary drainage, water heaters, vents, roof drainage, back flow prevention, irrigation, location water supply line, grease traps, environmental requirements and plumbing riser;

13. Mechanical including energy calculations, exhaust systems including clothes dryer exhaust, kitchen equipment exhaust and specialty exhaust systems, equipment, equipment location, make up air, roof mounted equipment, duct systems, ventilation, combustion air, chimneys, fireplaces and vents, appliances, boilers, refrigeration, bathroom ventilation and laboratory;

14. Gas including gas piping, venting, combustion air, chimneys and vents, appliances, type of gas, fire places, LP tank location and riser diagram/shut-offs.

(b) For residential one and two family buildings:

1. Building including fire resistant construction if required, fire including smoke detector locations, egress including egress window size and location and stairs construction requirements, structural requirements including complete wall section from lowest element of the building through roof including assembly and materials, connector tables, wind requirements and structural calculations (if required), and accessibility requirements including show/identify accessible bath;

2. Electrical including service location, panel location and load calculations;

3. Plumbing including minimum plumbing facilities and fixture location based on floor plan;

4. Mechanical including energy calculations, equipment and duct layout and chimney and fireplaces if required;

5. Gas including location of gas appliances and indicate combustion air locations.

~~(6)(5)~~ Plan Approval Expiration – Upon revision of the building codes adopted herein, plan approvals shall expire upon the effective date of the revisions unless the manufacturer files with the department a sworn statement by an Third Party Agency that the plans as previously approved have been reviewed and ~~that they~~ are in compliance with the revisions to the adopted codes. The Agency shall ensure that it has obtained, and retains as a public record, all data and information necessary to support that sworn statement consistent with rules regulating the practice of engineering or architecture or both engineering and architecture. This rule is

not intended to provide a defense for Agencies from any charge of unlicensed practice of engineering or architecture. The ~~Third Party~~ Agency shall transmit plans electronically through the Building Code Information System to the Department.

~~(7)(6)~~ Manufacturer's Component Data Plate. Each component or package of like components shall contain a manufacturer's data plate which indicates the limiting characteristics and design criteria of such components for determining how they are to be installed and utilized within their capabilities. Such data plate information shall be approved by the Agency.

~~(8)(7)~~ Manufacturer's Modular Data Plate. The manufacturer shall install on all manufactured (modular) buildings and components prior to leaving the manufacturing plant a data plate which shall be permanently affixed ~~mounted~~ on or about the electrical panel and which shall contain, but not be limited to, the following design information when applicable.

(a) Name and address of Manufacturer;

(b) Name of Third Party Agency;

~~(c)(b)~~ Manufacturer Certification Number;

~~(d)(e)~~ Date of Manufacturer;

~~(e)(d)~~ Date of Alteration;

~~(f)(e)~~ Number of Modules;

~~(g)(f)~~ Construction Type as defined in Chapter 6 of the Code;

~~(h)(g)~~ Occupancy Use Classification in accordance with Chapter 3 of the Code;

~~(i)~~ Design Occupant Load;

~~(j)(h)~~ Serial Number;

~~(k)(i)~~ Agency Plan Number;

~~(l)(j)~~ Standard Plan Approval Number;

~~(m)(k)~~ Maximum Floor Load (pounds per square foot), Live Load and Dead Load;

~~(n)(l)~~ Roof Load; Live Load and Dead Load;

~~(o)(m)~~ Wind Velocity Rating;

~~(p)(n)~~ "U" rating of Floor, Wall, and Roof;

~~(e)~~ Approved for Flood Zone Usage; and

~~(q)(p)~~ Limitations of the plan approval by the Third Party Agency;-

(r) If an automatic sprinkler system is provided, whether the sprinkler system is required; and

(s) Any special stipulations and conditions of the building permit.

Rulemaking Specific Authority 553.37(1), 553.76(4) FS. Law Implemented 553.37(1)(a) FS. History–New 1-17-72, Amended 2-23-75, 3-1-80, 9-29-82, 1-29-84, 11-1-84, Formerly 9B-1.09, Amended 1-1-87, 3-1-92, 3-1-95, 9-13-01, 7-16-03, 5-13-07,_____.

9B-1.0095 Component System.

(1) A manufacturer may prefabricate building components such as wall, floor, or roof panels in standardized sections that are closed construction and assembled in buildings. These components may be certified under the Florida Manufactured (Modular) Buildings Program.

(2) The applicable authority having jurisdiction enforcement agency is responsible for inspecting installation of components.

(3) The manufacturer shall submit documents and data providing complete information necessary for evaluation of the component's performance and capabilities for its intended use. Method of construction, calculations and test procedures shall be certified by a Florida registered architect or engineer and shall be as follows:

(a) Method of construction and detail drawings shall be submitted;

(b) Structural calculations in accordance with established principles of engineering design;

(c) When the component is such that calculations of their safe structural integrity or fire resistance cannot be accurately determined, tests shall be performed by a recognized testing organization. Test procedures and results shall be submitted;

(d) All components shall comply with the applicable building codes, ~~and~~ Rule Chapter 9B-72, F.A.C., or Section 553.8425, F.S.

Rulemaking Specific Authority 553.37, 553.38, 553.76(4) FS. Law Implemented 553.37, 553.38, 553.36(5), 553.76(4) FS. History—New 9-13-01, Amended 7-16-03, 5-13-07, _____.

9B-1.010 Manufacturer's Quality Assurance Manual Control Manual Procedures.

The manufacturer's Quality Control Manual shall at a minimum contain the following information.

(1) Organizational Element:

(a) Introduction of the manufacturer – a brief history which shall, at a minimum include ~~the length of time that the manufacturer has been in the manufactured buildings industry,~~ where it is incorporated, whether it is a division of any parent organization, the identity of products it manufactures, and the location of the facility.

(b) An organizational chart showing responsible management and supervisory positions by title. A job description for each of the positions shall be provided.

(c) Brief qualifications of all personnel in management and supervisory positions including the Quality Control Manager.

(d) Administrative procedure for revision of Quality Control procedure and Q-C Manual.

(e) Procedure for retaining permanent records of plans, travelers, inspection reports, serial numbers of buildings, insignias used, first destination of labeled buildings or components in accordance with Chapter 19, F.S.

(f) Method and frequency ~~of~~ training of quality control and production personnel.

(2) Design and Specification Control:

(a) Procedures for revisions to plans.

(b) Recording system of drawings and specifications.

(3) Material Control:

(a) Inspection procedure of materials, equipment and supplies when received.

(b) Method of storing and protection of building materials and equipment against damage.

(c) Provision for disposal of rejected materials, equipment and supplies.

(d) Forms used.

(4) Production Control:

(a) A description of manufacturing process – method and sequence of construction.

(b) Check lists of material specifications and workmanship inspections performed at each stage of production by supervisors, corrective actions taken, use of traveler.

(c) Frequency of quality control inspections.

(d) List of tests to be performed, testing equipment, results and technical data acceptable.

(e) Procedures for timely preventive and remedial measures.

(f) Assignment of authority to accept or reject work.

(g) Provision for disposition of rejected items.

(h) Forms used.

(5) Finished Product Control and Identification of Products:

(a) Procedure for handling and storage of finished buildings/modules and components.

(b) Preparation for shipping, transportation, and delivery.

(c) Serial numbering system of buildings or components and location of the serial number not readily removable.

(d) Location of manufacturer's data plate. Information to contain in the data plate.

(e) Location of Florida State insignia.

(f) Forms used.

Rulemaking Specific Authority 553.37(1)(b), 553.76(4) FS. Law Implemented 553.37(1)(b), (6), (8), 553.76(4) FS. History—New 1-17-72, Amended 2-23-75, 3-1-80, 9-29-82, Formerly 9B-1.10, Amended 1-1-89, 3-1-92, 3-1-95, 9-7-00, 9-13-01, 5-13-07, _____.

9B-1.011 Alterations and Relocation.

(1) Alteration or Conversion. Any unauthorized modification, alteration, or conversion made to an approved manufactured building prior to installation shall void the insignia of approval. The insignia affixed to the building shall be confiscated by the inspection agency or the building official as authorized by the Department and returned to the Department.

(2) Off site modifications. Modifications made in an approved manufacturing facility other than at the installation site shall require certification by the Department pursuant to this paragraph. Modifications made in other than an approved manufacturing facility are subject to the local authority having jurisdiction.

(a) In order to recertify a previously approved used manufactured building, the owner must provide the approved inspection Agency with a set of the original or as-built plans of the building reflecting the proposed modifications. When the Agency approves the plans to modify the building, the manufacturer is authorized to begin work on it. The Agency shall forward copies of the approved plans to the Department as provided in subsection 9B-1.009(7), F.A.C., for its records. Once the Agency has tested and/or evaluated each system in the building and certifies to the Department that the building is in compliance with the applicable codes, the Department will issue a recertification insignia to be affixed to the building. A building bearing a recertification insignia shall be deemed to comply with the requirements of all ordinances or regulations enacted by local governments which govern building construction.

(b) Manufactured buildings which bear an insignia of approval can be modified after the initial insignia is affixed in accordance with the provisions of this chapter. Only that portion of the building being modified is required to comply with the current codes while the portion not being modified must comply with the original plans. The requirements and procedures for obtaining an initial insignia, including the fee schedule established in Rule 9B-1.020, F.A.C., shall apply to recertified buildings.

(c) In order to certify a used manufactured building for which no state insignia has been issued, the agency must require a complete set of as-built plans prepared and sealed by a Florida professional engineer or architect. Under this subsection the entire building must be brought into compliance with the applicable codes. The agency shall forward a copy of the approved plans to the Department for its review and records. Once the agency has tested and/or evaluated each system in the building and certifies to the Department that the building is in compliance with the applicable codes the Department will issue an recertification insignia to be affixed to the building.

~~(d) A building bearing a recertification insignia shall be deemed to comply with the requirements of all ordinances or regulations enacted by local governments which govern building construction.~~

(3) On-site Modifications. On-site modifications to previously approved manufactured buildings must be inspected by either an agency approved by the Department or by the local authority having jurisdiction building official and must comply with the Florida Building Code applicable codes. The manufactured building is not subject to locally adopted codes

~~when until it is taken out of compliance with the applicable state approved plans by modifications, or the occupancy classification has changed. The local jurisdiction has superseding authority over any on-site modifications to a manufactured building or may delegate this authority to the Department in writing on a case-by-case basis. Upon issuance of a certificate of occupancy for the modified manufactured building, the old insignia shall be removed and returned to the Department.~~

(4) Relocation of an existing manufactured building does not constitute an alteration.

(5) A relocated manufactured building shall comply with wind speed requirements of the new location, using the appropriate wind speed map. If the existing building was manufactured in compliance with the 1997 Standard Building Code (prior to March 1, 2002), the wind speed map of the Standard Building Code shall be applicable. If the existing building was manufactured in compliance with the Florida Building Code (after March 1, 2002), the wind speed map of the Florida Building Code shall be applicable.

Rulemaking Specific Authority 553.37(1) FS. Law Implemented 553.37(1), (4) FS. History—New 1-17-72, Amended 2-23-75, 3-1-80, 9-29-82, 11-1-84, Formerly 9B-1.11, Amended 1-1-87, 3-1-92, 3-1-95, 9-13-01, 7-16-03, _____.

9B-1.016 Department Insignia.

(1) Each manufactured building, re-certified building, and components approved by the ~~Third-Party~~ Agency shall be affixed with the appropriate insignia prior to leaving the manufacturing plant ~~except factory-built school buildings.~~

(2) Insignia fees shall be charged as provided in the Schedule of Fees.

(3) Assigned insignias are not transferable from one building to another, or from one manufacturer to another manufacturer.

(4) The control of the insignia shall remain with the Department and will be revoked by the Department in the event of violation of the conditions of approval. All such voided insignias shall be returned to the Department.

(5) Insignias shall be ordered from the Department ~~utilizing insignia request~~ using the Building Code Information System at www.floridabuilding.org (BCIS). Fees for insignia as provided in Rule 9B-1.020, F.A.C., shall be submitted at the time of the order request for insignia. One insignia shall be required for each building.

(6) The Department shall issue insignias for those buildings and components built from previously approved plans. No insignia shall be issued until the plans for that building have been approved.

(7) Insignias shall be mailed to the manufacturer's inspection agency for release to the Manufacturer's Quality Control personnel Assurance person when the inspection Agency is satisfied that the building or component meets the Florida Building Code.

(8) The Agency or manufacturer's Quality Control personnel Assurance person shall affix insignias to buildings only after inspection and determination that the building or component is in compliance with the Florida Building Codes. The insignia and data plate shall be permanently affixed on or about the electrical panel. If the building does not include an electrical panel, the insignia and data plate location shall be designated on the approved plans.

(9) After insignia is affixed, no alteration shall be made before installation.

(10) Insignias shall be denied to buildings and components not conforming to with approved plans or system design.

(11) Affixing an insignia to a building or components which has code deficiencies or do not conform to the approved plan, shall be grounds for decertification of the manufacturer or Agency or both. In such case the insignia shall be removed at the direction of by the agency, manufacturer's Quality Assurance person or the Department.

Rulemaking Specific Authority 553.37(1), (e), 553.76(4) FS. Law Implemented 553.37(1)-(5), 553.38, 553.73(2) FS. History-New 1-17-72, Amended 9-17-73, 2-23-75, 3-1-80, 6-24-80, 9-29-82, 11-1-84, Formerly 9B-1.16, Amended 1-1-87, 3-1-92, 3-1-95, 9-13-01, 7-16-03, 5-13-07.

9B-1.017 Insignia Application and Issuance.

(1) Following the receipt of initial Department approval, the manufacturer shall complete an order insignia request for an insignia for each component or system manufactured as required herein. The insignia order requests shall be submitted via the Building Code Information System which shall calculate the fees based on the fee schedule in these rules and regulations. The insignia order request shall include the plan approval number of each unit for which an insignia is required. Additionally, the manufacturer shall file via the Building Code Information System an insignia disposition report at least monthly, which indicates the model serial number, insignia number, and initial location of each unit.

(2) Insignias shall be issued to the manufacturer's Third Party Agency, and shall not be affixed to a building until the inspection Agency has completed the inspections required in the Florida Building Code, and determined found the building to be in compliance with the requirements of this chapter and entered the Inspection Report on the Building Code Information System at www.floridabuilding.org BCIS. If an insignia is for a modified building, after the modifications are completed and the building inspected, the original insignia shall be removed and returned to the Department by the inspection Agency or Quality Control Assurance personnel and the new insignia affixed.

Rulemaking Specific Authority 553.37(1)(b) FS. Law Implemented 553.37, 553.38, 553.73(2), 553.76(4) FS. History-New 1-17-72, Amended 9-27-73, 2-23-75, Formerly 9B-1.17, Amended 1-1-87, 3-1-92, 3-1-95, 7-16-03, 5-13-07.

9B-1.018 Insignia Denial.

Should an inspection reveal that a manufacturer is not manufacturing components or systems according to plans as approved by the Department and such manufacturer, after having been served with a notice setting forth the provisions of the plan approval which have been violated, continues to manufacture units in violation of the plan approval, applications for new insignia shall be denied and the insignia previously issued for units in violation of the plan approval shall be confiscated. Upon satisfactory proof of compliance such manufacturer may resubmit an order request for an insignia.

Rulemaking Specific Authority 553.37(1) FS. Law Implemented 553.37(1), 553.38 FS. History-New 1-17-72, Amended 2-23-75, Formerly 9B-1.18, Amended 3-1-92, 3-1-95, 9-7-00.

9B-1.019 Removal of Insignia.

In the event that any manufactured building bearing the insignia is found to be in violation of the approved plans prior to the issuance of the local certificate of occupancy, at the direction of the Department, the Agency or authority having jurisdiction Department shall remove the insignia on such defective unit and shall furnish the owner and the Department or his agency with a written statement of such violations.

Rulemaking Specific Authority 553.37(1) FS. Law Implemented 553.37(2), (3), (4), 553.38(1) FS. History-New 1-17-72, Amended 9-17-73, Repromulgated 2-23-75, Amended 3-1-80, Formerly 9B-1.19, Amended 3-1-95.

9B-1.020 Schedule of Fees.

The Department shall charge the following fees for the indicated items:

(1) Manufacturer's initial application fee is \$300 plus \$300 for the triennial certification. The triennial renewal fee is \$300. Each additional plant will be assessed an initial application fee of \$100 plus \$150 triennial certification. The triennial renewal fee is \$150.

(2) Third Party Agency's initial application fee is \$600 plus \$900 for the triennial certification. The triennial renewal fee is \$900.

(3) Insignia fees:

(a) Factory-built schools fee is \$15 per building;

(b) Components (Panels) fee is \$3 per panel. The insignia will be affixed to each panel prior to leaving the factory;

(c) Storage sheds (less than 720 square feet in area) is \$5;

(d) Manufactured buildings fee is \$50 per module, including storage sheds over 720 feet.

Rulemaking Specific Authority 553.37(7) FS. Law Implemented 553.37(7) FS. History–New 1-17-72, Amended 2-1-72, 2-23-75, 12-8-75, 3-20-79, 3-1-80, 9-29-82, 11-1-84, Formerly 9B-1.20, Amended 1-1-87, 1-1-89, 1-1-90, 3-1-92, 3-1-95, 9-13-01, 8-16-04, 5-13-07, _____.

9B-1.0211 Change in Manufacturer’s Status.

(1) Change of Ownership – When the ownership of a manufacturer changes, the new owner shall take the following steps:

(a) Inform the department in writing within 10 days of such change and give effective date of change.

(b) The new owner shall submit a completed manufacturer’s application to the department.

(c) Submit an organizational chart of the management identified by title of officers.

(d) Send resume of officers in the management to the department.

(e) Send a certificate of product liability insurance to the department.

(f) A service contract with the plan review/inspection agency.

(g) If the new owner received exclusive rights to use state approved plans and the Quality Control Manual of the previous owner, it shall be informed to the department.

(h) Certification of Quality Control Manual by agency. Make name changes and other changes in the Quality Control Manual where applicable. The Department shall assign a new manufacturer’s identification number.

(2) Change of Name and Address – In the event of a change in the name or address of any manufacturer or ~~plan review/inspection Agency~~, the Department shall be notified within ten days.

(3) Change of Agency – The following procedure shall be followed when a manufacturer changes the ~~Third Party Agency~~.

(a) The manufacturer shall inform the department of its change of Agency reflecting effective date. The manufacturer shall not be without an Agency.

(b) The manufacturer shall submit to the Department a copy of the service agreement with the new Agency reflecting an effective date.

(c) The new Agency shall review and approve the existing or ~~an~~ updated Quality Control Manual ~~of the manufacturer~~ and post on the Building Code Information System at www.floridabuilding.org BCIS.

(4) Termination of state certificate – When a manufacturer or an Agency decides to discontinue doing business, the Department shall be informed in writing at least thirty (30) days in advance and such discontinuance shall act as a resignation of the certification. Any subsequent resumption of business activities by a manufacturer or Agency will require a new application.

Rulemaking Specific Authority 553.37(1) FS. Law Implemented 553.37(1), (4) FS. History–New 9-13-01, Amended 7-16-03, 5-13-07, _____.

9B-1.0221 Manufacturer’s Obligations Upon Sale of Building.

The manufacturer shall provide a TRANSPORTATION AND INSTALLATION BOOKLET with each new building and component package. It shall include:

(1) Precautions and instructions for transportation of buildings and modules; and

(2) Installation instructions.

Rulemaking Specific Authority 553.38 FS. Law Implemented 553.38 FS. History–New 9-13-01, Amended 5-13-07, Repromulgated _____.

9B-1.023 Oversight, Complaint.

(1) Any person, firm or corporation, with a substantial interest in any action or any failure to act in conformity with these rules, including without limitation the technical standards and administrative provisions adopted hereby, may file a complaint to the Department. Such complaints may be with regard to the conduct of the Department, the Agency, the manufacturer or any of their employee(s).

(2) It is the responsibility of the manufacturer to correct code violations. The Agency that approved the plans for the subject building or inspected the building shall investigate complaints and make a recommendation to the Department regarding the existence of a code violation and disposition thereof. This activity shall be subject to monitoring, and the Department shall make an independent determination about the existence of a violation.

(3) Any complaint should contain sufficient information including the following:

- (a) Parties involved;
- (b) Description of grievance;
- (c) Important dates and transactions;
- (d) What is being affected; and

(e) Documentation of code violations or plan deviations by a licensed contractor, Architect, Engineer or Building Official.

~~(f)(e)~~ Relief sought by the applicant.

Rulemaking Specific Authority 553.38(2), 553.39 FS. Law Implemented 553.38(2), 553.39 FS. History–New 9-13-01, Amended _____.

9B-1.026 Factory-built Schools, Certifications.

(1) Manufacturers. Prior to manufacturing factory-built schools for utilization in the State of Florida, a manufacturer shall be certified by the Department as provided in Rule 9B-1.007, F.A.C., and shall be subject to the continuing requirements thereof to maintain certification. Fees for certification of manufacturers shall be as provided in Rule 9B-1.020, F.A.C.

(2) ~~Agency Third Party~~ Plan Review. The Department shall contract with an individual or entity to perform plan review pertaining to newly constructed factory-built schools. Such individual or entity shall be subject to certification as an ~~Third Party~~ Agency as provided in Rule 9B-1.006, F.A.C. Maximum fees that the ~~Agency third party entity~~ may charge those seeking plan approval shall be established by contract between the Department and the ~~Agency Plan Review entity~~. ~~Plans for modification of factory-built schools shall be reviewed by an approved Third Party Agency selected by the manufacturer as set forth in Rule 9B-1.009, F.A.C.~~

(3) ~~Agencies Inspectors and Third Party Inspection Entities~~. All entities that perform inspections of factory-built schools shall be ~~Agencies~~ certified by the Department as provided in Rule 9B-1.006, F.A.C. ~~Individual inspectors shall be licensed pursuant to Part XII, Chapter 468, F.S., or until January 1, 2002, certified by Department of Education as Uniform Building Code Inspectors.~~ Inspectors permanently employed by local school boards and community colleges shall be granted an exemption from certification by the Department pursuant to Rule 9B-1.006, F.A.C., upon written request of the Local School Board or Community College. All entities that perform inspections, whether exempt from certification or not, shall submit a Quality Control assurance Manual to the Department with the application, which shall at a minimum contain the following sections:

- (a) Introduction to the ~~Agency~~, including a brief history and types of services provided;
- (b) Outline of the ~~Agency's~~ internal quality control plan, including the name and titles of the ~~personnel~~ in charge of quality control and how the ~~Agency~~ plans to meet the duties and responsibilities imposed by this chapter;
- (c) Organizational chart showing the relationship between administration, operation, and quality control responsibilities, including a list of inspectors by name and title, identifying each as an employee or under contract;
- (d) Personnel resumes;
- (e) Training program, including programs for required continuing education, seminars, discussions on code compliance, inspections and department requirements;
- (f) Inspection procedures, including inspection checklists for code compliance, inspection records, correction notice, reinspection, inspection visits and scope of inspections;
- (g) Test procedures and methods pertaining to tests required by the applicable building codes;
- (h) Procedure for control of insignia; and
- (i) Procedure for maintenance of records.

Rulemaking Specific Authority 553.415 FS. Law Implemented 553.415 FS. History–New 9-13-01, Amended _____.

9B-1.028 Factory-built Schools, Inspections and Work Progress Reports.

(1) All site installation and annual inspections are the responsibility of the School Board. The Department DCA insignia attests only to compliance of the building with the Florida Building Code and not any site plans or site related issues.

(2) Manufacturers and their agents and employees, Inspectors and those representatives of the educational entity responsible for supervising work related to the manufacture and installation of a factory-built school shall complete and execute a Work Performance Report, Form FMBP-SB-5-00. There shall be at least one Work Performance Report for all periods during which a factory-built school is being manufactured or installed. The report shall be executed by that person who actually supervised the work during the period for which the report is completed. The completed reports shall be kept and maintained by the entity that has actual physical custody of the building.

Rulemaking Specific Authority 553.415 FS. Law Implemented 553.415 FS. History–New 9-13-01, Amended 7-16-03, 5-13-07, _____.

9B-1.030 Factory-built Schools, Insignia and Data Plate.

(1) Each factory-built school building utilized for public educational purposes shall bear the “SREF/school” insignia of the Department and a data plate. The data plate shall be fabricated by the manufacturer of new buildings and the owner of existing buildings of durable material with the required information inscribed thereon. The insignia and data plate shall be permanently affixed mounted on or about the electrical panel. The insignia must be affixed prior to leaving the factory. The data plate shall provide the following information:

- (a) Name and address of Manufacturer;
- (b) Name of Third Party Agency;
- ~~(c)~~(b) Manufacturer certification number;
- (d) Code Edition;
- ~~(e)~~(e) Date of manufacture;
- ~~(f)~~(d) Date of alteration;
- ~~(g)~~(e) Number of modules;
- ~~(h)~~(f) Construction type, as defined in Chapter 6 of the Code;
- ~~(i)~~(g) Occupancy use classification in accordance with Chapter 3 of the Code;
- ~~(j)~~(h) Serial number;
- ~~(k)~~(i) Agency plan number;
- ~~(l)~~(j) Standard plan approval number;
- ~~(m)~~(k) Maximum floor load (pounds per square foot), live load, and dead load;
- ~~(n)~~(l) Roof load, live load and dead load;
- ~~(o)~~(m) Wind velocity rating;
- ~~(p)~~(n) “U” rating of floor, wall and roof;

~~(q)(6)~~ Whether the building is approved for flood zone usage;

~~(r)(p)~~ Whether the building is approved for enhanced hurricane protection zone usage;

~~(s)(q)~~ Whether the building is designed for use as a public shelter in enhanced hurricane protection areas;

~~(t)(+)~~ Limitations of the plan approval by the third-party agency; ~~and~~

~~(u)(s)~~ Whether the building is rated as satisfactory for use as an educational facility;-

(v) If an automatic sprinkler system is provided, whether the sprinkler system is required; and

(w) Any special stipulations and conditions of the building permit.

(2) Issuance of Insignia. Insignias to be affixed to factory-built schools shall be issued ~~to the educational entity~~ upon receipt by the Department of an inspection report ~~designating finding that~~ the building is satisfactory for educational purposes and containing information required for the data plate.

(3) Revocation. ~~An inspector shall notify the Department of any unsatisfactory finding as the result of an installation or annual inspection. The insignia of the Department shall be revoked upon a determination that the factory-built school fails to comply with the applicable standards. Revocation shall be accomplished through procedures established by Section 120.60, F.S.~~

(4) Fees. Fees shall be paid prior to issuance of insignia for factory-built schools. One insignia shall be issued per building. The fees for insignia shall be as provided in Rule 9B-1.020, F.A.C. Such fees are non-refundable.

Rulemaking Specific Authority 553.415 FS. Law Implemented 553.415 FS. History–New 9-13-01, Amended 5-13-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100; (850)922-6091

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Building Commission

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 17, 2008

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CORRECTIONS

RULE NO.:	RULE TITLE:
33-601.243	Basic Training Program – Employee Standards of Appearance, Conduct, and Fitness

PURPOSE AND EFFECT: The purpose and effect is to require correctional officers selected for the basic training program to complete a 40-hour youthful offender training before working with youthful offenders.

SUMMARY: The rule is amended to require correctional officers who are selected for the basic training program to complete the 40-hour youthful offender training program before being assigned to work with youthful offenders.

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

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

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.243 Basic Training Program – Employee Standards of Appearance, Conduct, and Fitness.

(1) through (3) No change.

(4) Correctional officers in the basic training program will be expected to pass a physical fitness test prior to assignment to a post in the basic training program and every quarter year thereafter in order to remain physically capable of performing the assigned duties. Correctional officers selected for the basic training program shall complete the 40 hour job specific youthful offender training before being assigned to work with youthful offenders.

(5) No change.

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–New 2-26-89, Amended 1-25-96, Formerly 33-27.014, 33-506.213, Amended 1-17-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeff Bryan, Correctional Services Consultant

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 28, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 13, 2009

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.210
 RULE TITLE: Use of Force

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to eliminate language requiring certified officers to use only “fogger type” pepper spray, as streamlined spray poses fewer risks to nearby persons and is more effective in windy conditions.

SUMMARY: The rule eliminates language requiring certified officers to use only “fogger type” pepper spray, as streamlined spray poses fewer risks to nearby persons and is more effective in windy conditions.

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

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

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 776.07, 944.09, 944.35 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: Kendra Lee Jowers, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.210 Use of Force.

(1) through (15) No change.

(16) Use of Chemical Agents.

(a) through (k) No change.

(1) Issuance of chemical agents.

1. No change.

2. Certified officers assigned to major institutions and posted to internal security, recreation field, shift supervisor posts, or designated as “A” team response members are authorized by the Secretary to be issued one MK-9, or equivalent, ~~fogger type~~ dispenser of OC in addition to the dispenser issued in accordance with subparagraph (16)(l)1. These officers are authorized to administer the chemical agents listed in this subparagraph in spontaneous disturbance situations involving multiple inmates in locations where large numbers of inmates are present, such as recreation fields, canteen, and meal lines. This option shall only be utilized in

disturbance situations rising to the level of inmate involvement where this enhanced option is deemed necessary and shall not be used indoors.

3. No change.

(m) through (q) No change.

(17) through (22) No change.

Rulemaking Specific Authority 944.09 FS. Law Implemented 776.07, 944.09, 944.35 FS. History—New 4-8-81, Amended 10-10-83, 9-28-85, Formerly 33-3.066, Amended 3-26-86, 11-21-86, 4-21-93, 7-26-93, 11-2-94, 2-12-97, 11-8-98, Formerly 33-3.0066, Amended 10-6-99, 2-7-00, 7-25-02, 8-25-03, 2-25-04, 11-7-04, 4-17-05, 8-1-05, 3-2-06, 9-18-06, 10-4-07, 3-3-08, 8-4-08, 1-6-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Assistant Secretary of Institutions

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 9, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 27, 2009

LAND AND WATER ADJUDICATORY COMMISSION

Wiregrass Community Development District

RULE NOS.: 42MMM-1.001, 42MMM-1.002, 42MMM-1.003
 RULE TITLES: Establishment, Boundary, Supervisors

PURPOSE AND EFFECT: The purpose of this proposed rule is to establish a community development district (“CDD”), the Wiregrass Community Development District (“District”), pursuant to Chapter 190, F.S. The petition filed by Locust Branch, LLC, requests the Commission establish a community development district located entirely within the unincorporated limits of Pasco County, Florida. A Notice of Receipt of Petition for the Wiregrass Community Development District was published in the June 25, 2008, edition of the Florida Administrative Weekly. The land area proposed to be served by the District comprises approximately 3,974.216 acres. A general location map is contained as Exhibit A to the petition to establish the District. There are no parcels within the proposed external boundaries of the District which are to be excluded. The Petitioner either owns or has written consent to establish the District from the owners of 100% of the real property located within the proposed District. The Petitioner seeks authorization for the District “to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain systems, facilities and basic infrastructures that may include, without limitation: water management and control, water supply, sewer, wastewater management, reclamation and reuse or any combination thereof, bridges or culverts, District roads and street lights, transportation facilities, parking improvements, environmental remediation and cleanup, conservation areas, mitigation areas

and wildlife habitat, parks and facilities for indoor and outdoor recreational, cultural and educational uses, fire prevention and control, schools, security, mosquito control, waste collection and disposal, or any other project, within or without the boundaries of the District as required by a development order issued by a local government or subject of an agreement between the District and a governmental entity.”

SUMMARY: The purpose of this proposed rule is to establish a community development district (“CDD”), the Wiregrass Community Development District (“District”), pursuant to Chapter 190, F.S. The petition filed by Locust Branch, LLC, requests the Commission establish a community development district located entirely within the unincorporated limits of Pasco County, Florida. A Notice of Receipt of Petition for the Wiregrass Community Development District was published in the June 25, 2008, edition of the Florida Administrative Weekly. The land area proposed to be served by the District comprises approximately 3,974.216 acres. A general location map is contained as Exhibit A to the petition to establish the District. There are no parcels within the proposed external boundaries of the District which are to be excluded. The Petitioner either owns or has written consent to establish the District from the owners of 100% of the real property located within the proposed District. The Petitioner seeks authorization for the District “to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain systems, facilities and basic infrastructures that may include, without limitation: water management and control, water supply, sewer, wastewater management, reclamation and reuse or any combination thereof, bridges or culverts, District roads and street lights, transportation facilities, parking improvements, environmental remediation and cleanup, conservation areas, mitigation areas and wildlife habitat, parks and facilities for indoor and outdoor recreational, cultural and educational uses, fire prevention and control, schools, security, mosquito control, waste collection and disposal, or any other project, within or without the boundaries of the District as required by a development order issued by a local government or subject of an agreement between the District and a governmental entity.”

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The statement of estimated regulatory costs (SERC) supports the petition to establish the District. The complete text of the SERC is contained as Exhibit H to the petition. The requirements for a SERC are found in Section 120.541(2), F.S. A SERC must contain (a) a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a description of the types of individuals likely to be affected by the rule; (b) a good faith estimate of the costs to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues; (c) a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including

local governmental entities, required to comply with the requirements of the rule; (d) an analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S.; (e) any additional information that the agency determines may be useful; and (f) any good faith written proposal submitted under section (a) and either a statement adopting the alternative or a statement rejecting the alternative in favor of the proposed rule. Addressing section (a), the State of Florida and its residents; Pasco County and its residents; current property owners of lands within the boundaries of the proposed District; and future property owners are the principal entities that are likely to be required to comply with the rule. Under section (b), FLWAC and the State of Florida will incur administrative costs. Pasco County will incur costs resulting from the initial review. There is a \$15,000 filing fee paid to Pasco County to offset any costs it may incur. The District will incur costs for construction, operations and maintenance of its facilities and for its administration. Costs will be completely paid for from annual assessments against all properties within the District benefiting from its facilities and its services. Adoption of the proposed rule to approve the formation of the District will not have an adverse impact on State and local revenues. Addressing section (c), the transactional costs associated with adoption of a rule to establish the District are primarily related to the financing of improvements. The District may levy non-ad valorem special assessments on properties within its boundaries to finance infrastructure that the District funds and to defray the costs of operating and maintaining the infrastructure and associated community facilities. The District may issue notes, bonds, or other indebtedness to fund its improvement program. Prospective future land owners would be required to pay off such indebtedness over time in the form of non-ad valorem special assessments or other rates, fees or charges. The District may also impose an annual levy for the operation and maintenance of the District. Under section (d), approval of the petition to establish the District will have no impact or a positive impact on small businesses. Pasco County is not defined as a small county for purposes of this requirement. Under section (e), certain data utilized in the SERC was provided by the developer/petitioner and represents the best information available at the time of drafting of the SERC. Additional data was provided by Rizzetta & Company and was based on observations, analysis and experience with private development and other community development districts in various stages of existence.

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

RULEMAKING AUTHORITY: 190.005 FS.

LAW IMPLEMENTED: 190.004, 190.005 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, April 30, 2009, 10:00 a.m. – 12:00 Noon

PLACE: Room 2103, The Capitol, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least two days before the workshop/meeting by contacting: Barbara Leighty, Florida Land and Water Adjudicatory Commission, Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, telephone (850)487-1884. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barbara Leighty, Florida Land and Water Adjudicatory Commission, Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001; telephone (850)487-1884

THE FULL TEXT OF THE PROPOSED RULES IS:

WIREGRASS COMMUNITY DEVELOPMENT DISTRICT

42MMM-1.001 Establishment.

The Wiregrass Community Development District is hereby established.

Rulemaking Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History–New _____.

42MMM-1.002 Boundary.

The boundaries of the district are those as set forth in Exhibit B of the April 15, 2008, Petition to Establish Wiregrass Community Development District. Petition Exhibit B is hereby incorporated by reference. Exhibit B can be obtained by contacting the Clerk of the Florida Land and Water Adjudicatory Commission, Office of the Governor, Room 1801 The Capitol, Tallahassee, Florida 32399-0001, telephone (850)487-1884.

The total Wiregrass Community Development District area = 3,974.294 acres, more or less.

Rulemaking Authority 190.005FS. Law Implemented 190.004, 190.005 FS. History–New _____.

42MMM-1.003 Supervisors.

The following five persons are designated as the initial members of the Board of Supervisors: James Don Porter, Tom McDonald Porter, William Hatcher Porter, Joseph Michael Gramling, and David Jay Evans.

Rulemaking Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lisa Saliba, Director, Florida Land and Water Adjudicatory Commission

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Land and Water Adjudicatory Commission

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 26, 2008

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Condominiums, Timeshares and Mobile Homes

RULE NO.: 61B-23.002

RULE TITLE: Operation of the Association

PURPOSE AND EFFECT: Effective October 1, 2008, Section 718.112(2)(f)4., Florida Statutes, was amended with respect to the waiving of reserves in a condominium. Specifically, the statute now requires that proxy questions relating to waiving or reducing the funding of reserves or using existing reserve funds for other purposes shall contain a disclosure statement in capitalized, bold letters in a font size larger than any other used on the face of the proxy ballot. The purpose of this rule is to renumber and amend the Sample Limited Proxy Form to comply with the new law and revise the financial reporting waiver language of the proxy form.

SUMMARY: This rule amendment addresses disclosure requirements for limited proxies that are used to waive reserves, reduce reserves, or use reserves for other purposes.

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

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

RULEMAKING AUTHORITY: 718.112(2)(b)2., (d)3., 718.501(1)(f) FS.

LAW IMPLEMENTED: 718.1085, 718.111(12), 718.112(2)(b)2., (b), (c), (d)3., 4., (f)4., 718.117, 718.501(2)(a), 718.504 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: April 27, 2009, 10:00 a.m.

PLACE: The Northwood Centre, Suite 16, Conference Room, 1940 N. Monroe Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon A. Malloy, Senior Management Analyst II, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030; (850)488-1631

THE FULL TEXT OF THE PROPOSED RULE IS:

61B-23.002 Operation of the Association.

(1) through (4) No change.

(5) Unit owners shall not, except as provided by Section 718.112(2)(b)2., Florida Statutes, vote by general proxy, but may vote by limited proxy substantially similar to the SAMPLE LIMITED PROXY FORM adopted by the division as DBPR Form CO 6000-7 BPR form 33-033, incorporated herein by reference and effective 11-23-93. The form may be obtained by writing the Division of Florida Condominiums, Timeshares, and Mobile Homes, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-1030 32399-1033 or may be downloaded at <http://www.myflorida.com/dbpr/lsc/LSCMHCondominiumForms.html>.

(6) through (10) No change.

Rulemaking Specific Authority 718.112(2)(b)2., (d)3., 718.501(1)(f) FS. Law Implemented 718.1085, 718.111(12), 718.112(2)(b)2., (c), (d)3., 4., (d)4., 718.117, 718.501(2)(a), 718.504 FS. History—New 7-22-80, Amended 8-31-83, 10-1-85, Formerly 7D-23.02, Amended 1-27-87, 7-10-88, 3-21-89, 2-18-92, Formerly 7D-23.002, Amended 11-23-93, 2-20-97, 4-14-99, 12-23-02, 1-28-04, 11-30-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Cochran, Director, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles W. Drago, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 12, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 23, 2009

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

Division of Medical Quality Assurance

RULE NOS.:	RULE TITLES:
64B-1.001	Application Deadlines; Examination Rescheduling
64B-1.002	Notification of Applicants
64B-1.003	Examination Administration
64B-1.004	Conduct at Test Site
64B-1.005	Special Testing Accommodations
64B-1.006	Practical or Clinical Examinations
64B-1.007	Selection Criteria for Examiners and Examination Consultants
64B-1.008	Grading of Examinations; Grade Notification; Chiropractic Examination Grading
64B-1.009	Pre-hearing Review Request
64B-1.011	Requirements and Standards of a National Examination
64B-1.013	Post-Examination Review
64B-1.016	Fees: Examination and Post-Examination Review
64B-1.017	Use of Pilot Test Items

PURPOSE AND EFFECT: The Department proposes to review this rule section for the possibility of clarifying certain provisions, to reorganize certain provisions in a more logical manner, promulgate new definitions of terms and delete definitions of terms. This process will include, but not be limited to, reviewing this section for rule promulgations related to changes to the Americans With Disabilities Act of 1990 (Pub. L. 101-336) as adopted in the "A.D.A. Amendments Act of 2008" adopted by the U.S. Congress. The department also wants to update exam fees to cover actual costs.

SUMMARY: The proposed rule will clarify examination terms and procedures, delete outdated language, standardize language used throughout the rule, and reorganize certain provisions in a more logical manner. The proposed rule will also update language with regards to special testing accommodations pursuant to the Americans with Disabilities Act of 1990 (Pub. L. 101-336) in accordance with the A.D.A. Amendment's Act of 2008. The proposed rule will incorporate forms regarding the reapplication for A.D.A. special testing accommodations and the use of English translation dictionaries for certain examinations. Finally, the proposed amendments will affect the examination fees based on the requirement that the department adjust examination fees periodically to cover the actual cost of the examination.

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

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

RULEMAKING AUTHORITY: 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS.

LAW IMPLEMENTED: 456.013(1), 456.017(1) 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: Jennifer Wenhold, 4052 Bald Cypress Way, Bin C-90, Tallahassee, FL 32399-3290

THE FULL TEXT OF THE PROPOSED RULES IS:

64B-1.001 Application Deadlines; Examination Rescheduling.

(1) ~~Candidates shall submit applications for licensure examinations as prescribed by board rule or policy. With regards to department-developed practical or clinical examinations, completed applications for licensure examinations shall be submitted to the department at least 60 days prior to the scheduled examination. Unless otherwise specified by board rule, completed applications for licensure examinations shall be submitted to the department at least 60 days prior to the scheduled examination.~~

(2) No change.

~~(3) Examination Administrator is defined as a person(s) responsible for the administration or the delivery of the examination to the candidate either in person or electronically.~~

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.013(1), 456.017(1) FS. History–New 9-7-98, Amended 7-20-03, _____.

64B-1.002 Notification of Applicants.

(1) Unless otherwise specified by board rule, after a decision is made that an applicant meets the lawful requirements for the licensure examination, the department or contract provider will schedule the applicant for the next examination for which space is available ~~that begins at least forty five (45) days after the applicant is certified or after ninety (90) days from receipt of a complete application.~~

(2) If all ~~eligible certified~~ candidates cannot be scheduled for the next subsequent examination due to space, time or other limitations beyond the control of the department or contract provider, the candidates will be scheduled chronologically according to the date the application was complete.

(3) The department or contract provider will notify candidates of the place, date and time of the examination and provide the candidate with verification of scheduling. For department-developed practical or clinical examinations, a candidate will also receive an official admission slip which will be required for admission to sit for the examination. The department or contract provider shall inform the candidate of the length of the examination, patient criteria when a patient is

needed for a practical or clinical examination, and any special equipment or materials the candidate needs to bring to the examination, including required identification. Except with regard to national examinations, the department or contract provider shall also inform a candidate of the major content areas tested on the examination.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(1) FS. History–New 9-7-98, Amended 7-20-03, _____.

64B-1.003 Examination Administration.

Unless the national examination requires a different set of administration procedures, the following procedures shall be followed for any examination administered by the department or its contract provider.

(1) All examinations will be administered in accordance with the department’s “General Administration Manual for Examinations,” 20098, incorporated herein by reference, and can be obtained from the Division of Medical Quality Assurance, Bureau of Operations, Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290.

(2) Examination Administrator is defined as a person(s) responsible for the administration or the delivery of the examination to the candidate either in person or electronically.

~~(3)(2)~~ During the examination, the candidates will follow the instructions given by the examination administrator. The instructions shall be provided to the candidates in either written or oral form by the examination administrator.

~~(4)(3)~~ The department’s valid admission slip for the specified examination and a government-issued photo identification such as a valid driver’s license or passport, shall be presented in order to gain admission to the examination. A government-issued photo identification shall be acceptable in the absence of the admission slip provided the candidate’s name appears on the examination admission roster that has been prepared for the specific examination. Department contracted vendors may require additional forms of identification for security purposes.

(5) Candidates and/or their patients shall not be in possession of electronic devices including, but not limited to, cell phones, palm pilots, pagers, or cameras at the examination site.

~~(6)(4)~~ If the candidate arrives at the designated testing location after the designated starting time, the candidate shall not be permitted to take the examination. However, if the examination has not begun, the examination administrator may attempt reasonable accommodations.

~~(7)(5)~~ If through some mechanical or clerical error of the department or the contract provider, the candidate does not receive the allotted time to complete the examination, additional time shall be allowed upon approval of the examination administrator.

~~(8)(6)~~ All examination questions, booklets, answer sheets, electronic files and other examination papers and materials, in any form, are the sole property of the department or the national provider. No candidate shall take any part of the examination questions, booklets, answers sheets, electronic files and/or other examination papers and materials, in any form, from the examination room, or retain, reproduce or compromise the examination in whole or in part by any means or method whatsoever.

~~(9)(7)~~ Candidates must wait at least 30 days after an examination before they can re-examine.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(1) FS. History—New 9-7-98, Amended 7-20-03, 3-26-07, 4-7-08,_____.

64B-1.004 Conduct at Test Site.

For examinations administered by the department or a contract provider, the conduct at the test site shall be as follows:

(1) The examination administrator and proctors are the department’s designated agents in maintaining a secure and proper examination administration. Failure to comply with the written and/or oral instructions provided by the department’s designated agents shall result in the removal of the examinee from the examination site ~~room~~.

(2) Any individual found by the department or any board within the department to have engaged in conduct which subverts or attempts to subvert the examination process shall have his or her scores on the examination withheld and/or declared invalid, be disqualified from the practice of the profession, and/or be subject to the imposition of other appropriate sanctions by the applicable board or department, when there is not board.

(3) Conduct, which subverts or attempts to subvert the examination process includes:

(a) Conduct which violates the security of the examination materials, such as removing from the examination ~~site room~~ any of the examination materials; reproducing or reconstructing any portion of the licensure examination; aiding by any means in the reproduction or reconstruction of any portion of the licensure examination; selling, distributing, buying, receiving or having unauthorized possession of any portion of a future or current licensure examination.

(b) Conduct which violates the standard of test administration, such as communicating with any other examinee during the administration of the examination; copying answers from another examinee or permitting one’s answers to be copied by another examinee during the administration of the examination; having in one’s possession during the administration of the examination any book, notes, written or printed materials or data of any kind, other than the examination materials distributed or specifically listed as approved materials for the examination in the information

provided to the examinee in advance of the examination date by the department and/or the contracted vendor ~~national provider~~ of the examination.

- (c) No change.
- (4) No change.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(1) FS. History—New 9-7-98, Amended 7-20-03, _____.

64B-1.005 Special Testing Accommodations.

(1) Definitions.

(a) The term “disability” means, with respect to an individual:

1. A physical or mental impairment that substantially limits one or more ~~of the~~ major life activities of such individual;
2. A record of such an impairment; or
3. Being regarded as having such an impairment.

(b) A physical or mental impairment means:

1. through 2. No change.

(c) Major life activities include: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Major life activity also includes the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions ~~are activities that an average person can perform with little or no difficulty which include: walking, talking, hearing, seeing, speaking, breathing, learning, working, caring for one’s self and performing manual tasks.~~

(2)(a) No change.

(b) For national examinations the national vendor will determine the accommodations ~~are~~ available to candidates who demonstrate to the department the necessity of such accommodations due to disability.

(3)(a) Candidates requesting special testing accommodation due to a disability shall file a request for special testing accommodation no later than sixty (60) days prior to the first day of the examination for which special testing accommodation is requested on form DH-MQA 4000, 6/08, Application For Candidates Requesting Special Testing Accommodation in Accordance with the Americans with Disabilities Act., for which special testing accommodation is requested. Form DH-MQA 4000, 6/08, is hereby incorporated by reference, and can be obtained on the Testing Services website at <http://www.doh.state.fl.us/mqa/exam/spectest.htm> or from the Division of Medical Quality Assurance, Bureau of Operations, Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290. If a candidate becomes

disabled after the sixty-day deadline has passed and that candidate has not requested special accommodation, the department will provide any such requested accommodation that can be made available without posing undue burden or jeopardizing the security and integrity of the examination. However, in no event will accommodation be provided to exam candidates requesting special accommodation ten (10) days or less, before the examination.

(b) through (e) No change.

(4) through (6) No change.

(7) Candidates who have previously received special testing accommodations for an examination in accordance with the Americans with Disabilities Act and need accommodations for another examination or for a retake of the same examination must submit their request to the department no later than (60) days from the date of the first day of the examination for which special testing accommodation is requested on form DH-MQA 1191, 3/09, Reapplication for Special Testing Accommodations in Accordance with the Americans with Disabilities Act. Form DH-MQA 1191, 3/09, is hereby incorporated by reference, and can be obtained on the Testing Services website at <http://www.doh.state.fl.us/mqa/exam/spectest.htm> or from Division of Medical Quality Assurance, Bureau of Operations, Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290. Candidate must file form DH-MQA 1191 each time accommodations are needed.

~~(8)(7)~~ Candidates requesting special testing accommodation due to religious beliefs shall submit their request to the department no later than sixty (60) days from the date of the first day of the examination for which special testing accommodation is requested on form DH-MQA 4001, 6/08, Application For Candidates Requesting Special Testing Accommodation Due to Religious Conflict, ~~for which special testing accommodation is requested.~~ Form DH-MQA 4001, 6/08, is hereby incorporated by reference, and can be obtained on the Testing Services website at <http://www.doh.state.fl.us/mqa/exam/spectest.htm> or from Division of Medical Quality Assurance, Bureau of Operations, Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290. If the sixty-day deadline has passed and that candidate has not requested special accommodation, the department will provide any such requested accommodation that can be made available without posing undue burden or jeopardizing the security and integrity of the examination. However, in no event will accommodation be provided to exam candidates requesting special accommodation ten (10) days or less, before the examination.

(9) Candidates requesting the use of a translation dictionary due to English as a second language. shall submit their request to the department no later than forty (40) days from the date of the first day of the examination for which special testing accommodation is requested on form DH-MQA

1192, 3/09, Application For Use of a Translation Dictionary Due to English as a Second Language. Form DH-MQA 1192, 3/09, is hereby incorporated by reference, and can be obtained on the Testing Services website at <http://www.doh.state.fl.us/mqa/exam/spectest.htm> or from the Division of Medical Quality Assurance, Bureau of Operations, Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290. If the sixty-day deadline has passed and that candidate has not requested special accommodation, the department will provide any such requested accommodation that can be made available without posing undue burden or jeopardizing the security and integrity of the examination. However, in no event will accommodation be provided to exam candidates requesting special accommodation ten (10) days or less, before the examination. Translation Dictionaries due to English as a second language are only available for the Mental Health Counseling and Electrology examinations.

~~(10)(8)~~ National examinations used by the department may require that special testing accommodations be reviewed and approved by the National vendor.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(1) FS. History—New 9-7-98, Amended 7-20-03,

64B-1.006 Practical or Clinical Examinations.

Unless specified in board rule, the following procedures shall be used with regard to department-developed practical or clinical examinations:

(1) Candidates required to take a practical or clinical examination shall be informed by the department, or the department's contracted vendor, in writing of the applicable performance criteria, patient criteria and any special equipment required for such performance.

(2) In the event professional examiners are employed to evaluate candidate performance on practical or clinical examinations, no less than two ~~(2)~~ examiners shall independently evaluate the performance of each candidate.

(3) The examiners shall not discuss any candidate's performance with anyone at any time during the examination or before the grades are recorded. The candidates and examiners shall not engage in conversation during a practical or clinical examination unless such conversation is required as part of the practical or clinical examination.

~~(4) The department's contract provider shall provide instructions to the candidates.~~

~~(4)(5)~~ The examiners shall grade the candidates only with regard to the prescribed performance criteria.

~~(6) The candidates and examiners shall not engage in conversation during the practical performance unless said conversation is part of the practical examination.~~

(5) Preceding each examination administration, examiners shall attend a standardization session to discuss the scoring criteria and standards. Standardization is mandatory for all examiners and failure to attend excludes examiners from participating in the examination.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017 FS. History—New 9-7-98, Amended 7-20-03,

64B-1.007 Selection Criteria for Examiners and Examination Consultants.

(1) Examiners and examination consultants are to be selected based upon criteria adopted by board rule.

(2) Where there is no board, or board rule, in order to be eligible to serve as an examiner or an examination consultant for department-developed examinations, the prospective examiner or examination consultant must meet the following criteria:

a.(4) Has ~~Must~~ have three (3) years of continuous practice in the respective field in the state;

b.(2) Has ~~Must~~ possess an active license in the respective field in the state at the time of the examination;

c.(3) Has not had ~~Must not~~ have his/her license in the respective field suspended or revoked. If the prospective examiner or examination consultant's license has been disciplined other than with suspension or revocation, the department reserves the right to evaluate his/her selection as deemed appropriate;

d.(4) Is not ~~Must not~~ currently be under investigation by the department; and

e.(5) Is not ~~Must not~~ currently be teaching or presently employed in the respective field in either: an academic setting in this state, or an examination preparation course in any state.

f. Does not have a relative currently enrolled in an educational institution pursuing a course of study in the respective field.

(3) The department reserves the right to remove an examiner or examination consultant including but not limited to the following reasons:

(a) Failure to satisfactorily perform.

(b) Failure to disclose actual or apparent conflicts of interest to the department.

(c) Failure to maintain eligibility criteria as outlined in this rule.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(1) FS. History—New 9-7-98, Amended 7-20-03,

64B-1.008 Grading of Examinations; Grade Notification; Chiropractic Examination Grading.

(1) Grading of all examinations shall be processed as follows:

(a) National examinations shall be graded solely and exclusively by the national examination provider or its contract provider.

(b) Department-developed practical or clinical or computer-based testing, electronically administered, objective, multiple-choice examinations shall be graded by the department or its contract provider. The department or its contract provider shall review any statistically questionable items for psychometric soundness via the item analysis after the examination has been administered. Based upon this review and/or the examination consultant's recommendations, the department or its contract provider shall adjust the scoring key by rejecting psychometrically unsound questions, crediting for more than one correct answer, or giving partial credit for any question or procedure which does not adequately and reliably measure the applicant's ability to practice the profession totally disregarding psychometrically unsound questions for grading purposes, or by giving credit for more than one correct answer per question. The department or its contract provider shall calculate each candidate's grade utilizing the scoring key, or adjusted scoring key if applicable, and shall provide each candidate a grade report.

~~(c) Department-developed practical/CBT examinations shall be graded by the department or its contract provider. Examiners are to be selected based upon criteria adopted by board rule, and where there is no board, examiners are to be selected based upon criteria adopted by the department.~~

~~1. The department shall review any statistically questionable items or procedures for psychometric soundness after the examination has been administered. Based upon this review or the examination consultant's recommendations, the department shall adjust the scoring key by rejecting, crediting, or giving partial credit for any question or procedure which does not adequately and reliably measure the applicant's ability to practice the profession. The department or its contract provider shall calculate each candidate's grade using the scoring key, or adjusted scoring key if applicable, and shall provide each candidate a grade report.~~

~~2. In the event professional examiners are employed to evaluate candidate performance on practical examinations, no less than two (2) examiners shall independently evaluate the performance of each candidate.~~

~~3. Preceding each examination administration, examiners shall attend a standardization session to discuss the scoring criteria and standards. Standardization is mandatory for all examiners and failure to attend excludes examiners from participating in the examination.~~

~~(c)(d)~~ With regard to the Chiropractic examination:

1. Examiners shall meet the qualifications of Rule 64B2-11.007, F.A.C.

2. The practical examination of candidates shall be reevaluated at a discrepancy review if the total score by one examiner is below passing and the total score by the second examiner is passing.

a. through e. No change.

(2) through (3) No change.

(4) The department or its contract provider shall notify the candidate of the results of the candidate's examination no later than ~~sixty (60)~~ days after the examination date except when the grades are computed by or for a national organization responsible for a national examination in Florida. In the case of a national examination, the grades shall be posted on the Testing Services website at <http://www.doh.state.fl.us/mqa/exam/> or sent to the candidate no later than ~~thirty (30)~~ days after the department's receipt of the grades from the national examination provider.

(5) ~~Official~~ If the grades are to be posted on the Testing Services department's website, the website shall notify applicants ~~indicate~~ in advance of the window when the official notification date the grades will be available on the internet.

(6) through (7) No change.

(8) For computer-based testing examinations, candidates shall receive a preliminary grade report at the computer-based testing site. Preliminary score reports are not official score reports. Preliminary score reports are subject to review and changes for accuracy and psychometric soundness.

(9) Computer-based testing examinations developed by or for the department may include pilot test or experimental questions for the purpose of evaluating the statistical and psychometric qualities of new or revised questions prior to their use in an examination.

(a) Pilot test or experimental questions will not be identified to the candidates as pilot test questions on the examination.

(b) The maximum number of pilot test questions included on an examination form shall not exceed 20 percent of the number of scored questions on the examination or ten questions, whichever is greater.

(c) Pilot test questions shall not be counted toward the candidate's score on the examination. Answers to pilot test questions shall not be subject to review by the candidates during the candidates' post-examination review session.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(1) FS. History—New 9-7-98, Amended 7-20-03,

64B-1.009 Pre-hearing Review Request.

(1) After the candidate's petition for a hearing, pursuant to Section 120.57, F.S., and Rule 28-106.201, F.A.C., has been filed, the candidate and the candidate's attorney shall be permitted a pre-hearing review pursuant to Rule 28-106.209, F.A.C., of the disputed examination questions and answers at the department's headquarters in Tallahassee to prepare for the administrative hearing under the following conditions:

~~(a)(1)~~ Pre-hearing reviews will not be conducted during the ~~(30)~~ days immediately prior to the candidate's next examination date.

~~(b)(2)~~ The candidate shall submit a written request for such review to the department's attorney at least ~~(14)~~ days prior to the hearing date.

~~(c)(3)~~ The candidate must pay a pre-hearing review fee as established by the department in order to receive a pre-hearing review.

~~(d)(4)~~ The department will not respond to any oral or written comments made about the examination during the pre-hearing review.

~~(e)(5)~~ All procedures outlined in Rules 64B-1.004 and 64B-1.013, F.A.C., shall apply to pre-hearing reviews. Rule 64B-1.013, F.A.C., shall apply to the candidate and the candidate's attorney, if present, for the pre-hearing review.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.014, 456.017 FS. History—New 9-7-98, Amended 2-21-00, 7-20-03, 6-19-08,

64B-1.011 Requirements and Standards of a National Examination.

(1) National examinations will be certified by the department according to the criteria established in this rule. National examinations shall be recertified during contract renewal periods as established by the department.

(a) The national examinations shall be developed either by or for a national, regional, or multi-state professional association, board, council or society (hereinafter referred to as national organization). The ~~national~~ organization providing the examination shall either:

1. Be recognized by state regulatory boards as a national organization, or

2. Be recognized by a substantial number of that profession's licensed practitioners as a national organization, or

3. Have a substantial number of the nation's practitioners licensed or certified through an examination provided by or for the national organization.

(b) Examinations prepared by or for a national organization shall meet the following requirements:

1. The examinations shall be administered for the purpose of assessing entry-level skills to ensure the minimum competence of practitioners necessary to protect the health, safety and welfare of the public, ~~from incompetent practice.~~

- 2. through 6. No change.
- (2) through (3) No change.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(1) FS. History—New 9-7-98, Amended 7-20-03, 4-7-08,_____.

64B-1.013 Post-Examination Review.

(1) Procedures for post-examination review of a national examination, if permitted per policy, shall be in accordance with the policies and procedures of the national examination or contracted vendor. ~~When review of a national/regional examination administered by the department is permitted, the review shall be conducted in accordance with national examination security procedures.~~

(2) A candidate who has taken and failed a department-developed practical or clinical examination or a department-developed computer-based testing electronically administered examination shall have the right to one (1) post-examination review of those examination questions answered incorrectly, the answers to those examination questions answered incorrectly, and to materials, grades and grading keys related thereto.

(a) A candidate who has taken and failed a department-developed practical or clinical examination ~~or a (written) paper and pencil examination~~ shall request a post-examination review in writing to the department. The request shall be postmarked received by the department within ~~twenty one (21) days from the date that official~~ of notification of the failing grade is posted. ~~If the official grade report is sent by regular U.S. mail, the department will allow an additional five (5) days for mailing. If the Official grades are is posted on the Testing Services department's website, at <http://www.doh.state.fl.us/mqa/exam/>, the candidate's request for post examination review shall be post marked within twenty one (21) days from the date the official grades are posted as indicated on the department's website.~~

(b) A candidate who has taken and failed a department-developed computer-based examination shall request a post-examination review in writing to the contracted vendor. The request shall be emailed to the contracted vendor within 21 days from the date that official notification of the failing grade is posted. Official grades are posted on the Testing Services website at <http://www.doh.state.fl.us/mqa/exam/>.

(c)(b) Post-examination reviews shall be completed no later than ~~sixty (60) days~~ following the date on which the grades for the examination are posted on the Testing Services website released.

(d)(e) Post-examination reviews will not be conducted during the ~~thirty (30) day~~ period immediately prior to the next administration of the examination to the candidate.

(e)(d) The provisions outlined in Rule 64B-1.004, F.A.C., shall apply to all review sessions. Violation of such provisions by a candidate shall result in termination of the review session and the candidate shall be subject to other sanctions as determined by the appropriate board pursuant to the board's disciplinary guidelines.

(f)(e) Post-examination reviews for department-developed clinical or practical examinations shall be conducted in the presence of a representative of the department at its Tallahassee headquarters during regular working hours which are defined as 8:00 a.m. through 4:30 p.m., Monday through Friday, excluding official state holidays. ~~For opticianry neutralization and computer-based testing examinations, post-examination reviews may be conducted at another location.~~

(g)(f) A representative or designee of ~~from~~ the department shall remain with all candidates throughout all post-examination reviews. The representative shall inform candidates that he or she cannot defend the examination or attempt to answer any examination questions during the review.

(h)(g) For computer-based testing electronically administered or written examinations, the candidate will be provided one-half the time given for the examination administration for completion of a post-examination review. For clinical examinations, the time provided will be determined for each specific profession.

(i)(h) Prior to a post-examination review, candidates shall be provided written instructions and shall acknowledge in writing at that time, receipt of such instructions and agree that they will abide by the following instructions:

- 1. through 5. No change.
- 6. All examination materials are to be given to the department representative or designee Review Coordinator prior to departing the review room; and
- 7. No change.

(j)(i) Upon completion of a post-examination review, candidates shall acknowledge in writing: the start and end time of the review, all materials that have been reviewed and any other relevant review information.

(k)(j) In addition to the other provisions of this rule, candidates shall be prohibited from leaving a post-examination review with written notes, grade sheets, or any other examination materials.

(3) A candidate who has taken and failed a department-developed practical or clinical examination or a department-developed computer-based testing electronically administered examination, completed a post-examination review and wishes to challenge the examination shall file a request/petition for administrative hearing with the department

within 21 days after the date on which he/she completes his/her post-examination review. The petition/request for administrative hearing must be received or postmarked within 21 days after the date of the post-examination review.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(2) FS. History–New 9-7-98, Amended 7-20-03, 6-19-08,_____.

64B-1.016 Fees: Examination and Post-Examination Review.

(1)(a) The following fees shall be assessed by the department to cover administrative costs, actual per-applicant costs, and costs incurred to develop, purchase, validate, administer, and defend the following department developed, administered, or managed examinations:

Exam Fees		
Profession	Exam	Exam Fee
Chiropractic Medicine	Physical Diagnosis	\$450.00
	Technique	\$450.00
	X-Ray	\$450.00
Dental	Laws & Rules	\$170.00
	Clinical	\$165.00 \$300.00
	Laws & Rules	\$80.00 \$55.00
Dental Hygiene	Clinical	\$120.00
	Laws & Rules	\$30.00
Electrolysis	National	\$135.00 \$150.00
Hearing Aid Specialist	National	\$110.00 \$300.00
Massage	Colonics	\$225.00 \$150.00
Nursing Home Administrator	Laws & Rules	\$250.00 \$150.00
	National	\$85.00 \$20.00
Opticianry	Practical	\$470.00 \$580.00
	Neutralization	\$100.00 \$170.00
Optometry	Clinical	\$1,125.00 \$900.00
	Pharmacology	\$550.00
Osteopathic Medicine	Laws & Rules	\$100.00 \$25.00
	National	\$995.00
Physical Therapy	Laws & Rules	\$20.00
	National	\$5.00
Physical Therapist Assistant	Laws & Rules	\$20.00
	National	\$5.00
Psychology	Laws & Rules	\$30.00 \$20.00
	National	\$150.00 \$75.00

(b) For those examinations administered by the computer-based testing vendor, the candidate will be assessed a fee by the vendor.

(c) For those National examinations managed by the department, the candidate shall be assessed an additional fee to be determined by the National organization administering the examination.

(2) The department shall assess the following non-refundable post examination review fees to cover the actual cost to the department to provide the examination review:

Review Fees		
Profession	Exam	Review Fee
Chiropractic Medicine	Physical Diagnosis	\$100.00
	Technique	\$100.00
Dental	Clinical	\$180.00 \$125.00
	Clinical	\$100.00
Hearing Aid Specialist	National Clinical	\$150.00
Opticianry	Practical	\$170.00 \$75.00
	Neutralization	\$60.00 \$100.00
Optometry	Clinical	270.00 \$100.00
	Laws & Rules	\$80.00 \$100.00
Physical Therapy Assistant	Laws & Rules	\$80.00 \$100.00

For those examinations administered through the department’s computer-based testing vendor, the candidate will be assessed a fee by the vendor to conduct the post-examination review.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.004(10), 456.017(1), (2) FS. History–New 3-14-02, Amended 7-20-03, 7-12-05, 1-23-07, 4-7-08,_____.

64B-1.017 Use of Pilot Test Items.

~~Electronically administered Computer based testing examinations developed by or for the department might include pilot test or experimental questions for the purpose of evaluating the statistical and psychometric qualities of new or revised questions prior to their use in an examination.~~

~~(1) Pilot test or experimental questions will not be identified to the candidates as pilot test questions on the examination.~~

~~(2) The maximum number of pilot test questions included on an examination form shall not exceed 20 percent of the number of scored questions on the examination or ten (10) questions, whichever is greater.~~

~~(3) Pilot test questions shall not be counted toward the candidate’s score on the examination. Answers to pilot test questions shall not be subject to review by the candidates during the candidates’ post examination review session.~~

Rulemaking Specific Authority 456.004(5), 456.017(1) FS. Law Implemented 456.017(1) FS. History–New 7-20-03, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jennifer Wenhold

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 24, 2009

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

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE NO.: 64B6-5.001 RULE TITLE: Continuing Education as a Condition for Renewal

PURPOSE AND EFFECT: The proposed changes will require in person attendance at all continuing education courses and will require HIV/AIDS for the first renewal only.

SUMMARY: The rule amendment requires all continuing education classes to be in person and requires all licensees to take a live 2-hour course on HIV/AIDS prior to the first licensure renewal period.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed changes to the rule are not expected to have an impact on small business.

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

RULEMAKING AUTHORITY: 456.013(6), (8), 484.044, 484.047(1), (4) FS.

LAW IMPLEMENTED: 456.013(7), 484.047(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Hearing Aid Specialists/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-5.001 Continuing Education as a Condition for Renewal.

(1) As a condition of the biennial renewal of an active license, each hearing aid specialist shall attend and certify attending 20 credit hours (per biennium) of Board approved continuing education which are relevant to, and which enhance, the licensee's ability to dispense hearing aids. Attendance at continuing education courses shall be in person. Board-approved means approved by a chairman-appointed committee of one, or as specified by subsection 64B6-5.002(1), F.A.C. Continuing education courses, or portions thereof, which are devoted to content areas other than those identified in Rule 64B6-8.003, F.A.C., or risk management, shall not be approved for continuing education credit. Effective for the biennium beginning in 2001, these certified hours shall include two hours per biennium relating to hearing aid laws and rules.

- (a) through (b) No change.
- (2) No change.

(3) Each licensee shall be required to complete no later than upon first renewal that requires continuing education, a two-hour course on human immunodeficiency virus and acquired immune deficiency syndrome (HIV/AIDS). Each licensee may take up to four (4) hours Hearing Aid Specialist attend and certify attending two (2) hours and may take up to four (4) hours per biennium of continuing education which includes the topics of Human Immunodeficiency Virus, Acquired Immune Deficiency Syndrome, and other communicable illness to protect both the recipient and dispenser; modes of transmission, infection control procedures, clinical management, and prevention of any communicable illness. Such continuing education shall be accepted by the Board toward the continuing education requirement. Dually-licensed individuals, under Chapter 456, F.S., shall only be required to take one HIV/AIDS course to satisfy the continuing education requirements for this Board.

(4) Each licensee as part of the renewal process Hearing Aid Specialist shall attend and certify attending a Board-approved two-hour continuing education course relating to the prevention of medical errors. Licensees who are licensed under other professions regulated by Chapter 456, F.S., shall only be required to take one medical errors course to satisfy the continuing education requirements for this Board. The two-hour course shall count toward the total number of continuing education hours required for license renewal.

Rulemaking Specific Authority 456.013(6), (8), 484.044, 484.047(1), (4) FS. Law Implemented 456.013(7), 484.047(4) FS. History—New 4-1-85, Formerly 21JJ-15.001, Amended 8-5-87, 4-8-90, 8-21-90, 8-19-91, Formerly 21JJ-5.005, Amended 11-20-95, Formerly 61G9-5.005, Amended 9-23-99, 6-28-00, 11-9-00, 2-19-03, 3-4-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Hearing Aid Specialists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 19, 2008

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE NO.: 64B6-5.002 RULE TITLE: Continuing Education Programs

PURPOSE AND EFFECT: The proposed changes will require in person attendance at all continuing education courses.

SUMMARY: The rule amendment clarifies that only in-person Continuing Education Programs will be approved by the Board for continuing education credit.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed changes to the rule are not expected to have an impact on small business.

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

RULEMAKING AUTHORITY: 456.013(7), (9), 484.044, 484.047, (4) FS.

LAW IMPLEMENTED: 456.013(7)(9), 484.047(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Hearing Aid Specialists/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-5.002 Continuing Education Programs.

(1) Programs approved by the International Institute of Hearing Instrument Studies shall automatically be approved for continuing education credit, provided they are in-person contact hours.

(2) through (3)(d) No change.

(4) When attending an approved program, the licensee's in-person attendance must be certified by the program's registrar and submitted upon request to the Board office as verification.

(5) Attendees attending in-person a program not approved pursuant to the above subsections of this rule may request approval of the program attended. Such request must include sufficient information to demonstrate that the program meets the requirements of this rule.

(6) through (7) No change.

Rulemaking Specific Authority 456.013(6)-(9), 484.044, 484.047(4) FS. Law Implemented 456.013(6)-(9), 484.047(4) FS. History—New 4-1-85, Formerly 21JJ-15.002, Amended 8-5-87, 2-16-89, 6-21-89, 1-10-90, 8-19-91, 10-21-91, Formerly 21JJ-5.006, Amended 11-20-95, Formerly 61G9-5.006, Amended 9-23-99, 11-9-00, 3-24-02, 11-18-02, 9-13-07, 3-4-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Hearing Aid Specialists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 19, 2008

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE NO.: 64B6-6.004
RULE TITLE: Certified Testing Room

PURPOSE AND EFFECT: The proposed changes would adopt and incorporate the waiver form in rule, indicate a website where the form may be obtained, and required, if applicable, the executed waiver to be attached to the client's copy of the contract and a copy to be retained by the licensee.

SUMMARY: The rule amendment clarifies that only in-person Continuing Education Program will be approved by the Board for continuing education credit.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed changes to the rule are not expected to have an impact on small business.

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

RULEMAKING AUTHORITY: 484.044, 484.0501(6) FS.

LAW IMPLEMENTED: 484.047, 484.0501FS.

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: Sue Foster, Executive Director, Board of Hearing Aid Specialists/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-6.004 Certified Testing Room.

(1) Each audiometric test conducted by a licensee or authorized trainee in the fitting and selling of hearing aids shall be made in a testing room that has been certified during the current biennium by the department, or by an agent approved by the department, not to exceed the sound pressure levels specified in Section 484.0501, F.S., unless the exception to this requirement stated in subsection (6) of that Section applies. If the exception in Section 484.0501(6), F.S., applies, the waiver shall be on the Certified Testing Room Waiver Form (Form DH-MQA 1157, Revised 10.08, hereby adopt and incorporated by reference), and shall be signed by the licensee and the client before testing. The Certified Testing Room Waiver Form can be obtained from the Board of Hearing Aid Specialists' website at <http://www.doh.mqa/HearingAid/>. The exceted waiver shall be attached to the client's copy of the contract and a copy shall be retained by the licensee.

(2) through (4) No change.

Rulemaking Specific Authority 484.044, 484.0501(6) FS. Law Implemented 484.047, 484.0501 FS. History--New 5-14-87, Amended 2-16-89, Formerly 21JJ-6.003, 61G9-6.003, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Hearing Aid Specialists
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 19, 2008

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE NO.: 64B6-8.002
RULE TITLE: Qualifications for Trainees, Sponsors and Designated Hearing Aid Specialists

PURPOSE AND EFFECT: The proposed rule amendments are intended to require hearing aid specialist trainees to complete Stage I, the International Hearing Society Home Study Course, before beginning Stage II of the training program. The rule adopts and incorporates by reference the Sponsor Report Form and Training Program Continuation Request Form and provides a website to obtain the forms.

SUMMARY: The proposed rule amendments clarify the various stages of the training programs to be completed by hearing aid specialist trainees. In addition the relevant forms associated with the training programs are incorporated by reference in the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed changes to the rule are not expected to have an impact on small business.

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

RULEMAKING AUTHORITY: 484.044, 484.0445(1) FS.

LAW IMPLEMENTED: 484.0445 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: Sue Foster, Executive Director, Board of Hearing Aid Specialists/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-8.002 Qualifications for Trainees, Sponsors and Designated Hearing Aid Specialists.

(1) The Department shall temporarily certify, until the next Board meeting, only those applicants who meet the following requirements, in addition to those imposed by law:

(a) No change;

(b) The applicant must complete the Training Program Registration Application, (Form DH-MQA 1158 (revised 10/08), hereby adopted and incorporated by reference, which can be obtained from the Board of Hearing Aid Specialists' website at <http://doh.state.fl.us/mqa/HearingAid/>), application furnished by the Department and pay the appropriate fee; and

(c) No change.

(2) The Department shall temporarily certify as a sponsor, until the next Board meeting, only those persons who meet the following requirements, in addition to those imposed by law:

(a) The prospective sponsor must have possessed an active license and have been actively practicing for at least two (2) consecutive years immediately prior to sponsorship, and must be Board certified by the National Board for Certification in Hearing Instrument Sciences. (NBCHIS), except that audiologists who are also licensed hearing aid specialists licensed under Chapter 484, Part II, Florida Statutes, are not required to be NBCHIS certified. ~~Compliance with national board certification will take effect three (3) years from the time this rule takes effect;~~

(b) through (c) No change.

(3) The sponsor may designate only those persons who meet the following requirements, in addition to those imposed by law, to assist in the training of a trainee pursuant to Section 484.0445, Florida Statutes, and this chapter:

(a) The designated person must have possessed an active hearing aid specialist license and have been actively practicing for at least two (2) consecutive years immediately prior to being designated to assist in a training program; and must be Board certified by the National Board for Certification in Hearing Instrument Sciences, except that audiologists who are also licensed hearing aid specialists licensed under Chapter 484, Part II, Florida Statutes, are not required to be NBCHIS certified. ~~Compliance with national board certification will take effect three (3) years from the time this rule takes effect;~~ and

(b) The designated person must not have been disciplined during the past four (4) two (2) years.

Rulemaking Specific Authority 484.044, 484.0445 FS. Law Implemented 484.0445 FS. History--New 1-12-84, Formerly 21JJ-8.02, Amended 8-12-87, 9-13-90, Formerly 21JJ-8.002, Amended 12-6-94, Formerly 61G9-8.002, Amended 6-2-03, 3-4-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Hearing Aid Specialists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 19, 2008

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE NO.: 64B14-2.0015
 RULE TITLE: Application, Examination and Initial Licensure Fees

PURPOSE AND EFFECT: The purpose and effect of this rule development is to implement the statutory amendments in Section 4, 2008-121, Laws of Florida.

SUMMARY: In the proposed rule amendment, the statutory amendments in Section 4, 2008-121, Laws of Florida are implemented.

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

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

RULEMAKING AUTHORITY: 456.013(2), 468.803(2)(a) FS.
 LAW IMPLEMENTED: 456.013(2), 468.803(2)(a), (5)(a), (b), (c), (d), (e) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-2.0015 Application, Examination and Initial Licensure Fees.

(1) through (2) No change.

(3) An applicant for a residency or an internship shall remit an application fee of \$250.00 and a registration fee of \$250.00 at the time the application is submitted.

(4)(3) No change.

Rulemaking Specific Authority ~~456.004(5)~~, 456.013(2), 468.803(2)(a) FS. Law Implemented 456.013(2), ~~456.025(1)~~, 468.803(2)(a), (5)(a), (b), (c), (d), (e) FS. History—New 9-2-98, Formerly 64B-3.003, Amended 2-8-01, 5-30-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Orthotists and Prosthetists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 10, 2008

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-2.001
 RULE TITLE: Fees for Application, Re-Application and Initial Licensure

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to adjust fees for initial licensure and licensure by endorsement.

SUMMARY: The fees for initial licensure and licensure by endorsement will be adjusted.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Allen Hall, Executive Director, at the address listed below.

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

RULEMAKING AUTHORITY: 486.025, 486.041(1), 486.081(2) FS.

LAW IMPLEMENTED: 456.013, 456.065, 486.041, 486.061, 486.081, 486.103, 486.106, 486.107 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-2.001 Fees for Application, Re-Application and Initial Licensure.

(1) No change.

(2) The application fee for licensure by endorsement is \$100 ~~175~~.

(3) through (5) No change.

(6) The initial licensure fee is \$75 ~~100~~.

(7) through (8) No change.

Rulemaking Specific Authority 486.025, 486.041(1), 486.081(2) FS. Law Implemented 456.013, 456.065, 486.041, 486.061, 486.081, 486.103, 486.106, History—New 12-13-83, Amended 5-29-85, Formerly 21M-7.25, Amended 6-20-89, Formerly 21M-7.025, 21MM-2.001, 61F11-2.001, 59Y-2.001, Amended 2-1-99, 4-18-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2008

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2008

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-2.005
RULE TITLE: Biennial Renewal and Inactive Status; Delinquency; Reactivation; and Change of Status Fees

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to adjust biennial renewal fees for an active license.

SUMMARY: The biennial renewal fees for an active license will be adjusted.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Allen Hall, Executive Director, at the address listed below.

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

RULEMAKING AUTHORITY: 486.025, 486.085 FS.

LAW IMPLEMENTED: 456.036(4), (6), 486.085, 486.108(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-2.005 Biennial Renewal and Inactive Status; Delinquency; Reactivation; and Change of Status Fees.

(1) The biennial renewal fee for an active license is \$75 400.

(2) through (8) No change.

Rulemaking Specific Authority 486.025, 486.085 FS. Law Implemented 456.036(4), (6), 486.085, 486.108(1) FS. History--New 8-6-84, Formerly 21M-8.10, Amended 9-22-87, 6-20-89, Formerly 21M-8.010, Amended 10-17-90, Formerly 21MM-2.005, 61F11-2.005, 59Y-2.005, Amended 12-6-01, 4-18-04, 1-18-06,

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-6.001
RULE TITLE: Minimum Standards of Physical Therapy Practice

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify conflict with AHCA rules.

SUMMARY: Conflict with AHCA rules will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Allen Hall, Executive Director, at the address listed below.

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

RULEMAKING AUTHORITY: 486.025 FS.

LAW IMPLEMENTED: 483.021(6), (9), (10), (11), 486.123, 486.125(1)(b), (d), (e), (f), (i), (j), 486.135, 486.151(1)(d), 486.161(3), 486.171 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-6.001 Minimum Standards of Physical Therapy Practice.

(1) through (4) No change.

(5) Physical Therapist – Physical Therapist Assistant Responsibilities and Supervisory Relationships.

(a) Regardless of the setting, physical therapists and physical therapist assistants shall abide by all Federal and State Laws and regulations related to the particular site of practice.

(b) During an acute phase of injury or illness, or while the patient is an inpatient in a hospital, the physical therapist shall be readily and physically available for consultation to the physical therapist assistant.

(c) Delivery of Care:

1. During the delivery of physical therapy care by the physical therapist assistant to patients who are not inpatients in a hospital, or who are not in the acute phase of injury or illness, the physical therapist shall be accessible at all times by telecommunication and shall be within the same geographic location as the assistant.

~~2. The physical therapist shall provide on-site supervision of the physical therapist assistant consistent with the requirements of Rule Chapter 59A-8, F.A.C.~~

~~2.3.~~ The physical therapist should be readily available to the physical therapist assistant with emphasis placed on directing the assistant through frequent reporting, both verbal and written and frequent observations of the care rendered to the patient.

(d) The physical therapist shall not delegate portions of the skilled physical therapy functions or tasks to any lesser trained health personnel than the physical therapist assistant.

(6) through (8) No change.

Rulemaking Specific Authority 486.025 FS. Law Implemented 483.021(6), (9), (10), (11), 486.123, 486.125(1)(b), (d), (e), (f), (i), (j), 486.135, 486.151(1)(d), 486.161(3), 486.171 FS. History–New 8-6-84, Formerly 21M-9.30, Amended 9-22-87, Formerly 21M-9.030, Amended 9-5-90, 3-5-92, 3-24-93, Formerly 21MM-6.001, 61F11-6.001, Amended 8-16-95, Formerly 59Y-6.001, Amended 1-8-98, 1-11-99, 4-18-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Physical Therapy Practice
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 16, 2009

DEPARTMENT OF HEALTH

Board of Psychology

RULE NO.: 64B19-11.010
RULE TITLE: Limited Licensure:
PURPOSE AND EFFECT: The Board proposes the rule amendment to incorporate the application form for a limited license.

SUMMARY: A limited license application form will be incorporated into the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared. A copy can be obtained from Allen Hall, Executive Director at the address listed below. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 456.015(1), (4), 490.004(4) FS.

LAW IMPLEMENTED: 456.015, 490.009(1)(p) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-11.010 Limited License.

(1) Pursuant to Section 456.015, F.S., the Board shall grant a limited license to any applicants who meet the requirements of Section 456.015, F.S., and:

(a) through (b) No change.

(c) Complete and submit to the Board form DH-MQA 1188, 1/09, DOH/MQA/PY-LL-APP/rev. 08/01, "Application for Psychologist Limited Licensure, effective 1-23-09, 3-24-02, which is hereby incorporated by reference, copies of which may be obtained from the Board office or on the Board's website at <http://www.doh.state.fl.us/mqa/psychology>.

Rulemaking Specific Authority 456.015(1), (4)490.004(4) FS. Law Implemented 456.015, 490.009(1)(p) FS. History–New 6-14-94, Formerly 61F13-11.012, Amended 6-26-97, Formerly 59AA-11.010, Amended 3-24-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Psychology
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Psychology
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 23, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 13, 2009

DEPARTMENT OF HEALTH

Board of Psychology

RULE NO.: 64B19-11.011
RULE TITLE: Provisional License; Supervision of Provisional Licensees

PURPOSE AND EFFECT: The Board proposes the rule amendment to incorporate the application form for a provisional license.

SUMMARY: A provisional license application form will be incorporated into the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared. A copy can be obtained from Allen Hall, Executive Director at the address listed below. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 456.013, 490.003(6), 490.004(4), 490.0051 FS.

LAW IMPLEMENTED: 456.013, 490.003(6), 490.004(4), 490.0051, 490.009 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-11.011 Provisional License; Supervision of Provisional Licensees.

All applicants applying for provisional licensure shall:

(1) Complete and submit to the Board form DH-MQA 1189, 1/09, DOH/MQA/PY/PROVISIONAL App/rev 10/01, "Application for Provisional Psychology Licensure," which is hereby incorporated by reference, effective 1-23-09 3-24-02, copies of which may be obtained from the Board office or on the Board's website at http://www.doh.state.fl.us/mqa/psychology.

(2) through (6) No change.

Rulemaking Specific Authority 456.013, 490.003(6), 490.004(4), 490.0051 FS. Law Implemented 456.013, 490.003(6), 490.004(4), 490.0051, 490.009 FS. History—New 1-27-98, Amended 3-24-02, 9-8-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 13, 2009

DEPARTMENT OF HEALTH

School Psychology

RULE NO.: 64B21-503.002 RULE TITLE: Renewal of an Active License

PURPOSE AND EFFECT: To update the rule by removing out of date and inaccurate information about the renewal period.

SUMMARY: The rule is being amended to delete the biennial renewal period language, which need not be included in this rule.

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

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

RULEMAKING AUTHORITY: 120.53(1), 490.015 FS.

LAW IMPLEMENTED: 490.007 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, 4052 Bald Cypress Way, Bin #C05, Tallahassee, FL 32399-3250

THE FULL TEXT OF THE PROPOSED RULE IS:

64B21-503.002 Renewal of an Active License.

The Department of Health shall renew an active license upon receipt of the renewal card, the biennial licensure fee as established in Rule 64B21-501.003, F.A.C., and demonstration to the Department that the licensee has satisfactorily completed continuing education requirements as defined in Rule 64B21-502.004, F.A.C., and maintained documentation of same pursuant to Rule 64B21-502.001, F.A.C. ~~Each biennial renewal period shall begin on February 1, of odd numbered years.~~

Rulemaking Specific Authority 120.53(1), 490.015 FS. Law Implemented 490.007 FS. History—New 2-21-85, Formerly 21U-503.02, Amended 12-26-91, 8-12-92, Formerly 21U-503.002, 61E9-503.002, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Allen Hall

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 24, 2009

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

DEPARTMENT OF HEALTH**Board of Athletic Training**

RULE NO.: 64B33-2.001
 RULE TITLE: Licensure Requirements

PURPOSE AND EFFECT: The proposed rule amendment is intended incorporate the revised licensure application into the Board's licensure rule.

SUMMARY: The proposed rule amendment incorporates the revised application for licensure in the rule and sets forth the Board's website address for the purpose of obtaining the licensure application.

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

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

RULEMAKING AUTHORITY: 456.013(7), (9), 468.705, 468.707 FS.

LAW IMPLEMENTED: 456.013(7), 468.707 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: Susan Foster, Executive Director, Board of Athletic Training, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B33-2.001 Licensure Requirements.

All candidates for licensure shall pay the application fee and shall submit to the Department a completed DOH form DOH-AT-001 entitled "BOARD OF ATHLETIC TRAINING STATE OF FLORIDA EXAMINATION APPLICATION FOR LICENSURE AS AN ATHLETIC TRAINER" (Revised 2/09) incorporated herein by reference ~~and effective 1/19/96, to the Department~~. The application can be obtained by writing the Department of Health, Board of Athletic Training, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258. The application is also available from the Board's website address as follows: http://www.doh.state.fl.us/mqa/athtrain/at_lic_req.html.

(1) through (2) No change.

Rulemaking Specific Authority 456.013(7), (9), 468.705, 468.707 FS. Law Implemented 456.013(7), 468.707 FS. History—New 5-29-96, Formerly 61-25.002, 64B30-25.002, Amended 8-22-00, 5-9-02, 3-6-07, 8-12-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Athletic Training

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 25, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 30, 2009

DEPARTMENT OF HEALTH**Division of Family Health Services**

RULE NO.: 64F-22.001
 RULE TITLE: Eligibility

PURPOSE AND EFFECT: Establish the rules for cancer patients to receive financial aid for the diagnosis and treatment of cancer in any hospital or clinic.

SUMMARY: If funding is appropriated by the legislature, the rule outlines the criteria for cancer patients to receive financial aid for diagnosis and treatment of cancer in any hospital or clinic.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared and there is no cost to the state for any activities related to the rule.

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

RULEMAKING AUTHORITY: 1004.435(5)(d) FS.

LAW IMPLEMENTED: 1004.435 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: Sue Middleton, Administrative Director, Cancer Control and Research Advisory Council, 12902 Magnolia Drive, Tampa, Florida 33612; (813)745-1339 or Susan Fleming, Cancer Program Administrator, Bureau of Chronic Disease Prevention & Health Promotion, Florida Department of Health, 4052 Bald Cypress Way, Bin #A18, Tallahassee, Florida 32399; (850)245-4444, ext. 2945

THE FULL TEXT OF THE PROPOSED RULE IS:

64F-22.001 Eligibility.

The Florida Department of Health may offer a Program of coverage for Diagnosis and Treatment of Cancer, if and when funds become available, for individuals that meet the following requirements:

(1) Has a current prescription for cancer screening, diagnostic procedure or cancer treatment written by a licensed physician or dentist.

(2) Is a bona-fide resident of Florida.

(3) Is uninsured or is lacking insurance that covers the cancer screening, diagnostic procedure or treatment.

(4) Has a net family income at or below 200% of the Federal poverty guidelines.

(5) Has no more than \$5,000 in private funds, bank accounts, or assets other than a homestead.

If an individual does not meet the program requirements but cannot afford the particular procedure or treatment prescribed, the program may consider emergency assistance on a one time basis.

The program eligibility requirements and the emergency issuance provision are subject to change depending upon availability of resources.

Rulemaking Authority 1004.435(5)(d) FS. Law Implemented 1004.435 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Sue Middleton

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 24, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 19, 2008

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.: 65A-1.900
RULE TITLE: Overpayment and Benefit Recovery

PURPOSE AND EFFECT: The proposed rule amendment amends policy governing the compromise of a food stamp overpayment. Included in this proposed rule amendment are some wording changes and technical changes of a non-substantive nature improving the overall content of the rule.

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

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

RULEMAKING AUTHORITY: 409.919, 414.41, 414.45 FS.
LAW IMPLEMENTED: 414.31, 414.41 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: April 28, 2009, 1:30 p.m.
PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Keil, ACCESS Florida Program Policy, 1317 Winewood Boulevard, Building 3, Tallahassee, Florida 32399-0700; (850)410-3291

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.900 Overpayment and Benefit Recovery.

The purpose of this section is to define the administrative policies applicable to the establishment and recovery of overpayment in the public assistance programs.

(1) No change.

(a) Overpayment: Overpayment is tThe amount of public assistance received for which an individual was not entitled.

(b) Intentional Program Violation: Intentional Program Violation (IPV) or fraud ~~error~~ is defined pursuant to Sections 414.39(1)-(2) and (4), F.S., 7 C.F.R. §273.16 (c), 45 C.F.R. §235.110(a)(2) and Section 414.14, F.S. Section 414.39, F.S., incorporated by reference (2008), 7 C.F.R. 273.16 incorporated by reference (2008), and 45 C.F.R. 235.110 incorporated by reference (2008).

(c) Direct Reimbursement: Direct reimbursement is repayment by an individual a person to the Ddepartment or contractor ~~by cash, check or money order.~~

(d) Recoupment of Benefits: Recoupment of benefits is the deduction of repayment amounts from benefits prior to disbursing them ~~to the person receiving assistance.~~

(e) Refusal to Repay: Refusal to repay occurs when the individual person responsible for repayment ~~has:~~

1. Received notification of the overpayment or request for repayment agreement as specified in subsection (8) ~~of this section~~ and subsequently:

- a. No change.
- b. Advises the Ddepartment either orally or in writing that they refuse to repay the amount owed; or
- c. through 2. No change.

a. Fails to contact the Ddepartment within ten days for food stamp IPV Intentional Program Violation, 20 days for food stamp Inadvertent Household Error (IHE), or 30 days for food stamp aAgency ~~e~~Error and all other public assistance errors including those for the Refugee Assistance (RAP) and Optional State Supplementation (OSS) Programs from the date of ~~such~~ notification; or

b. Contacts the Ddepartment, but still fails to make the delinquent payment by the last day of the month following the month in which the payment was originally due, unless the individual has obtained, in writing, the Ddepartment’s consent to a change in the repayment agreement.

(f) Notification: Notification, for purposes of this section, is defined as any correspondence from the Department that advises an individual of the status of an overpayment. Any Such notification will shall be in compliance with 7 C.F.R. §273.18 (e)(3), 45 C.F.R. §235.110 and Section 414.14, F.S. 7 CFR 273.18 incorporated by reference (2008) or 45 CFR 235.110 as appropriate.

(g) Extreme hardship: Extreme hardship policy applies only to cash assistance agency errors and. Extreme hardship occurs when monthly expenses for basic maintenance needs exceed monthly income. Expenses taken into account Basic maintenance needs are those items required for survival, include including food, shelter, clothing, medical expenses, transportation, clothing and personal and household incidentals, child or adult care and court ordered child support payments. Any expenses paid by someone outside the household are not used. The Department requires verification if it considers reported items excessive.

1. Food expenses exclude food stamp benefits will be considered according to the current USDA thrifty food plan with no income for the number of people in the household.

2. Shelter expenses expense will include rent, or mortgage, mandatory maintenance or membership fees; loan repayments, including interest for the purchase of a mobile home payments; property taxes and insurance on the home; cost of fuel, electricity, water, sewerage and garbage pickup or both with which to heat, cool and cook; and the basic service fees fee for one telephone. These expenses will not be considered if paid by someone outside those residing together.

3. Medical expenses include those will be considered if not paid by insurance or by someone outside those residing together.

4. Transportation expenses will include those necessary for household vehicles private automobile or public transportation.

5. Clothing and personal and household incidental expenses include those necessary for individuals in the household incidental expenses will be considered in the amount of actual expenses. Verification will be required if the department considers reported expenses excessive.

6. Child or adult care expenses include those costs paid to someone not residing in the household.

7. Court ordered child support payment expenses include those paid to someone not residing in the household.

(2) Individuals ~~Persons~~ Responsible for Repayment of Overpayment.

(a) Individuals ~~Persons~~ who received Aid to Families with Dependent Children (AFDC) ~~AFDC~~ and other cash assistance overpayments as an adult will shall be responsible for repayment of the overpayment.

(b) Food stamp overpayments will shall be recovered from an individual as specified in 7 C.F.R. §273.18 (a)(4) incorporated by reference (2009) 7 CFR 273.18.

(c) Individuals ~~Persons~~ who received Medicaid overpayments as an adult will shall be responsible for repayment of the overpayment.

(d) Adults who apply for or and receive assistance on behalf of others if they provide inaccurate information.

(e) For the purpose of this rule, an adult is defined as:

1. Eighteen (~~18~~) years of age or older,
2. through (3) No change.

(a) Monthly repayment amounts of all AFDC and cash assistance overpayments shall include the following provisions:

1. Any individual person no longer receiving cash assistance will shall negotiate a repayment agreement with the Department or contractor.

2. Any individual person affected by the preceding subparagraph ~~65A-1.900(3)(a)1., F.A.C.~~, is entitled to a departmental review or hearing pursuant to Chapter 65-2, F.A.C.

(b) Monthly repayment amounts of all food stamp overpayments will shall be determined in accordance with 7 C.F.R. §273.18 (c) incorporated by reference (2009) 7 C.F.R. 273.18.

(c) Any adult who applied for and/or received Medicaid benefits for themselves or the assistance group are liable or responsible for repayment. They will negotiate a repayment agreement with the Department or contractor. Monthly repayment amounts of all Medicaid overpayments shall be determined with those persons responsible for repayment based on factors relating to the amount of the claim, the persons' financial situation and the period over which the claim will be liquidated.

(4) No change.

(a) The methods of repayment of cash assistance overpayment are shall be as follows:

1. As specified in 45 C.F.R. §233.20(a)(13) ~~45 C.F.R. 233.20(a)(13)~~ incorporated by reference (2008); or

2. Through application of child support credit. Child support credit exists when child support collected and retained by the state department during any month in which overpayment occurred exceeds the amount of AFDC or cash assistance to which the assistance group was entitled for that month after computation of the overpayment has been completed. The excess amount of child support can may, if requested by the absent parent or recipient, be credited as repayment and the amount owed by the individual person responsible for repayment will be reduced by that amount. In addition, all or part of the overpayment claim can be satisfied should the absent parent of an overpaid assistance group repay to the Department all AFDC or cash assistance benefits received on behalf of the overpaid assistance group. Child support credit is not applicable to RAP ~~Refugee Assistance Program~~ overpayments.

(b) The method of repayment of all food stamp overpayment ~~will shall~~ be as specified in 7 C.F.R. §273.18 (f)-(g) incorporated by reference (2009) 7-C.F.R. 273.18.

(c) For purposes of this rule only, the method of repayment of a Medicaid overpayment ~~will shall~~ be by direct reimbursement.

(5) Refusal to Repay. When ~~an individual a person~~ refuses to make repayment by direct reimbursement after ~~a request being requested~~ to do so, the ~~D~~Department, at its discretion, may take appropriate civil action against the income or resources of the ~~individual person~~ involved.

(6) Compromising Food Stamp Claims. Effective August 1, 2001, a food stamp claim or any portion of a food stamp claim may be compromised. The ~~D~~Department reserves the right to approve or not approve the compromise. ~~Compromise will be considered to resolve (1) pending litigation; (2) bankruptcy proceedings.~~

(a) Individuals with an overpayment claim in the Food Stamp Program may request a compromise of their claim at any time after they are notified of the claim.

(b) The Department will only consider such claims for individuals liable on the overpayment claim being considered or someone duly authorized to do so on behalf of the liable individual(s).

(c) For purposes of a compromise request made pursuant to this rule, the Department will determine that an individual's economic household circumstances reasonably demonstrate the overpayment claim or debt will not be paid within three years of the debtor being notified of the overpayment claim or debt only when the information or materials permitted by paragraph (d) below also include or involve at least one of the following:

1. The death of the debtor or liable individual(s);

2. The probability of an impending death of the debtor or liable individual(s);

3. Pending litigation in a court, including a bankruptcy court, that involves the debtor or liable individual's obligation to repay the overpayment or debt;

4. The debtor or liable individual(s) are sentenced to a period of incarceration in a city, county, state or federal correctional institution that will exceed the three-year period by which the overpayment or debt is expected to be paid; or

5. The debtor or other liable individual(s) sole household's income is based on either age or disability projecting a fixed, limited economic potential to repay the overpayment or debt within three years.

(d) For purposes of evaluating a compromise request, in addition to the information or materials required by paragraph (c) above, individuals liable for an overpayment claim or debt may submit to the Department any other information or written materials related to their household's economic circumstances. Expenses taken into account include food, shelter, medical, transportation, clothing and personal and household

incidentals, child or adult care and court ordered child support payments as described in subparagraphs (1)(g)1. through 7. Any items paid by someone outside the household are not used. The Department requires verification if it considers reported items excessive. The information or materials must state how the overpayment claim or debt will not be paid within the three-year period. When a decision is made concerning the compromise request, the Department will give the individual making the request a written notice of the decision including information about hearing appeal rights.

1. The overpayment or debt will be compromised to zero for situations indicated in subparagraphs 1. through 4. above.

2. The overpayment or debt will be compromised to no less than \$5.00 per month for situations indicated in subparagraph 5. above.

(7) through (a) No change.

(b) When the ~~D~~Department determines that it needs additional documentation of expenses ~~expense is needed~~ to compute overpayment, ~~it the department~~ will notify the ~~individuals persons~~ responsible for repayment of the information needed. The individual must provide aAny requested items ~~must be provided~~ within the time requested by the ~~D~~Department, or the expense will not be considered in computing the overpayment amount.

(8) Notification of Overpayment. The Department must notify the individuals ~~The persons~~ responsible for repayment of overpayment ~~must be notified~~ in writing that overpayment exists and that they are required, by law, to repay the entire amount pursuant to Section 414.41 (1), F.S., ~~incorporated by reference (2008)~~, or that they may seek compromise of a food stamp overpayment pursuant to 7 C.F.R. §273.18(e)(3), (7) incorporated by reference (2009) 7-CFR-273.18(e)(3), (7).

(a) The individual has a right to an administrative hearing in accordance with the ~~D~~Department's hearings procedures in Chapter 65-2, F.A.C., ~~Part VI, Hearings.~~

(b) The Department will send nNotification of overpayment ~~can be sent~~ to current recipients by regular mail at the address ~~to which~~ the ~~D~~Department sends benefits or correspondence. The Department presumes dDelivery ~~will be presumed~~ unless the postal service returns the notice to the ~~D~~Department.

(c) Notification of overpayment to ~~individuals persons~~ no longer receiving assistance will be made as follows:

1. By regular mail to the last known address available to the ~~D~~Department. ~~The Department presumes d~~Delivery ~~will be presumed~~ unless the postal service returns the notice to the ~~D~~Department.

2. The last notification prior to the initiation of civil action ~~will shall~~ be sent certified mail, return receipt requested, or hand delivered with certification that ~~such~~ delivery was made to the ~~individuals persons~~ responsible for repayment.

(d) ~~The assistance group or individuals that receive notification will be considered to have refused to repay when they fail to contact the Department within ten days for food stamp IPV, 20 days for food stamp IHE, or 30 days for food stamp agency error and all other public assistance errors including those for RAP and OSS Programs from the date of notification. The assistance group or persons that receive such notification will have 30 calendar days in which to contact the department before being considered to have refused to repay, except for food stamp recipients the period to contact the department shall be, from the post-marked date of the letter: five days for intentional program violations; 10 days for inadvertent household error; and, 30 days for agency error. For those persons notified via mail, the time in which to contact the department begins five days after the notification is mailed.~~

(9) Claim Thresholds. ~~The Bbenefit Rrecovery Pprogram~~ will not pursue a claim in bankruptcy proceedings if the amount of the claim is at or below \$1,250.

(10) No change.

(a) Pursuant to Sections 414.39 and 414.41, F.S., when the ~~Ddepartment~~ has information that an individual has committed fraud, ~~it the department~~ will refer the case to the Florida Department of Law Enforcement, Division of Public Assistance Fraud (PAF) Unit (DPAF) for investigation. In cases where the ~~Ddepartment~~ determines that an individual has committed fraud in the cash assistance or ~~Ffood Sstamp Pprograms~~, ~~it the department~~ will pursue a determination of IPV Intentional Program Violation (IPV) through either court action, administrative disqualification hearing, or both, where permitted by 7 C.F.R. §273.16 (a) incorporated by reference (2009), or 45 C.F.R. §235.110 incorporated by reference (2008) 7 C.F.R. 273.16, or 45 C.F.R. 235.110. The ~~PAF Unit department~~ will pursue a determination of IPV through court action in instances where ~~it the department~~ determines that an individual has committed fraud in the Medicaid ~~Pprogram~~.

(b) Individuals found by an administrative hearing officer or court to have committed an act of ~~IPV intentional program violation~~ while receiving, or attempting to receive, food stamp, cash assistance, or food stamp and cash assistance benefits ~~will shall~~ be disqualified from participation in the program(s) under which that act was committed or attempted in accordance with 7 C.F.R. §273.16 (b) incorporated by reference (2009), 45 C.F.R. §235.110 or Section 414.14, F.S. 7 C.F.R. 273.16 or 45 C.F.R. 235.110.

(11) No change.

(a) The ~~Ddepartment~~ will refer individuals who owe past-due, legally enforceable federal food stamp overpayment debts to the U.S. United States Department of the Treasury for purposes of collection of such debt through offset against federal payments pursuant to 26 U.S.C. 6402 (d)(1)-(2), (f), 26 U.S.C. 6402, incorporated by reference (2000 Ed., Sup. 5). Referral of individuals owing such debt will be completed in accordance with procedures and criteria contained in 26 C.F.R.

Part 301 §301.6402-6 26 C.F.R. Part 301 et. seq., incorporated by reference (2008); and 31 C.F.R. Part 5 Subpart C et. seq., incorporated by reference (2008); as provided for in 7 C.F.R. Part 3 Subpart D §3.46 7 C.F.R. Part 3 Subpart 3.82, incorporated by reference (2008).

(b) A past-due, legally enforceable debt exists when an individual in receipt of overpayment as defined in Section 414.41(1), F.S. Section 414.41, F.S., and paragraph (1)(b) of this rule is at least 180 days delinquent in repayment of the ~~such~~ overpayment, and ~~the which~~ overpayment has not been discharged through administrative or legal action.

(c) The ~~Ddepartment~~ must make a reasonable attempt as defined in 26 C.F.R. Part 301, §301.6402-6(d), 26 C.F.R. Part 301, 301.6402-6(d), to notify individuals owing such debt that:

1. No change.

2. Unless repaid within 180 days from the date on the notification, ~~it will refer~~ the debt ~~will be referred~~ to the U.S. United States Department of the Treasury for offset against any refund of federal tax due that individual, and

3. The individual debtor has 60 days from the date of notification to appeal, via presentation of evidence to the ~~Ddepartment~~, that all or part of the debt is not past-due or legally enforceable.

(d) The ~~Ddepartment~~ will consider evidence presented timely by an individual in receipt of ~~such~~ notification described in paragraph (1)(c) above that indicates all or part of their debt is not past-due or legally enforceable, and will make a determination as to the status of that debt prior to referral for offset. This consideration process is separate and apart from the administrative hearings appeals process and will address only the past-due status or legal enforceability of all or part of the debt.

(e) The ~~Ddepartment~~ will provide a toll free telephone number for use in obtaining information concerning the offset.

(12) The following forms, incorporated by reference, are used by the Department in the process of establishing and recovering overpayment: Information Concerning Administrative Disqualification Hearings, CF-ES 3057, 09/2006; Request for Additional Information, CF-ES 3400, 02/2006; Waiver of Administrative Disqualification Hearing With a Program Loss, CF-ES 3410, 09/2006; Waiver of Administrative Disqualification Hearing Without a Program Loss, CF-ES 3410A, 09/2006; Disqualification Consent Agreement, CF-ES 3414, 11/2007; and Notice of Compromise Decision, CF-ES 3110, 03/2009. Copies of the forms and materials incorporated by reference are available from the ACCESS Florida Headquarters Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700. Forms are also available on the Department's web site at <http://www.dcf.state.fl.us/DCFForms/Search/DCFFormSearch.aspx>. The following notices, hereby incorporated by reference, are used by the department in the process of establishing and recovering overpayment: CF-ES Form 3057, 09/2006,

~~Information Concerning Administrative Disqualification Hearings; CF-ES Form 3400, 02/2006, Request for Additional Information; CF-ES Form 3410, 09/2006, Waiver of Administrative Disqualification Hearing With a Program Loss; CF-ES Form 3410A, 09/2006, Waiver of Administrative Disqualification Hearing With a Program Loss; and, CF-ES Form 3414, Nov. 2007, Disqualification Consent Agreement. Each of these forms listed as incorporated by reference may be obtained without cost from any Benefit Recovery office or by written request to the ACCESS Florida Program Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700.~~

~~Rulemaking Specific Authority 409.919, 414.41, 414.45 FS. Law Implemented 414.31, 414.41 FS. History–New 7-21-92, Amended 1-5-93, 9-5-93, Formerly 10C-1.900, Amended 7-9-98, 4-2-00, 2-26-02, 3-18-03, 7-21-05, 1-19-09, _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
Nathan Lewis
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: George H. Sheldon
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 25, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 30, 2009

DEPARTMENT OF FINANCIAL SERVICES
Division of Funeral, Cemetery and Consumer Services
RULE NO.: 69K-25.004
RULE TITLE: Limited License for Retired Professionals During Times of Critical Need

PURPOSE AND EFFECT: Section 497.143, F.S., provides that it is the Legislature’s intent to encourage the use of retired professionals in good standing to serve the State during times of critical need. Critical need is defined as an executive order from the Governor or a federal order declaring a state of emergency in an area. The Department is authorized to adopt rules permitting practice by retired professionals as limited licensees during times of critical need.

SUMMARY: The proposed rule sets forth the procedure for obtaining a limited license as a retired professional during a time of critical need.

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

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

RULEMAKING AUTHORITY: 497.103(5)(b), 497.143 FS.
LAW IMPLEMENTED: 497.143 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: April 27, 2009, 2:00 p.m.
PLACE: Alexander Building, 2020 Capital Circle, S. E., Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Doug Shropshire, (850)413-3039 or doug.shropshire@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Doug Shropshire, (850)413-3039 or doug.shropshire@myfloridacfo.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-25.004 Limited License for Retired Professionals During Times of Critical Need.

(1) A limited licensee shall only provide services during times of critical need within the State and shall work for an entity licensed under Chapter 497, F.S. A limited license shall be effective for so long as the executive order from the Governor or federal order declaring a state of emergency remains in effect including the time the state of emergency is extended as authorized by law.

(2) Each person desiring to obtain a limited license as a retired funeral director, embalmer, or combination funeral director/embalmer shall apply to the Department by submitting the following:

(a) A completed “Application for Retired Professionals.” Form DFS-N1-1746, effective 10/06, which is incorporated by reference in Rule 69K-1.001, F.A.C., and is available on the Department’s website (www.myfloridacfo.com/FuneralCemetery) or by contacting the Department of Financial Services, Division of Funeral, Cemetery and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361.

- (b) A notarized affidavit stating that the applicant:
1. Has been licensed to practice in any jurisdiction in the United States for at least ten years in the profession for which the applicant seeks a limited license;
 2. Has retired from the practice of that profession;
 3. Intends to practice only pursuant to the restrictions of the limited license; and
 4. Shall not engage in preneed sales under such license.

Rulemaking Authority 497.103(5)(b), 497.143 FS. Law Implemented 497.143 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Doug Shropshire, Director, Division of Funeral, Cemetery, and
 Consumer Services, Alexander Building, 2020 Capital Circle
 S.E., Tallahassee, Florida 32399-0361; (850)413-3039
 NAME OF AGENCY HEAD WHO APPROVED THE
 PROPOSED RULE: Alex Sink, Chief Financial Officer,
 Department of Financial Services
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: March 20, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: February 20, 2009

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
690-163.0075	Term and Evidence of Insurance
690-163.009	Determination of Reasonableness of Benefits in Relation to Premium Charge

690-163.011 Credit Disability Insurance Rates
 PURPOSE AND EFFECT: Credit Life and Credit Disability
 Insurance is being amended to address the statutory changes
 contained in House Bill 343, which the Governor approved on
 May 28, 2008. The bill removes the fifty thousand dollar
 (\$50,000) for credit life, but did not remove the ten (10) year
 limit that is still contained in section 627.681, Florida Statutes.
 Similarly, the bill removed the ten (10) year limit for credit
 disability, but did not remove the fifty thousand dollar limit
 (\$50,000) that is still contained in Section 627.679, Florida
 Statutes.

SUMMARY: Credit Life and Credit Disability Insurance is
 being amended to address the statutory changes contained in
 House Bill 343, which the Governor approved on May 28,
 2008.

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

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

RULEMAKING AUTHORITY: 627.678, 627.6785 FS.

LAW IMPLEMENTED: 627.681, 627.682 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: May 6, 2009, 9:30 a.m.

PLACE: 143 Larson Building, 200 East Gaines Street,
 Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE
 PROPOSED RULES IS: Gerry Smith, Division of Life and
 Health, Office of Insurance Regulation, E-mail
 gerry.smith@fldfs.com

THE FULL TEXT OF THE PROPOSED RULES IS:

690-163.0075 Term and Evidence of Insurance.
~~The term of insurance and evidence of insurance shall not
 exceed ten years subject to the following limitations:~~

~~(1) Credit life insurance shall not exceed ten years from
 the date of issue and provide coverage for at least 5 years or the
 term of the loan if the loan is for less than 5 years.~~

~~(2) Credit disability insurance shall provide for monthly
 payments which are the lesser of 60 monthly payments or the
 number of monthly payments for the full term of the loan.~~

Rulemaking Specific Authority 624.308(1), 627.678 FS. Law
 Implemented 624.307(1), 627.681, 627.6785(3), 627.681(3) FS.
 History--New 2-11-03, Formerly 4-163.0075, Amended _____.

690-163.009 Determination of Reasonableness of
 Benefits in Relation to Premium Charge.

(1) Section 627.682, F.S., requires that benefits provided
 by credit insurance policies must be reasonable in relation to
 the premium charged. This requirement is satisfied if the
 premium rate charged develops or may be reasonably expected
 to develop a loss ratio of claims incurred to premiums earned
 of not less than:

- (a) 55% for credit life insurance, and
- (b) 50% for credit disability insurance.

(2) Use of rates not greater than those contained in Rules
 690-163.010 and 690-163.011, F.A.C., (“prima facie rates”) shall
 be deemed premium rates reasonably expected to develop
 the required loss ratio. An insurer may only file and use rates
 with such forms which are greater than prima facie rates upon a
 satisfactory filing with the Office showing to the Director that
 the use of such rates will not result on a statewide basis for that
 insurer of a ratio of claims incurred to premiums earned of less
 than the required loss ratio.

(3) If an actual rate is greater than the prima facie rates, the
 actual rate may not exceed the prima facie rates plus the
 difference between:

- (a) Claims which may be reasonably expected, and
- (b) The product of the required loss ratio and the prima
 facie rate set forth for the coverage being provided.

(4) When some rates are based on subsection (1) above
 and others on the prima facie rate, the expected loss ratios of
 statewide business must meet the minimum loss ratio standard
 in subsection (1) above.

(5) Nonstandard Coverage. If any insurer files for
 approval of any form providing coverage more restrictive than
 that described in Rules 690-163.010 and 690-163.011, F.A.C.,
 the insurer shall make a filing to demonstrate to the satisfaction

of the ~~Office Director~~ that the premium rates to be charged for such restricted coverage comply with subsection (1) above or, are less than or equal to rates which are actuarially equivalent to the prima facie rates.

Rulemaking Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.678, 627.682 FS. History—New 5-9-82, Formerly 4-7.09, Amended 6-11-91, Formerly 4-7.009, Amended 3-15-94, 2-11-03, Formerly 4-163.009, Amended _____.

69O-163.011 Credit Disability Insurance Rates.

(1) Credit disability insurance premium rates for the insured portion of an indebtedness repayable in equal monthly installments, where the insured portion of the indebtedness decreases uniformly by the amount of the monthly installment paid, shall not be greater than in paragraphs (a) and (b). Paragraphs (c), (d) and (e) refer to premium rates for other types of coverages either alone or in combination with the type of coverages applicable to paragraphs (a) and (b).

(a) If premiums are payable on a single-premium basis for the duration of the coverage:

TABLE I

No. of months in which indebtedness is repayable	14-Day Non-Retroactive	30-Day Non-Retroactive	7-Day Retroactive	14-Day Retroactive	30-Day Retroactive
6 or less	\$0.81	\$0.36	\$1.47	\$1.30	\$1.05
7-12	1.13	0.72	1.76	1.58	1.36
13-18	1.46	1.08	2.05	1.87	1.67
19-24	1.78	1.44	2.34	2.16	1.97
25-30	2.11	1.80	2.64	2.45	2.28
31-36	2.43	2.16	2.93	2.74	2.58
37-48	2.84	2.70	3.34	3.10	2.97
49-60	3.16	2.97	3.69	3.38	3.28
61-72*	3.43	3.27	3.97	3.62	3.53
73-84*	3.61	3.47	4.18	3.79	3.70
85-96*	3.76	3.64	4.34	3.92	3.84
97-108*	3.86	3.75	4.46	4.01	3.94
109-120*	3.95	3.85	4.55	4.09	4.02
<u>Per month for terms exceeding 120 months</u>	<u>.0303</u>	<u>.0296</u>	<u>.0348</u>	<u>.0313</u>	<u>.0308</u>

~~*Maximum benefit is 60 monthly payments.~~

(b) If premiums are paid on the basis of a premium rate per month per thousand of outstanding insured indebtedness, these premiums shall be computed according to the formula: $OPn = (20XSPn) / (n + 1)$ using a rate no less than the 24 month rate in Table I above. A company may submit a different formula for approval which produces rates actuarially equivalent to the single premium rates in Table I:

Where

SPn = Single Premium Rate per \$100 of initial insured indebtedness repayable in equal monthly installments (Table I). The Single Premium Rate shall not be less than the 19-24 month rate for the appropriate coverage.

OPn = Monthly Outstanding Balance Premium Rate per \$1,000.

n = Original repayment period, in months.

(c) Coverage which provides a constant maximum indemnity for a given period of time shall use rates no greater than those rates which are actuarially equivalent to the rates in paragraph (a) or (b).

(d) If the coverages provided are other than those described in this subsection (1), rates for such coverages shall be actuarially equivalent to the rates provided in paragraph (a), (b) or (c).

(e) Joint coverage rates shall be no greater than 175% of the specific rate for that type of coverage.

(f) The monthly outstanding balance rate for credit disability insurance may be either a term specified rate or may be a single composite term rate applicable to all insured loans.

(2) The premium rates in subsection (1) shall apply to policies providing credit disability insurance to be issued with or without evidence of insurability, to be offered to all eligible debtors, and containing:

(a)1. No provision excluding or denying a claim for disability resulting from pre-existing conditions, except for those conditions for which the insured debtor received medical advice, diagnosis, or treatment within six months preceding the effective date of the debtor's coverage, and which caused loss within the 6 months following the effective date of coverage;

2. Disability commencing after 6 months following the effective date of coverage resulting from the condition shall be covered.

3. Coverage with no pre-existing provision limitation shall result in an additional premium of 10% of the amounts shown in subsection (1), above.

(b) No other provision which excludes or restricts liability in the event of disability caused in a specific manner, except that it may contain provisions excluding or restricting coverage for intentionally self-inflicted injuries and normal pregnancy.

(c) No provision which requires that the debtor be employed more than thirty (30) hours per week in order to be eligible for insurance coverage.

(d) No age restrictions, or only age restrictions making ineligible for coverage debtors 66 or over at the time the indebtedness is incurred.

(e) However, coverage shall be provided, at a minimum, until the earlier of the maturity date of the loan or the loan anniversary at age 66. Where loans are in the form of revolving credit arrangements, an insurer may terminate coverage when the debtor attains the age 66.

(f) A daily benefit equal in amount to one-thirtieth of the monthly benefit payable under the policy for the indebtedness.

(g)1. A definition of "disability" which provides that during the first 12 months of disability the insured shall be unable to perform the duties of his occupation at the time the disability occurred, and thereafter the duties of any occupation for which the insured is reasonably fitted by education, training or experience.

2. This paragraph shall not apply to lump sum disability coverage.

Rulemaking Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.678, 627.6785, 627.682 FS. History—New 5-9-82, Formerly 4-7.11, Amended 6-11-91, Formerly 4-7.011, Amended 2-11-03, Formerly 4-163.011, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gerry Smith, Division of Life and Health, Office of Insurance Regulation, E-mail: gerry.smith@fldfs.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 28, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 22, 2008

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.: 690-164.040
 RULE TITLE: Determining Reserve Liabilities for Preneed Life Insurance

PURPOSE AND EFFECT: The purpose of this rule is to recognize the inadequacy of the 2001 Commissioners Standard Ordinary Life Valuation Mortality Table for use in determining the minimum standard of valuation and the minimum standard nonforfeiture value, and to require the continued use of the 1980 Commissioners Standard Ordinary Life Valuation Mortality Table for use in determining the minimum standard of valuation and the minimum standard nonforfeiture value.

SUMMARY: This rule calls for adopting the 1980 Commissioner’s Standard Ordinary Life Valuation Mortality Tables (1980 CSO) for use in determining reserve value and non-forfeiture value of pre-need life insurance, rather than using the new 2001 Commissioners’ Ordinary Standard Life

Valuation Mortality Tables (2001 CSO). The rule allows use of the 2001 CSO for pre-need life insurance policies issued before January 1, 2012, but only after the insurance company submits documentation demonstrating they have adequate reserves.

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

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

RULEMAKING AUTHORITY: 625.121(5)(a)(3), 627.476(9)(h), (5) FS.

LAW IMPLEMENTED: 625.121(5)(a)(3), 627.476(9)(h), (5) 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: May 5, 2009, 9:30 a.m.

PLACE: 143 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Kerry Krantz, Office of Insurance Regulation, E-mail: kerry.krantz@flor.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, Office of Insurance Regulation, E-mail: kerry.krantz@flor.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

690-164.040 Determining Reserve Liabilities for Preneed Life Insurance.

(1) Authority.

This rule is adopted by the commission pursuant to Sections 625.121(5)(a), (3) and 627.476(9), F.S.

(2) Scope.

This rule applies to preneed life insurance policies and certificates as defined in Section Four (4) of this rule, and similar policies and certificates.

(3) Purpose.

The purpose of this rule is to recognize the inadequacy of the 2001 Commissioners Standard Ordinary Life Valuation Mortality Table for use in determining the minimum standard of valuation and the minimum standard nonforfeiture value, and to require the continued use of the 1980 Commissioners Standard Ordinary Life Valuation Mortality Table for use in determining the minimum standard of valuation and the minimum standard nonforfeiture value.

(4) Definitions.

(a) The term “2001 CSO Mortality Table” means the 2001 Commissioners Standard Ordinary Life Valuation Mortality Table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002). Unless the context indicates otherwise, the “2001 CSO Mortality Table” includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

(b) The term “Ultimate 1980 CSO” means the Commissioners’ 1980 Standard Ordinary Life Valuation Mortality Tables (1980 CSO) without ten-year (10-year) selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983.

(c) For the purposes of this rule, preneed insurance is any life insurance policy or certificate that is issued in combination with, in support of, with an assignment to, or as a guarantee for a prearrangement agreement for goods and services to be provided at the time of and immediately following the death of the insured. Goods and services may include, but are not limited to embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased. The status of the policy or contract as preneed insurance is determined at the time of issue in accordance with the policy form filing.

(5) Minimum Valuation Mortality Standards.

For preneed insurance contracts, as defined in section (4)(c), and similar policies and contracts, the minimum mortality standard for determining reserve liabilities and non-forfeiture values for both male and female insureds shall be the Ultimate 1980 CSO.

(6) Minimum Valuation Interest Rate Standards.

(a) The interest rates used in determining the minimum standard for valuation of preneed life insurance shall be the calendar year statutory valuation interest rates as defined in Section 625.121(6), F.S.

(b) The interest rates used in determining the minimum standard for nonforfeiture values for preneed life insurance shall be the calendar year statutory nonforfeiture interest rates as defined in Section 627.476(9)(i), F.S.

(7) Minimum Valuation Method Standards.

(a) The method used in determining the minimum standard for valuation of preneed life insurance shall be the method as defined in Section 625.121(5), F.S.

(b) The method used in determining the minimum standard for nonforfeiture values for preneed life insurance shall be the method as defined in Section 627.476(9), F.S.

(8) Transition Rules.

(a) For preneed insurance policies issued on or after the effective date of this rule and before January 1, 2012, the 2001 CSO may be used as the minimum standard for reserves and minimum standard for non-forfeiture benefits for both male and female insureds.

(b) If an insurer elects to use the 2001 CSO as a minimum standard for any policy issued on or after the effective date of this rule and before January 1, 2012, the insurer shall provide, as a part of the actuarial opinion memorandum submitted in support of the company’s asset adequacy testing, an annual written notification to the domiciliary commissioner. The notification shall include:

1. A complete list of all preneed policy forms that use the 2001 CSO as a minimum standard;

2. A certification signed by the appointed actuary stating that the reserve methodology employed by the company in determining reserves for the preneed policies issued after the effective date and using the 2001 CSO as a minimum standard, develops adequate reserves (For the purposes of this certification, the preneed insurance policies using the 2001 CSO as a minimum standard cannot be aggregated with any other policies.); and

3. Supporting information regarding the adequacy of reserves for preneed insurance policies issued after the effective date of this rule and using the 2001 CSO as a minimum standard for reserves.

(c) Preneed insurance policies issued on or after January 1, 2012, must use the Ultimate 1980 CSO in the calculation of minimum nonforfeiture values and minimum reserves.

(9) Effective Date.

This rule is applicable to preneed life policies and certificates as defined in (2) issued on or after January 1, 2009.

Rulemaking Authority 625.121(5)(a), (3), 627.476(9)(h), (5) FS. Law Implemented 625.121(5)(a)(3), 627.476(9)(h), (5) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kerry Krantz, Office of Insurance Regulation, E-mail:
kerry.krantz@flor.com

NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: April 22, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: June 13, 2008

Section III
Notices of Changes, Corrections and
Withdrawals

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.: 61G15-19.004
 RULE TITLE: Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 32, August 8, 2008 issue of the Florida Administrative Weekly.

This change was made to address a concern expressed by the Joint Administrative Procedure Committee.

When changed, subsection 2. Negligence, shall now read as follows:

2. a. Negligence (subsection 61G15-19.001(4), F.A.C.)	Reprimand, two (2) years probation and \$1,000 fine, to \$5,000 fine, five (5) year suspension and ten (10) years probation	Two (2) years probation and \$1,000 fine, to \$5,000 fine and Revocation
b. Negligence in procedural requirements (61G15-30.003(2), (3) and (5), F.A.C.; 61G15-30.005 and 61G15-30.006, F.A.C.)	Reprimand to two (2) years probation and \$1,000 fine,	Two (2) years probation and \$1,000 fine, to \$5,000 fine and Revocation
c. As a special inspector	Reprimand, two (2) years probation and \$1,000 fine, to \$5,000 fine,	Two (2) years probation and \$1,000 fine, to \$5,000 fine and Revocation

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

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 ENVIRONMENTAL PROTECTION

RULE NO.: 62-341.494
 RULE TITLE: Noticed General Permit for Maintenance of Public Navigation Channel and Canal Infrastructure by the West Coast Inland Navigation District within Lee County

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 53, December 31, 2008 issue of the Florida Administrative Weekly.

62-341.494 Noticed General Permit for Maintenance of Public Navigation Channel and Canal Infrastructure by the West Coast Inland Navigation District within Lee County.

- (1) No change.
- (2) This general permit is further limited as follows.
 - (a) through (c) No change.

(d)1. The "No Internal Combustion Motor Zones" (NICMZs) shown and described in the attached Exhibit A, which reflect the boundaries approved in Resolution 07-09-49 of the Lee County Board of County Commissioners on September 25, 2007, are hereby established by this general permit. Within these NICMZs, the use of electric motors is permitted, but operators of all vessels equipped with internal combustion motors (e.g.: gasoline or diesel motors) for propulsion must turn off the internal combustion motor and, if possible to do so, tilt or raise the internal combustion motor out of the water. ~~For purposes of implementing this rule, the definition of "No Internal Combustion Motors" in Rule 68D-23, F.A.C., shall not apply.~~

2. Prior to any dredging authorized by this general permit within an Aquatic Preserve, WCIND shall demonstrate that the NICMZ(s) within that aquatic preserve have been established and marked in the field with signage in accordance with the requirements of the Florida Fish and Wildlife Conservation Commission's (FWC) Boating and Waterways Section. ~~Nothing in this rule shall be construed to relieve WCIND from obtaining sign permits required by the Florida Fish and Wildlife Conservation Commission (FWC). For this purpose, DEP authorizes WCIND, as its agent, to apply to FWC for all required sign permits to mark the boundaries of the NICMZs established by this general permit. WCIND shall pay all permitting fees, and shall be responsible for installing and maintaining all permitted signs.~~

3. WCIND will design and implement a program to monitor seagrasses within the NICMZs using various scientifically approved methods after consultation with DEP and FWC staff. The monitoring shall be designed to establish the baseline coverage of seagrasses by species, the number and coverage of prop scarring, and document any change in coverage over time. At a minimum, the first monitoring will

PURPOSE AND EFFECT: The purpose of this rule development is to ensure that medical records are retained during the period of the statute of limitations.

SUBJECT AREA TO BE ADDRESSED: Patient Records.

RULEMAKING AUTHORITY: 456.057(16), 468.802 FS.

LAW IMPLEMENTED: 456.057(16), 468.802 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B14-7.002 Patient Records.

(1) through (2) No change.

(3) The licensee shall retain the patient record for at least seven ~~two~~ years from the date of last entry, unless otherwise provided by law.

Rulemaking Specific Authority 456.057(16), 468.802 FS. Law Implemented 456.057(16), 468.802 FS. History--New 7-1-98, Amended

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-21.0015	Definitions
68B-21.003	Prohibition of Sale of Snook
68B-21.004	Seasons
68B-21.005	Size Limits
68B-21.006	Bag and Possession Limits
68B-21.007	Restrictions on Gear and Methods Used to Take Snook

PURPOSE AND EFFECT: The primary purpose of the proposed rule amendments is to clarify that the Commission prohibits the sale of snook harvested or taken within or without the state in order to fully protect the snook resources from illegal sales or importation.

SUBJECT AREA TO BE ADDRESSED: Snook.

RULEMAKING AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600; (850)487-1764

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**Section II
Proposed Rules**

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE NOS.:	RULE TITLES:
9B-1.002	Definitions
9B-1.003	Administration and Department Responsibilities
9B-1.004	Adoption of Model Codes
9B-1.006	Certification of Agencies
9B-1.007	Manufacturer Certification
9B-1.009	Design Plan and Systems Approval
9B-1.0095	Component System
9B-1.010	Manufacturer's Quality Control Manual Procedures
9B-1.011	Alterations and Relocation
9B-1.016	Department Insignia
9B-1.017	Insignia Application and Issuance
9B-1.018	Insignia Denial
9B-1.019	Removal of Insignia
9B-1.020	Schedule of Fees
9B-1.0211	Change in Manufacturer's Status
9B-1.0221	Manufacturer's Obligations Upon Sale of Building Oversight, Complaint
9B-1.023	Factory-built Schools, Certifications
9B-1.026	Factory-built Schools, Inspections
9B-1.028	and Work Progress Reports
9B-1.030	Factory-built Schools, Insignia and Data Plate

PURPOSE AND EFFECT: To eliminate rule provisions that duplicate requirements of the Florida Building Code; improve accountability of third-party agencies; and institute programmatic changes to increase compliance with the Florida Building Code.

SUMMARY: Clarify and ensure consistency of current rule with statute and internally in use of terms. New requirements are limited and include annual verification that insurance information is valid, requiring specification of site related items subject to local government jurisdiction on a single plan page, and specifying the location of the data plate insignia of approval.

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

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

RULEMAKING AUTHORITY: 553.37(1), (b), (e), 553.37(1)(b), (2), (7), 553.38, 553.38(1), (2), 553.381, 553.39, 553.73(2), 553.76(4), 553.415 FS.

LAW IMPLEMENTED: 553.36(5), 553.37, 553.37(1), 553.37(1)(a), (b), (c), (2), (3), (4), (5), (7), (8), 553.38, 553.38(1), 553.73(2), 553.381, 553.415, 553.73, 553.73(1), (2), 553.76(4) FS.

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

DATE AND TIME: April 23, 2009, 1:00 p.m.

PLACE: Randall Kelley Training Room, Third Floor, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

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 7 days before the workshop/meeting by contacting: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100; (850)922-6091. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100; (850)922-6091

THE FULL TEXT OF THE PROPOSED RULES IS:

9B-1.002 Definitions.

(1) Department – The Florida Department of Community Affairs.

(2)(1) Third Party Agency (Agency) – An individual or entity, which may be a private sector entity, a state department with building construction responsibilities or a local government determined by the Department to be qualified pursuant to this chapter to review plans for or inspect the

construction of manufactured building units, systems, or the component parts thereof together with the plans, specifications, and quality control procedures to ensure that such units, systems, or component parts are in full compliance with the codes and standards herein adopted and to assign and attach the insignia of the Department to such units complying with those standards.

(3)(2) Building System – The plans, specifications and documentation for a system of manufactured buildings or for a type or a system of building components, which may include structural, electrical, mechanical, plumbing and fire protection systems and other building systems affecting life safety.

(4)(3) Building Code Information System (BCIS) at www.floridabuilding.org – the official website of the Florida Building Commission and the Florida Building Codes and Standards Office.

(5)(4) Closed Construction – A building, component, assembly, subassembly, or system manufactured in such a manner that all portions cannot be readily inspected at the installation site without disassembly or destruction thereof.

(6)(5) Component – Any three dimensional assembly, subassembly, or combination of elements for use as a part of a building, which may include structural, electrical, mechanical, plumbing and fire protection systems, and other building systems affecting life safety.

(7)(6) Dealer – Any person, corporation or business engaged in leasing, selling, or both leasing and selling manufactured buildings.

~~(7) Department – The Florida Department of Community Affairs.~~

(8) Equipment – All equipment, material, appliances, devices, fixtures, fittings or accessories installed in or used in the manufacture and assembly of a manufactured building.

(9) Insignia – An approved device or seal issued by the Department to indicate compliance with the provisions of this chapter. The term “insignia” includes recertification insignias.

(10) Installation – The assembly of a manufactured building component or system on site and the process of affixing a manufactured building component or system to land, a foundation, or an existing building, or service connections which are part thereof.

(11) Labeled – Shall be as defined in ~~Chapter 2~~ of the Florida Building Code.

(12) Building Official – The officer or other designated authority or their duly authorized representative charged with the administration of the applicable technical codes in the subject jurisdiction. This term is synonymous with “building official” as that term is defined in Section 468.603(1), F.S.

~~(13) Enforcement Agency – An agency of state or local government with authority to make inspections of buildings and to enforce the codes which establish standards for design,~~

~~construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures or facilities.~~

~~(13)(14) Manufacture~~ – The process of making, modifying, fabricating, constructing, forming or assembling or reassembling a product from raw, unfinished, semifinished, or finished materials.

~~(14)(15) Manufactured Building, Modular Building, or Factory-Built Building~~ – A closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured in manufacturing facilities for installation or erection, ~~with or without other specified components~~, as a finished building or as part of a finished building, which shall include but not be limited to residential, commercial, institutional, storage, and industrial structures. The term includes buildings not intended for human habitation such as lawn storage buildings and storage sheds manufactured and assembled offsite by a certified manufacturer.

~~(15)(16) Manufacturer~~ – Any person who, or entity which, has been certified to produce, modify, or produce and modify manufactured buildings for placement in the State of Florida.

~~(16)(17) Model~~ – A specific design of manufactured buildings, which is based on size, room arrangement, method of construction, location, arrangement or size of plumbing, mechanical or electrical equipment and systems therein in accordance with plans submitted to the Department.

~~(17)(18) Modification~~ – Any change to a manufactured building which affects the structural, electrical, thermal, mechanical, plumbing systems, life safety, means of egress, material flammability/flame spread or accessibility of the building to persons with disabilities in accordance with the Florida Accessibility Code for Building Construction.

~~(18)(19) Occupancy Classification~~ – The characterization of the intended purpose for which the building will be used as determined in accordance with the Florida Building Code. The purpose for which a building, or part thereof, is used or intended to be used as defined in the codes and standards adopted herein.

~~(19)(20) Open Construction~~ – Any manufactured building, building component, assembly or system manufactured in such a manner that all parts or processes of manufacture can be readily inspected at the installation site without disassembly, damage to or destruction thereof.

~~(20)(21) Quality Control Manual~~ – A manual which contains all aspects of quality control procedures to be utilized by an entity or individual performing a function regulated hereby.

~~(21)(22) Recertified Building~~ – A manufactured building which has been previously approved by the Department and which has been subjected to the supplemental procedures provided in this chapter for subsequent approval.

~~(22)(23) Residential Building~~ – Shall be as defined in the Florida Building Code. Any structure in which sleeping accommodations are provided which is not classified as an Institutional Occupancy as defined in the Florida Building Code, including but not limited to, dwellings, multiple-family dwellings, hotels, motels, dormitories and lodging houses.

~~(23)(24) Standard Design~~ – Any building system, model, series or component intended for duplication or repetitive manufacture.

~~(24)(25) Storage Shed~~ – A closed construction building that is not designed for human habitation, without regard to whether the storage unit is used for residential or commercial purposes. This term does not include a building used to house communications equipment.

~~(25)(26) System~~ – The structural, plumbing, electrical, mechanical, thermal efficiency and life safety elements, materials or components of a building.

~~(26)(27) Traveler~~ – A form utilized in a manufacturing facility in conjunction with the manufacturer’s quality control program to indicate that all quality control inspections are conducted during the manufacturing process and that all inspections indicate compliance with the approved plans.

Rulemaking Specific Authority 553.76(4), 553.415 FS. Law Implemented 553.37, 553.415, 553.73 FS. History—New 1-17-72, Amended 2-23-75, 12-8-75, 3-1-80, 9-29-82, Formerly 9B-1.02, Amended 1-1-87, 3-1-92, 3-1-95, 9-13-01, 7-16-03, 5-13-07.

9B-1.003 Administration and Department Responsibilities.

(1) Forms – The following forms are hereby adopted by reference for use in administering this part.

(a) FMBP 1-00 Manufacturer Application for State Approval, effective 10/1/05;

(b) FMBP 2-00 Agency Application for State Approval, effective 10/1/05;

(c) FMBP PS-1-00 School District Application, effective 10/1/05;

(d) FMBP 4-00 ~~Third-Party~~ Agency Renewal Form, effective 10/1/05;

~~(e) FMBP 6-00 Insignia Disposition Report, effective 10/1/05. [These forms may be obtained online at www.floridabuilding.org, click on Manufactured Buildings and then Forms.]~~

(2) Certification – The Department shall certify manufacturers and ~~third-party~~ Agencies in accordance with this rule chapter. Certifications shall be for a period of three years from the date of initial certification. All certifications, licenses and approvals granted by the Department pursuant to Rule Chapter 9B-1, F.A.C., are subject to revocation for failure to adhere to Rule Chapter 9B-1, F.A.C., the codes and

standards adopted herein, or Chapter 553, F.S. Proceedings against certifications, insignia and approvals shall be in accordance with Section 120.60, F.S.

(3) Monitoring – The Department, through its employees or its designated performance auditors, shall monitor the performance of ~~third-party~~ Agencies and manufacturers. Each certified manufacturer and each certified ~~third-party~~ Agency shall be subject to a performance audit at a minimum of once every three years. Unannounced visits to offices and manufacturing facilities shall be utilized unless impractical based upon the nature of the business to be monitored. Information obtained through monitoring shall remain confidential to the extent permitted by law. Agencies and manufacturers shall provide the auditor access to records, facilities and personnel as requested by the auditor. The auditor shall collect information through interviews, examination of documents and observation of activity to determine whether the manufacturer or ~~third-party~~ Agency complies with the codes and standards adopted herein and this chapter. Any determination of nonconformance with any applicable provision shall be reported to the Department and the manufacturer or ~~third-party~~ Agency or both the ~~third-party~~ Agency and the manufacturer. The report shall identify the facts that support the finding of nonconformity and recommend corrective action. The Department shall determine the appropriate corrective action subject to the requirements of Section 120.60, F.S.

(4) Testing and Evaluations of Products – Shall be in accordance with the Florida Building Code, ~~and~~ Rule 9B-72, F.A.C., ~~or~~ Section 553.825, F.S.

Rulemaking Specific Authority 553.37(1), (2), 553.73(2), 553.76(4) FS. Law Implemented 553.37(1), (2), 553.73(2), 553.76(4), 553.381 FS. History–New 1-17-72, Amended 2-23-75, 3-1-80, 11-1-84, Formerly 9B-1.03, Amended 1-1-87, 1-1-89, 3-1-92, 3-1-95, 9-7-00, 9-13-01, 7-16-03, 5-13-07, _____.

9B-1.004 Adoption of Model Codes.

(1) Building Code – The design and fabrication of manufactured buildings and components shall comply with the requirements of the Florida Building Code as defined in Rule 9B-3.047, F.A.C., and adopted herein by reference.

(2) Florida Fire Prevention Code – Buildings designed and manufactured by these rules shall conform to the requirements of the Florida Fire Prevention Code, referenced in Sections 633.022 and 633.025, F.S.

~~(3) Building Official – For purpose of this chapter, where reference is made in any of the above mentioned codes in Rule 9B-1.004, F.A.C., to the building official, the plumbing or mechanical inspector, to the administrative authority or enforcement official, or to any such authoritative person, it shall mean the Manufactured Buildings Program Manager.~~

~~(3)(4)~~ A copy of the above referenced Florida Building Code has been filed with the Secretary of State. The Florida Building Code is also available for reference and inspection at the Department of Community Affairs, Building Codes & Standards Office or online at www.floridabuilding.org.

~~(4)(5)~~ The above shall not apply to any building exempted pursuant to Section 553.73, Part IV, F.S.

~~(5)(6)~~ Notwithstanding the above, the service connections and foundations prepared at the installation site shall be regulated by the local building official according to the Florida Building Code.

~~(6)(7)~~ Notwithstanding the foregoing provisions of this section, factory-built schools shall be subject to the following:

(a) Existing Buildings. Factory-built schools utilized as educational facilities prior to July 1, 2001, are hereby designated as existing buildings and shall comply with the requirements of Section 423, Florida Building Code.

(b) New Construction. Factory-built schools other than existing buildings shall be manufactured and installed as required by the Florida Building Code, including Section 423.

Rulemaking Specific Authority 553.37(1), 553.415, 553.73(2), 553.76(4) FS. Law Implemented 553.37(8), 553.38(1), 553.415, 553.73(1), (2) FS. History–New 1-17-72, Amended 6-19-74, 2-23-75, 12-21-76, 3-20-79, 3-1-80, 6-24-80, 9-29-82, 1-29-84, 11-1-84, Formerly 9B-1.04, Amended 1-1-87, 1-1-89, 1-1-90, 3-1-92, 3-1-95, 9-13-01, 7-16-03, 5-13-07, _____.

9B-1.006 Certification of ~~Third Party~~ Agencies.

(1) Individuals or entities who desire to perform plan review, inspection, or both plan review and inspection of manufactured buildings shall be certified by the department. Those inspectors and plans reviewers employed by entities to perform the delegated functions do not require individual certification as an agency to the extent that the delegated functions are performed within the scope of the individuals' regular course of employment. Individuals or entities performing delegated functions as an independent contractor for ~~a third-party~~ an Agency shall be individually certified.

(2) Application – The applicant shall submit a completed application (Form FMBP 2-00) with application fee amount stated in the Schedule of Fees. The application shall contain the following information.

(a) Name, address, and phone number of the applicant. If the applicant is a corporation, the application shall identify the officers and directors of the corporation, as well as the identity of any shareholders that hold controlling ownership interest in the corporation. If the applicant is a partnership, the application shall identify each partner.

(b) Names and professional license types and numbers of all employees or contractors employed or otherwise utilized for inspections or plans review or both inspections and plans review within the State of Florida.

(c) A statement of independence which shall be signed by the individual, each of the partners of a partnership, or the chief operating officer of a corporation to be certified. The statement shall be notarized and dated within the twelve months immediately preceding its submission. The statement shall affirm that the Agency, any independent contractors utilized by the Agency and its employees are not owned, operated, or controlled by any manufacturer or dealer.

(d) An affirmation that the Agency shall comply with the Florida Manufactured Buildings Act and the Rule Chapter 9B-1, F.A.C.

(e) Proof of general liability insurance with minimum coverage limits of \$1,000,000, which shall be renewed annually and posted on the Building Code Information System at www.floridabuilding.org.

(3) Agency's Quality Control Assurance Program Manual – The applicant shall submit a quality control assurance manual to the department with the application which shall at a minimum contain the following sections.

(a) An introduction to the agency – A brief history, types of services provided.

(b) Outline of internal quality control plan and personnel ~~person~~ in charge of quality control. How the Agency plans to meet duties and responsibilities stated in subsection (4) below.

(c) An organizational chart showing relationship between administration, operation, and quality control responsibilities including plan reviewers and inspectors by name and title. Identify if they are employees or under contract.

(d) Personnel resumes shall be included for architects, engineers, plan reviewers, inspectors, and their supervisors. Applicable education, experience, and license number shall be indicated in the resume.

(e) Training program – Programs for required continuing education, seminars, discussions on code compliance, plan reviews, inspections, department requirements, etc.

(f) Inspection procedures – Including inspection checklists for code compliance, inspection records, correction notice, reinspection, inspection visits and scope of inspections.

(g) Procedure for control of insignia;

(h) Procedure for maintenance of approved plans and other public records in accordance with Chapter 19, Florida Statutes.

(4) Duties and Responsibilities – Upon certification, the Agency shall be entitled to conduct such plans review and inspection services for which it is qualified pursuant to these rules and shall comply with Chapter 120, F.S., and the following general duties and responsibilities.

(a) The Agency shall act faithfully on behalf of the Department implementing the laws and rules of the Manufactured Buildings Program.

(b) The primary duty and responsibility of the Agency is to assure that the buildings and components manufactured are compliant with the Florida Building Code applicable codes.

(c) Upon Agency's approval of plans, satisfactory inspection of a building, or both approval of plans and a building constructed in accordance with those plans, the approved plans, the inspection report, or the plans and inspection report shall be transmitted to the Department through the Building Code Information System.

(d) The Agency shall triennially evaluate the manufacturer's quality ~~assurance (control)~~ program to coincide with the change in the Florida Building Code. The Agency shall post the Quality Control (QC) Manual on the BCIS and maintain copies on file, available for monitoring.

(5) The Agency shall maintain its independence as certified until the expiration or resignation of its certification. An Agency shall not perform plans review or inspect buildings that are designed by the Agency, its employees or those of its contractors working on such review or inspection.

(6) Renewal – The ~~third-party~~ Agency shall renew its certification once every three years and update the information provided in its initial application using the Building Code Information System. The Agency will be notified electronically at least 90 days prior to the expiration date of the manufacturer's certification. If the ~~Third-Party~~ Agency does not complete the renewal information and submit correct fees by the certification expiration date, certification becomes null and void. The Agency must meet the qualifications in effect upon the date of renewal to have its certification renewed.

Rulemaking Specific Authority 553.37(1), 553.38(1), 553.73(2), 553.76(4) FS. Law Implemented 553.37(1)(c), (8) FS. History—New 1-17-72, Amended 2-23-75, 12-8-75, 11-14-76, 3-23-77, 3-1-80, 9-29-82, 4-21-83, 11-1-84, Formerly 9B-1.06, Amended 1-1-87, 3-1-92, 3-1-95, 9-13-01, 7-16-03, 5-13-07, _____.

9B-1.007 Manufacturer Certification.

(1) All individuals or entities manufacturing buildings or components for installation in Florida must be certified by the Department. In the event that a manufacturer has more than one facility producing manufactured buildings, the manufacturer shall obtain certification for each such facility individually.

(2) Initial Certification Requirements – A manufacturer must submit to the ~~Third-Party~~ Agency for validation to the Department the following for certification:

(a) Application Package – A completed application; application fee; certificate of product liability insurance with coverage not less than \$1,000,000, which shall be renewed and posted on the Building Code Information System at www.floridabuilding.org annually; and a copy of a contract with a certified ~~third-party~~ Agency for plan review and inspection services.

(b) Identification of principals which shall at a minimum include the positions of partners if the manufacturer is a partnership or its officers, directors, controlling owners and registered agent if the manufacturer is a corporation.

(c) Description of manufacturing facility including, at a minimum, the size of shed(s) for weather protection of building materials and buildings under construction or repair, the size of yard at the facility for storing buildings and a site plan of the facility.

(d) A Quality Control Assurance Program Manual which also may be called Quality Control Manual (QC Manual).

(3) The manufacturer shall submit a separate application for each of its plant locations. The Quality Control Assurance Program Manual shall be kept at each location.

(4) Renewal – The manufacturer shall renew its certification once every three years and update the information provided in its initial application using the Building Code Information System. Manufacturers will be notified electronically at least 90 days prior to the expiration date of the manufacturer's certification. If the manufacturer does not complete the renewal information and submit correct fees by the certification expiration date, certification becomes null and void. The manufacturer must meet the qualifications in effect upon the date of renewal to have its certification renewed.

Rulemaking Specific Authority 553.37(1), 553.38(1), 553.381, 553.73(2), 553.76(4) FS. Law Implemented 553.37(8), 553.381 FS. History–New 1-17-72, Amended 2-23-75, 11-14-76, 3-1-80, 11-4-84, Formerly 9B-1.07, Amended 1-1-87, 1-1-89, 3-1-95, 9-7-00, 9-13-01, 7-16-03, 5-13-07, _____.

9B-1.009 Design Plan and Systems Approval.

(1) General. A final design plan approval shall be contingent upon compliance with these rules and the building codes specified in Rule 9B-1.004, F.A.C. The manufacturer shall submit plans for approval by the ~~Third Party~~ Agency. The ~~Third Party~~ Agency reviewing the plans shall notify a manufacturer of any apparent errors or omissions and request any additional information necessary to evaluate the plans submitted within thirty days of receipt of the plans. The Department shall have the authority to seek revocation of a plan approval by an Third Party Agency if, through monitoring activities, the Department discovers that the plans fail to comply with the standards adopted herein.

(2) Approved Plans Design Plan Submittal. Plans are approved for all code related items installed at the manufacturing facility in accordance with Sections 553.37(1) and 553.38, F.S. All code related items not installed at the manufacturing facility shall be clearly noted on the plans cover page as "Items to be site installed and subject to local code review and compliance."

(3) Completed sets of design plans and specifications, prepared by an architect or engineer licensed to practice in the State of Florida, except as exempted by Florida law; supporting calculations and any required test results for each system and prototype to be approved. Based on compliance with the codes in Rule 9B-1.004, F.A.C., the ~~Third Party~~ Agency's plans examiner licensed under Chapter 468, F.S., shall approve or disapprove the manufacturer's submittal. If the submittal is

approved, the Agency individual shall affix a stamp authorized by the Department on each sheet. Plans drawn to a scale less than 1/8" to the foot are not acceptable. Plans shall be legible for reproduction purposes, including verbiage.

~~(4)(3)~~ System Approval. The manufacturer may submit through the ~~Third Party~~ Agency for Department approval a system of construction which may include any or all elements of building systems such as structural, mechanical, plumbing, and electrical elements or components. Such submission shall include all documents and data providing complete information necessary for evaluation of the systems' performance and capabilities for its intended use.

~~(5)(4)~~ The Agency shall conduct a A-licensed modular plan reviewer shall review of each set of documents so submitted, including the plans, specifications and design calculations, for compliance with the appropriate code and this part and shall utilize a checklist. The plans review and the checklist utilized therewith shall at a minimum contain the following elements and comply with Rule Chapter 9B-72, the plan review requirements of the Florida Building Code, adopted pursuant to Rule 9B-3.047, F.A.C.:

~~(a)~~ For commercial buildings:

1. ~~Building including determination of occupancy group and special occupancy requirements, and determination of minimum type of construction;~~

2. ~~Fire resistant construction requirements including fire resistant separations, fire resistant protection for type of construction, protection of openings and penetrations of rated walls, fire blocking and draftstopping and calculated fire resistance;~~

3. ~~Fire suppression systems including early warning, smoke evacuation systems schematic, fire sprinklers, standpipes, pre-engineered systems, and riser diagram;~~

4. ~~Life Safety systems including occupant load and egress capacities, early warning systems, smoke control, stair pressurization, and systems schematic;~~

5. ~~Occupancy Load/Egress Requirements including gross and net occupancy load, means of egress including exit access, exit and exit discharge, stairs construction/geometry and protection, doors, emergency lighting and exit signs, specific occupancy requirements, construction requirements, and horizontal exits/exit passageways;~~

6. ~~Structural requirements including termite protection, design loads, wind requirements, building envelope, structural calculations (if required), wall systems, floor systems, roof systems, threshold inspection plan, and stair systems;~~

7. ~~Materials including wood, steel, aluminum, concrete, plastic, glass, masonry, gypsum board and plaster, insulating (mechanical), roofing and insulation;~~

8. ~~Accessibility requirements including accessible route, vertical accessibility, toilet and bathing facilities, drinking fountains, equipment, special occupancy requirements and fair housing requirements;~~

9. Interior requirements including interior finishes (flame spread/smoke develop), light and ventilation and sanitation;

10. Special systems including elevators, escalators and lifts;

11. Electrical including wiring services, feeders and branch circuits, overcurrent protection, grounding, wiring methods and materials, and GFCI's, equipment, special occupancies, emergency systems, communication systems, low-voltage, and load calculations;

12. Plumbing including minimum plumbing facilities, fixture requirements, water supply piping, sanitary drainage, water heaters, vents, roof drainage, back flow prevention, irrigation, location water supply line, grease traps, environmental requirements and plumbing riser;

13. Mechanical including energy calculations, exhaust systems including clothes dryer exhaust, kitchen equipment exhaust and specialty exhaust systems, equipment, equipment location, make up air, roof mounted equipment, duct systems, ventilation, combustion air, chimneys, fireplaces and vents, appliances, boilers, refrigeration, bathroom ventilation and laboratory;

14. Gas including gas piping, venting, combustion air, chimneys and vents, appliances, type of gas, fire places, LP tank location and riser diagram/shut-offs.

(b) For residential one and two family buildings:

1. Building including fire resistant construction if required, fire including smoke detector locations, egress including egress window size and location and stairs construction requirements, structural requirements including complete wall section from lowest element of the building through roof including assembly and materials, connector tables, wind requirements and structural calculations (if required), and accessibility requirements including show/identify accessible bath;

2. Electrical including service location, panel location and load calculations;

3. Plumbing including minimum plumbing facilities and fixture location based on floor plan;

4. Mechanical including energy calculations, equipment and duct layout and chimney and fireplaces if required;

5. Gas including location of gas appliances and indicate combustion air locations.

~~(6)(5)~~ Plan Approval Expiration – Upon revision of the building codes adopted herein, plan approvals shall expire upon the effective date of the revisions unless the manufacturer files with the department a sworn statement by an Third Party Agency that the plans as previously approved have been reviewed and ~~that they~~ are in compliance with the revisions to the adopted codes. The Agency shall ensure that it has obtained, and retains as a public record, all data and information necessary to support that sworn statement consistent with rules regulating the practice of engineering or architecture or both engineering and architecture. This rule is

not intended to provide a defense for Agencies from any charge of unlicensed practice of engineering or architecture. The ~~Third Party~~ Agency shall transmit plans electronically through the Building Code Information System to the Department.

~~(7)(6)~~ Manufacturer's Component Data Plate. Each component or package of like components shall contain a manufacturer's data plate which indicates the limiting characteristics and design criteria of such components for determining how they are to be installed and utilized within their capabilities. Such data plate information shall be approved by the Agency.

~~(8)(7)~~ Manufacturer's Modular Data Plate. The manufacturer shall install on all manufactured (modular) buildings and components prior to leaving the manufacturing plant a data plate which shall be permanently affixed ~~mounted~~ on or about the electrical panel and which shall contain, but not be limited to, the following design information when applicable.

(a) Name and address of Manufacturer;

(b) Name of Third Party Agency;

~~(c)(b)~~ Manufacturer Certification Number;

~~(d)(e)~~ Date of Manufacturer;

~~(e)(d)~~ Date of Alteration;

~~(f)(e)~~ Number of Modules;

~~(g)(f)~~ Construction Type as defined in Chapter 6 of the Code;

~~(h)(g)~~ Occupancy Use Classification in accordance with Chapter 3 of the Code;

~~(i)~~ Design Occupant Load;

~~(j)(h)~~ Serial Number;

~~(k)(i)~~ Agency Plan Number;

~~(l)(j)~~ Standard Plan Approval Number;

~~(m)(k)~~ Maximum Floor Load (pounds per square foot), Live Load and Dead Load;

~~(n)(l)~~ Roof Load; Live Load and Dead Load;

~~(o)(m)~~ Wind Velocity Rating;

~~(p)(n)~~ "U" rating of Floor, Wall, and Roof;

~~(e)~~ Approved for Flood Zone Usage; and

~~(q)(p)~~ Limitations of the plan approval by the Third Party Agency;-

(r) If an automatic sprinkler system is provided, whether the sprinkler system is required; and

(s) Any special stipulations and conditions of the building permit.

Rulemaking Specific Authority 553.37(1), 553.76(4) FS. Law Implemented 553.37(1)(a) FS. History–New 1-17-72, Amended 2-23-75, 3-1-80, 9-29-82, 1-29-84, 11-1-84, Formerly 9B-1.09, Amended 1-1-87, 3-1-92, 3-1-95, 9-13-01, 7-16-03, 5-13-07,_____.

9B-1.0095 Component System.

(1) A manufacturer may prefabricate building components such as wall, floor, or roof panels in standardized sections that are closed construction and assembled in buildings. These components may be certified under the Florida Manufactured (Modular) Buildings Program.

(2) The applicable authority having jurisdiction enforcement agency is responsible for inspecting installation of components.

(3) The manufacturer shall submit documents and data providing complete information necessary for evaluation of the component's performance and capabilities for its intended use. Method of construction, calculations and test procedures shall be certified by a Florida registered architect or engineer and shall be as follows:

(a) Method of construction and detail drawings shall be submitted;

(b) Structural calculations in accordance with established principles of engineering design;

(c) When the component is such that calculations of their safe structural integrity or fire resistance cannot be accurately determined, tests shall be performed by a recognized testing organization. Test procedures and results shall be submitted;

(d) All components shall comply with the applicable building codes, ~~and~~ Rule Chapter 9B-72, F.A.C., or Section 553.8425, F.S.

Rulemaking Specific Authority 553.37, 553.38, 553.76(4) FS. Law Implemented 553.37, 553.38, 553.36(5), 553.76(4) FS. History—New 9-13-01, Amended 7-16-03, 5-13-07, _____.

9B-1.010 Manufacturer's Quality Assurance Manual Control Manual Procedures.

The manufacturer's Quality Control Manual shall at a minimum contain the following information.

(1) Organizational Element:

(a) Introduction of the manufacturer – a brief history which shall, at a minimum include ~~the length of time that the manufacturer has been in the manufactured buildings industry,~~ where it is incorporated, whether it is a division of any parent organization, the identity of products it manufactures, and the location of the facility.

(b) An organizational chart showing responsible management and supervisory positions by title. A job description for each of the positions shall be provided.

(c) Brief qualifications of all personnel in management and supervisory positions including the Quality Control Manager.

(d) Administrative procedure for revision of Quality Control procedure and Q-C Manual.

(e) Procedure for retaining permanent records of plans, travelers, inspection reports, serial numbers of buildings, insignias used, first destination of labeled buildings or components in accordance with Chapter 19, F.S.

(f) Method and frequency ~~of~~ training of quality control and production personnel.

(2) Design and Specification Control:

(a) Procedures for revisions to plans.

(b) Recording system of drawings and specifications.

(3) Material Control:

(a) Inspection procedure of materials, equipment and supplies when received.

(b) Method of storing and protection of building materials and equipment against damage.

(c) Provision for disposal of rejected materials, equipment and supplies.

(d) Forms used.

(4) Production Control:

(a) A description of manufacturing process – method and sequence of construction.

(b) Check lists of material specifications and workmanship inspections performed at each stage of production by supervisors, corrective actions taken, use of traveler.

(c) Frequency of quality control inspections.

(d) List of tests to be performed, testing equipment, results and technical data acceptable.

(e) Procedures for timely preventive and remedial measures.

(f) Assignment of authority to accept or reject work.

(g) Provision for disposition of rejected items.

(h) Forms used.

(5) Finished Product Control and Identification of Products:

(a) Procedure for handling and storage of finished buildings/modules and components.

(b) Preparation for shipping, transportation, and delivery.

(c) Serial numbering system of buildings or components and location of the serial number not readily removable.

(d) Location of manufacturer's data plate. Information to contain in the data plate.

(e) Location of Florida State insignia.

(f) Forms used.

Rulemaking Specific Authority 553.37(1)(b), 553.76(4) FS. Law Implemented 553.37(1)(b), (6), (8), 553.76(4) FS. History—New 1-17-72, Amended 2-23-75, 3-1-80, 9-29-82, Formerly 9B-1.10, Amended 1-1-89, 3-1-92, 3-1-95, 9-7-00, 9-13-01, 5-13-07, _____.

9B-1.011 Alterations and Relocation.

(1) Alteration or Conversion. Any unauthorized modification, alteration, or conversion made to an approved manufactured building prior to installation shall void the insignia of approval. The insignia affixed to the building shall be confiscated by the inspection agency or the building official as authorized by the Department and returned to the Department.

(2) Off site modifications. Modifications made in an approved manufacturing facility other than at the installation site shall require certification by the Department pursuant to this paragraph. Modifications made in other than an approved manufacturing facility are subject to the local authority having jurisdiction.

(a) In order to recertify a previously approved used manufactured building, the owner must provide the approved inspection Agency with a set of the original or as-built plans of the building reflecting the proposed modifications. When the Agency approves the plans to modify the building, the manufacturer is authorized to begin work on it. The Agency shall forward copies of the approved plans to the Department as provided in subsection 9B-1.009(7), F.A.C., for its records. Once the Agency has tested and/or evaluated each system in the building and certifies to the Department that the building is in compliance with the applicable codes, the Department will issue a recertification insignia to be affixed to the building. A building bearing a recertification insignia shall be deemed to comply with the requirements of all ordinances or regulations enacted by local governments which govern building construction.

(b) Manufactured buildings which bear an insignia of approval can be modified after the initial insignia is affixed in accordance with the provisions of this chapter. Only that portion of the building being modified is required to comply with the current codes while the portion not being modified must comply with the original plans. The requirements and procedures for obtaining an initial insignia, including the fee schedule established in Rule 9B-1.020, F.A.C., shall apply to recertified buildings.

(c) In order to certify a used manufactured building for which no state insignia has been issued, the agency must require a complete set of as-built plans prepared and sealed by a Florida professional engineer or architect. Under this subsection the entire building must be brought into compliance with the applicable codes. The agency shall forward a copy of the approved plans to the Department for its review and records. Once the agency has tested and/or evaluated each system in the building and certifies to the Department that the building is in compliance with the applicable codes the Department will issue an recertification insignia to be affixed to the building.

~~(d) A building bearing a recertification insignia shall be deemed to comply with the requirements of all ordinances or regulations enacted by local governments which govern building construction.~~

(3) On-site Modifications. On-site modifications to previously approved manufactured buildings must be inspected by either an agency approved by the Department or by the local authority having jurisdiction building official and must comply with the Florida Building Code applicable codes. The manufactured building is not subject to locally adopted codes

~~when until it is taken out of compliance with the applicable state approved plans by modifications, or the occupancy classification has changed. The local jurisdiction has superseding authority over any on-site modifications to a manufactured building or may delegate this authority to the Department in writing on a case-by-case basis. Upon issuance of a certificate of occupancy for the modified manufactured building, the old insignia shall be removed and returned to the Department.~~

(4) Relocation of an existing manufactured building does not constitute an alteration.

(5) A relocated manufactured building shall comply with wind speed requirements of the new location, using the appropriate wind speed map. If the existing building was manufactured in compliance with the 1997 Standard Building Code (prior to March 1, 2002), the wind speed map of the Standard Building Code shall be applicable. If the existing building was manufactured in compliance with the Florida Building Code (after March 1, 2002), the wind speed map of the Florida Building Code shall be applicable.

Rulemaking Specific Authority 553.37(1) FS. Law Implemented 553.37(1), (4) FS. History—New 1-17-72, Amended 2-23-75, 3-1-80, 9-29-82, 11-1-84, Formerly 9B-1.11, Amended 1-1-87, 3-1-92, 3-1-95, 9-13-01, 7-16-03, _____.

9B-1.016 Department Insignia.

(1) Each manufactured building, re-certified building, and components approved by the ~~Third-Party~~ Agency shall be affixed with the appropriate insignia prior to leaving the manufacturing plant ~~except factory-built school buildings.~~

(2) Insignia fees shall be charged as provided in the Schedule of Fees.

(3) Assigned insignias are not transferable from one building to another, or from one manufacturer to another manufacturer.

(4) The control of the insignia shall remain with the Department and will be revoked by the Department in the event of violation of the conditions of approval. All such voided insignias shall be returned to the Department.

(5) Insignias shall be ordered from the Department ~~utilizing insignia request~~ using the Building Code Information System at www.floridabuilding.org (BCIS). Fees for insignia as provided in Rule 9B-1.020, F.A.C., shall be submitted at the time of the order request for insignia. One insignia shall be required for each building.

(6) The Department shall issue insignias for those buildings and components built from previously approved plans. No insignia shall be issued until the plans for that building have been approved.

(7) Insignias shall be mailed to the manufacturer's inspection agency for release to the Manufacturer's Quality Control personnel Assurance person when the inspection Agency is satisfied that the building or component meets the Florida Building Code.

(8) The Agency or manufacturer's Quality Control personnel Assurance person shall affix insignias to buildings only after inspection and determination that the building or component is in compliance with the Florida Building Codes. The insignia and data plate shall be permanently affixed on or about the electrical panel. If the building does not include an electrical panel, the insignia and data plate location shall be designated on the approved plans.

(9) After insignia is affixed, no alteration shall be made before installation.

(10) Insignias shall be denied to buildings and components not conforming to with approved plans or system design.

(11) Affixing an insignia to a building or components which has code deficiencies or do not conform to the approved plan, shall be grounds for decertification of the manufacturer or Agency or both. In such case the insignia shall be removed at the direction of by the agency, manufacturer's Quality Assurance person or the Department.

Rulemaking Specific Authority 553.37(1), (e), 553.76(4) FS. Law Implemented 553.37(1)-(5), 553.38, 553.73(2) FS. History-New 1-17-72, Amended 9-17-73, 2-23-75, 3-1-80, 6-24-80, 9-29-82, 11-1-84, Formerly 9B-1.16, Amended 1-1-87, 3-1-92, 3-1-95, 9-13-01, 7-16-03, 5-13-07.

9B-1.017 Insignia Application and Issuance.

(1) Following the receipt of initial Department approval, the manufacturer shall complete an order insignia request for an insignia for each component or system manufactured as required herein. The insignia order requests shall be submitted via the Building Code Information System which shall calculate the fees based on the fee schedule in these rules and regulations. The insignia order request shall include the plan approval number of each unit for which an insignia is required. Additionally, the manufacturer shall file via the Building Code Information System an insignia disposition report at least monthly, which indicates the model serial number, insignia number, and initial location of each unit.

(2) Insignias shall be issued to the manufacturer's Third Party Agency, and shall not be affixed to a building until the inspection Agency has completed the inspections required in the Florida Building Code, and determined found the building to be in compliance with the requirements of this chapter and entered the Inspection Report on the Building Code Information System at www.floridabuilding.org BCIS. If an insignia is for a modified building, after the modifications are completed and the building inspected, the original insignia shall be removed and returned to the Department by the inspection Agency or Quality Control Assurance personnel and the new insignia affixed.

Rulemaking Specific Authority 553.37(1)(b) FS. Law Implemented 553.37, 553.38, 553.73(2), 553.76(4) FS. History-New 1-17-72, Amended 9-27-73, 2-23-75, Formerly 9B-1.17, Amended 1-1-87, 3-1-92, 3-1-95, 7-16-03, 5-13-07.

9B-1.018 Insignia Denial.

Should an inspection reveal that a manufacturer is not manufacturing components or systems according to plans as approved by the Department and such manufacturer, after having been served with a notice setting forth the provisions of the plan approval which have been violated, continues to manufacture units in violation of the plan approval, applications for new insignia shall be denied and the insignia previously issued for units in violation of the plan approval shall be confiscated. Upon satisfactory proof of compliance such manufacturer may resubmit an order request for an insignia.

Rulemaking Specific Authority 553.37(1) FS. Law Implemented 553.37(1), 553.38 FS. History-New 1-17-72, Amended 2-23-75, Formerly 9B-1.18, Amended 3-1-92, 3-1-95, 9-7-00.

9B-1.019 Removal of Insignia.

In the event that any manufactured building bearing the insignia is found to be in violation of the approved plans prior to the issuance of the local certificate of occupancy, at the direction of the Department, the Agency or authority having jurisdiction Department shall remove the insignia on such defective unit and shall furnish the owner and the Department or his agency with a written statement of such violations.

Rulemaking Specific Authority 553.37(1) FS. Law Implemented 553.37(2), (3), (4), 553.38(1) FS. History-New 1-17-72, Amended 9-17-73, Repromulgated 2-23-75, Amended 3-1-80, Formerly 9B-1.19, Amended 3-1-95.

9B-1.020 Schedule of Fees.

The Department shall charge the following fees for the indicated items:

(1) Manufacturer's initial application fee is \$300 plus \$300 for the triennial certification. The triennial renewal fee is \$300. Each additional plant will be assessed an initial application fee of \$100 plus \$150 triennial certification. The triennial renewal fee is \$150.

(2) Third Party Agency's initial application fee is \$600 plus \$900 for the triennial certification. The triennial renewal fee is \$900.

(3) Insignia fees:

(a) Factory-built schools fee is \$15 per building;

(b) Components (Panels) fee is \$3 per panel. The insignia will be affixed to each panel prior to leaving the factory;

(c) Storage sheds (less than 720 square feet in area) is \$5;

(d) Manufactured buildings fee is \$50 per module, including storage sheds over 720 feet.

~~Rulemaking Specific~~ Authority 553.37(7) FS. Law Implemented 553.37(7) FS. History–New 1-17-72, Amended 2-1-72, 2-23-75, 12-8-75, 3-20-79, 3-1-80, 9-29-82, 11-1-84, Formerly 9B-1.20, Amended 1-1-87, 1-1-89, 1-1-90, 3-1-92, 3-1-95, 9-13-01, 8-16-04, 5-13-07, _____.

9B-1.0211 Change in Manufacturer’s Status.

(1) Change of Ownership – When the ownership of a manufacturer changes, the new owner shall take the following steps:

(a) Inform the department in writing within 10 days of such change and give effective date of change.

(b) The new owner shall submit a completed manufacturer’s application to the department.

(c) Submit an organizational chart of the management identified by title of officers.

(d) Send resume of officers in the management to the department.

(e) Send a certificate of product liability insurance to the department.

(f) A service contract with the plan review/inspection agency.

(g) If the new owner received exclusive rights to use state approved plans and the ~~Q~~uality ~~C~~ontrol ~~M~~anual of the previous owner, it shall be informed to the department.

(h) Certification of Quality Control Manual by agency. Make name changes and other changes in the Quality Control Manual where applicable. The ~~D~~epartment shall assign a new manufacturer’s identification number.

(2) Change of Name and Address – In the event of a change in the name or address of any manufacturer or ~~plan review/inspection~~ ~~A~~gency, the ~~D~~epartment shall be notified within ten days.

(3) Change of ~~A~~gency – The following procedure shall be followed when a manufacturer changes the ~~Third-Party~~ Agency.

(a) The manufacturer shall inform the department of its change of ~~A~~gency reflecting effective date. The manufacturer shall not be without an ~~A~~gency.

(b) The manufacturer shall submit to the ~~D~~epartment a copy of the service agreement with the new ~~A~~gency reflecting an effective date.

(c) The new ~~A~~gency shall review and approve the existing or ~~an~~ updated Quality Control Manual ~~of the manufacturer~~ and post on the Building Code Information System at www.floridabuilding.org BCIS.

(4) Termination of state certificate – When a manufacturer or an ~~A~~gency decides to discontinue doing business, the ~~D~~epartment shall be informed in writing at least thirty (30) days in advance and such discontinuance shall act as a resignation of the certification. Any subsequent resumption of business activities by a manufacturer or ~~A~~gency will require a new application.

~~Rulemaking Specific~~ Authority 553.37(1) FS. Law Implemented 553.37(1), (4) FS. History–New 9-13-01, Amended 7-16-03, 5-13-07, _____.

9B-1.0221 Manufacturer’s Obligations Upon Sale of Building.

The manufacturer shall provide a TRANSPORTATION AND INSTALLATION BOOKLET with each new building and component package. It shall include:

(1) Precautions and instructions for transportation of buildings and modules; and

(2) Installation instructions.

~~Rulemaking Specific~~ Authority 553.38 FS. Law Implemented 553.38 FS. History–New 9-13-01, Amended 5-13-07, Repromulgated _____.

9B-1.023 Oversight, Complaint.

(1) Any person, firm or corporation, with a substantial interest in any action or any failure to act in conformity with these rules, including without limitation the technical standards and administrative provisions adopted hereby, may file a complaint to the ~~D~~epartment. Such complaints may be with regard to the conduct of the ~~D~~epartment, the ~~A~~gency, the manufacturer or any of their employee(s).

(2) It is the responsibility of the manufacturer to correct code violations. The ~~A~~gency that approved the plans for the subject building or inspected the building shall investigate complaints and make a recommendation to the ~~D~~epartment regarding the existence of a code violation and disposition thereof. This activity shall be subject to monitoring, and the Department shall make an independent determination about the existence of a violation.

(3) Any complaint should contain sufficient information including the following:

- (a) Parties involved;
- (b) Description of grievance;
- (c) Important dates and transactions;
- (d) What is being affected; and

(e) Documentation of code violations or plan deviations by a licensed contractor, Architect, Engineer or Building Official.

~~(f)(e)~~ Relief sought by the applicant.

~~Rulemaking Specific~~ Authority 553.38(2), 553.39 FS. Law Implemented 553.38(2), 553.39 FS. History–New 9-13-01, Amended _____.

9B-1.026 Factory-built Schools, Certifications.

(1) Manufacturers. Prior to manufacturing factory-built schools for utilization in the State of Florida, a manufacturer shall be certified by the Department as provided in Rule 9B-1.007, F.A.C., and shall be subject to the continuing requirements thereof to maintain certification. Fees for certification of manufacturers shall be as provided in Rule 9B-1.020, F.A.C.

(2) ~~Agency Third Party~~ Plan Review. The Department shall contract with an individual or entity to perform plan review pertaining to newly constructed factory-built schools. Such individual or entity shall be subject to certification as an ~~Third Party~~ Agency as provided in Rule 9B-1.006, F.A.C. Maximum fees that the ~~Agency third party entity~~ may charge those seeking plan approval shall be established by contract between the Department and the ~~Agency Plan Review entity~~. ~~Plans for modification of factory-built schools shall be reviewed by an approved Third Party Agency selected by the manufacturer as set forth in Rule 9B-1.009, F.A.C.~~

(3) ~~Agencies Inspectors and Third Party Inspection Entities~~. All entities that perform inspections of factory-built schools shall be ~~Agencies~~ certified by the Department as provided in Rule 9B-1.006, F.A.C. ~~Individual inspectors shall be licensed pursuant to Part XII, Chapter 468, F.S., or until January 1, 2002, certified by Department of Education as Uniform Building Code Inspectors.~~ Inspectors permanently employed by local school boards and community colleges shall be granted an exemption from certification by the Department pursuant to Rule 9B-1.006, F.A.C., upon written request of the Local School Board or Community College. All entities that perform inspections, whether exempt from certification or not, shall submit a Quality Control assurance Manual to the Department with the application, which shall at a minimum contain the following sections:

- (a) Introduction to the ~~Agency~~, including a brief history and types of services provided;
- (b) Outline of the ~~Agency's~~ internal quality control plan, including the name and titles of the ~~personnel~~ in charge of quality control and how the ~~Agency~~ plans to meet the duties and responsibilities imposed by this chapter;
- (c) Organizational chart showing the relationship between administration, operation, and quality control responsibilities, including a list of inspectors by name and title, identifying each as an employee or under contract;
- (d) Personnel resumes;
- (e) Training program, including programs for required continuing education, seminars, discussions on code compliance, inspections and department requirements;
- (f) Inspection procedures, including inspection checklists for code compliance, inspection records, correction notice, reinspection, inspection visits and scope of inspections;
- (g) Test procedures and methods pertaining to tests required by the applicable building codes;
- (h) Procedure for control of insignia; and
- (i) Procedure for maintenance of records.

Rulemaking Specific Authority 553.415 FS. Law Implemented 553.415 FS. History–New 9-13-01, Amended _____.

9B-1.028 Factory-built Schools, Inspections and Work Progress Reports.

(1) All site installation and annual inspections are the responsibility of the School Board. The Department DCA insignia attests only to compliance of the building with the Florida Building Code and not any site plans or site related issues.

(2) Manufacturers and their agents and employees, Inspectors and those representatives of the educational entity responsible for supervising work related to the manufacture and installation of a factory-built school shall complete and execute a Work Performance Report, Form FMBP-SB-5-00. There shall be at least one Work Performance Report for all periods during which a factory-built school is being manufactured or installed. The report shall be executed by that person who actually supervised the work during the period for which the report is completed. The completed reports shall be kept and maintained by the entity that has actual physical custody of the building.

Rulemaking Specific Authority 553.415 FS. Law Implemented 553.415 FS. History–New 9-13-01, Amended 7-16-03, 5-13-07, _____.

9B-1.030 Factory-built Schools, Insignia and Data Plate.

(1) Each factory-built school building utilized for public educational purposes shall bear the “SREF/school” insignia of the Department and a data plate. The data plate shall be fabricated by the manufacturer of new buildings and the owner of existing buildings of durable material with the required information inscribed thereon. The insignia and data plate shall be permanently affixed mounted on or about the electrical panel. The insignia must be affixed prior to leaving the factory. The data plate shall provide the following information:

- (a) Name and address of Manufacturer;
- (b) Name of Third Party Agency;
- ~~(c)~~(b) Manufacturer certification number;
- (d) Code Edition;
- ~~(e)~~(e) Date of manufacture;
- ~~(f)~~(d) Date of alteration;
- ~~(g)~~(e) Number of modules;
- ~~(h)~~(f) Construction type, as defined in Chapter 6 of the Code;
- ~~(i)~~(g) Occupancy use classification in accordance with Chapter 3 of the Code;
- ~~(j)~~(h) Serial number;
- ~~(k)~~(f) Agency plan number;
- ~~(l)~~(j) Standard plan approval number;
- ~~(m)~~(k) Maximum floor load (pounds per square foot), live load, and dead load;
- ~~(n)~~(h) Roof load, live load and dead load;
- ~~(o)~~(m) Wind velocity rating;
- ~~(p)~~(n) “U” rating of floor, wall and roof;

~~(q)(6)~~ Whether the building is approved for flood zone usage;

~~(r)(p)~~ Whether the building is approved for enhanced hurricane protection zone usage;

~~(s)(q)~~ Whether the building is designed for use as a public shelter in enhanced hurricane protection areas;

~~(t)(+)~~ Limitations of the plan approval by the third-party agency; ~~and~~

~~(u)(s)~~ Whether the building is rated as satisfactory for use as an educational facility;-

(v) If an automatic sprinkler system is provided, whether the sprinkler system is required; and

(w) Any special stipulations and conditions of the building permit.

(2) Issuance of Insignia. Insignias to be affixed to factory-built schools shall be issued ~~to the educational entity~~ upon receipt by the Department of an inspection report ~~designating finding that~~ the building is satisfactory for educational purposes and containing information required for the data plate.

(3) Revocation. ~~An inspector shall notify the Department of any unsatisfactory finding as the result of an installation or annual inspection. The insignia of the Department shall be revoked upon a determination that the factory-built school fails to comply with the applicable standards. Revocation shall be accomplished through procedures established by Section 120.60, F.S.~~

(4) Fees. Fees shall be paid prior to issuance of insignia for factory-built schools. One insignia shall be issued per building. The fees for insignia shall be as provided in Rule 9B-1.020, F.A.C. Such fees are non-refundable.

Rulemaking Specific Authority 553.415 FS. Law Implemented 553.415 FS. History–New 9-13-01, Amended 5-13-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100; (850)922-6091

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Building Commission

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 17, 2008

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CORRECTIONS

RULE NO.:	RULE TITLE:
33-601.243	Basic Training Program – Employee Standards of Appearance, Conduct, and Fitness

PURPOSE AND EFFECT: The purpose and effect is to require correctional officers selected for the basic training program to complete a 40-hour youthful offender training before working with youthful offenders.

SUMMARY: The rule is amended to require correctional officers who are selected for the basic training program to complete the 40-hour youthful offender training program before being assigned to work with youthful offenders.

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

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

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.243 Basic Training Program – Employee Standards of Appearance, Conduct, and Fitness.

(1) through (3) No change.

(4) Correctional officers in the basic training program will be expected to pass a physical fitness test prior to assignment to a post in the basic training program and every quarter year thereafter in order to remain physically capable of performing the assigned duties. Correctional officers selected for the basic training program shall complete the 40 hour job specific youthful offender training before being assigned to work with youthful offenders.

(5) No change.

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–New 2-26-89, Amended 1-25-96, Formerly 33-27.014, 33-506.213, Amended 1-17-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeff Bryan, Correctional Services Consultant

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 28, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 13, 2009

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.210
 RULE TITLE: Use of Force

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to eliminate language requiring certified officers to use only “fogger type” pepper spray, as streamlined spray poses fewer risks to nearby persons and is more effective in windy conditions.

SUMMARY: The rule eliminates language requiring certified officers to use only “fogger type” pepper spray, as streamlined spray poses fewer risks to nearby persons and is more effective in windy conditions.

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

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

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 776.07, 944.09, 944.35 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: Kendra Lee Jowers, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.210 Use of Force.

(1) through (15) No change.

(16) Use of Chemical Agents.

(a) through (k) No change.

(1) Issuance of chemical agents.

1. No change.

2. Certified officers assigned to major institutions and posted to internal security, recreation field, shift supervisor posts, or designated as “A” team response members are authorized by the Secretary to be issued one MK-9, or equivalent, ~~fogger type~~ dispenser of OC in addition to the dispenser issued in accordance with subparagraph (16)(l)1. These officers are authorized to administer the chemical agents listed in this subparagraph in spontaneous disturbance situations involving multiple inmates in locations where large numbers of inmates are present, such as recreation fields, canteen, and meal lines. This option shall only be utilized in

disturbance situations rising to the level of inmate involvement where this enhanced option is deemed necessary and shall not be used indoors.

3. No change.

(m) through (q) No change.

(17) through (22) No change.

Rulemaking Specific Authority 944.09 FS. Law Implemented 776.07, 944.09, 944.35 FS. History—New 4-8-81, Amended 10-10-83, 9-28-85, Formerly 33-3.066, Amended 3-26-86, 11-21-86, 4-21-93, 7-26-93, 11-2-94, 2-12-97, 11-8-98, Formerly 33-3.0066, Amended 10-6-99, 2-7-00, 7-25-02, 8-25-03, 2-25-04, 11-7-04, 4-17-05, 8-1-05, 3-2-06, 9-18-06, 10-4-07, 3-3-08, 8-4-08, 1-6-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Assistant Secretary of Institutions

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 9, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 27, 2009

LAND AND WATER ADJUDICATORY COMMISSION

Wiregrass Community Development District

RULE NOS.: 42MMM-1.001, 42MMM-1.002, 42MMM-1.003
 RULE TITLES: Establishment, Boundary, Supervisors

PURPOSE AND EFFECT: The purpose of this proposed rule is to establish a community development district (“CDD”), the Wiregrass Community Development District (“District”), pursuant to Chapter 190, F.S. The petition filed by Locust Branch, LLC, requests the Commission establish a community development district located entirely within the unincorporated limits of Pasco County, Florida. A Notice of Receipt of Petition for the Wiregrass Community Development District was published in the June 25, 2008, edition of the Florida Administrative Weekly. The land area proposed to be served by the District comprises approximately 3,974.216 acres. A general location map is contained as Exhibit A to the petition to establish the District. There are no parcels within the proposed external boundaries of the District which are to be excluded. The Petitioner either owns or has written consent to establish the District from the owners of 100% of the real property located within the proposed District. The Petitioner seeks authorization for the District “to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain systems, facilities and basic infrastructures that may include, without limitation: water management and control, water supply, sewer, wastewater management, reclamation and reuse or any combination thereof, bridges or culverts, District roads and street lights, transportation facilities, parking improvements, environmental remediation and cleanup, conservation areas, mitigation areas

and wildlife habitat, parks and facilities for indoor and outdoor recreational, cultural and educational uses, fire prevention and control, schools, security, mosquito control, waste collection and disposal, or any other project, within or without the boundaries of the District as required by a development order issued by a local government or subject of an agreement between the District and a governmental entity.”

SUMMARY: The purpose of this proposed rule is to establish a community development district (“CDD”), the Wiregrass Community Development District (“District”), pursuant to Chapter 190, F.S. The petition filed by Locust Branch, LLC, requests the Commission establish a community development district located entirely within the unincorporated limits of Pasco County, Florida. A Notice of Receipt of Petition for the Wiregrass Community Development District was published in the June 25, 2008, edition of the Florida Administrative Weekly. The land area proposed to be served by the District comprises approximately 3,974.216 acres. A general location map is contained as Exhibit A to the petition to establish the District. There are no parcels within the proposed external boundaries of the District which are to be excluded. The Petitioner either owns or has written consent to establish the District from the owners of 100% of the real property located within the proposed District. The Petitioner seeks authorization for the District “to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain systems, facilities and basic infrastructures that may include, without limitation: water management and control, water supply, sewer, wastewater management, reclamation and reuse or any combination thereof, bridges or culverts, District roads and street lights, transportation facilities, parking improvements, environmental remediation and cleanup, conservation areas, mitigation areas and wildlife habitat, parks and facilities for indoor and outdoor recreational, cultural and educational uses, fire prevention and control, schools, security, mosquito control, waste collection and disposal, or any other project, within or without the boundaries of the District as required by a development order issued by a local government or subject of an agreement between the District and a governmental entity.”

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The statement of estimated regulatory costs (SERC) supports the petition to establish the District. The complete text of the SERC is contained as Exhibit H to the petition. The requirements for a SERC are found in Section 120.541(2), F.S. A SERC must contain (a) a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a description of the types of individuals likely to be affected by the rule; (b) a good faith estimate of the costs to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues; (c) a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including

local governmental entities, required to comply with the requirements of the rule; (d) an analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S.; (e) any additional information that the agency determines may be useful; and (f) any good faith written proposal submitted under section (a) and either a statement adopting the alternative or a statement rejecting the alternative in favor of the proposed rule. Addressing section (a), the State of Florida and its residents; Pasco County and its residents; current property owners of lands within the boundaries of the proposed District; and future property owners are the principal entities that are likely to be required to comply with the rule. Under section (b), FLWAC and the State of Florida will incur administrative costs. Pasco County will incur costs resulting from the initial review. There is a \$15,000 filing fee paid to Pasco County to offset any costs it may incur. The District will incur costs for construction, operations and maintenance of its facilities and for its administration. Costs will be completely paid for from annual assessments against all properties within the District benefiting from its facilities and its services. Adoption of the proposed rule to approve the formation of the District will not have an adverse impact on State and local revenues. Addressing section (c), the transactional costs associated with adoption of a rule to establish the District are primarily related to the financing of improvements. The District may levy non-ad valorem special assessments on properties within its boundaries to finance infrastructure that the District funds and to defray the costs of operating and maintaining the infrastructure and associated community facilities. The District may issue notes, bonds, or other indebtedness to fund its improvement program. Prospective future land owners would be required to pay off such indebtedness over time in the form of non-ad valorem special assessments or other rates, fees or charges. The District may also impose an annual levy for the operation and maintenance of the District. Under section (d), approval of the petition to establish the District will have no impact or a positive impact on small businesses. Pasco County is not defined as a small county for purposes of this requirement. Under section (e), certain data utilized in the SERC was provided by the developer/petitioner and represents the best information available at the time of drafting of the SERC. Additional data was provided by Rizzetta & Company and was based on observations, analysis and experience with private development and other community development districts in various stages of existence.

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

RULEMAKING AUTHORITY: 190.005 FS.

LAW IMPLEMENTED: 190.004, 190.005 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, April 30, 2009, 10:00 a.m. – 12:00 Noon

PLACE: Room 2103, The Capitol, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least two days before the workshop/meeting by contacting: Barbara Leighty, Florida Land and Water Adjudicatory Commission, Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, telephone (850)487-1884. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barbara Leighty, Florida Land and Water Adjudicatory Commission, Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001; telephone (850)487-1884

THE FULL TEXT OF THE PROPOSED RULES IS:

WIREGRASS COMMUNITY DEVELOPMENT DISTRICT

42MMM-1.001 Establishment.

The Wiregrass Community Development District is hereby established.

Rulemaking Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History–New

42MMM-1.002 Boundary.

The boundaries of the district are those as set forth in Exhibit B of the April 15, 2008, Petition to Establish Wiregrass Community Development District. Petition Exhibit B is hereby incorporated by reference. Exhibit B can be obtained by contacting the Clerk of the Florida Land and Water Adjudicatory Commission, Office of the Governor, Room 1801 The Capitol, Tallahassee, Florida 32399-0001, telephone (850)487-1884.

The total Wiregrass Community Development District area = 3,974.294 acres, more or less.

Rulemaking Authority 190.005FS. Law Implemented 190.004, 190.005 FS. History–New

42MMM-1.003 Supervisors.

The following five persons are designated as the initial members of the Board of Supervisors: James Don Porter, Tom McDonald Porter, William Hatcher Porter, Joseph Michael Gramling, and David Jay Evans.

Rulemaking Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History–New

NAME OF PERSON ORIGINATING PROPOSED RULE: Lisa Saliba, Director, Florida Land and Water Adjudicatory Commission

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Land and Water Adjudicatory Commission

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 26, 2008

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Condominiums, Timeshares and Mobile Homes

RULE NO.: 61B-23.002

RULE TITLE: Operation of the Association

PURPOSE AND EFFECT: Effective October 1, 2008, Section 718.112(2)(f)4., Florida Statutes, was amended with respect to the waiving of reserves in a condominium. Specifically, the statute now requires that proxy questions relating to waiving or reducing the funding of reserves or using existing reserve funds for other purposes shall contain a disclosure statement in capitalized, bold letters in a font size larger than any other used on the face of the proxy ballot. The purpose of this rule is to renumber and amend the Sample Limited Proxy Form to comply with the new law and revise the financial reporting waiver language of the proxy form.

SUMMARY: This rule amendment addresses disclosure requirements for limited proxies that are used to waive reserves, reduce reserves, or use reserves for other purposes.

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

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

RULEMAKING AUTHORITY: 718.112(2)(b)2., (d)3., 718.501(1)(f) FS.

LAW IMPLEMENTED: 718.1085, 718.111(12), 718.112(2)(b)2., (b), (c), (d)3., 4., (f)4., 718.117, 718.501(2)(a), 718.504 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: April 27, 2009, 10:00 a.m.

PLACE: The Northwood Centre, Suite 16, Conference Room, 1940 N. Monroe Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon A. Malloy, Senior Management Analyst II, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030; (850)488-1631

THE FULL TEXT OF THE PROPOSED RULE IS:

61B-23.002 Operation of the Association.

(1) through (4) No change.

(5) Unit owners shall not, except as provided by Section 718.112(2)(b)2., Florida Statutes, vote by general proxy, but may vote by limited proxy substantially similar to the SAMPLE LIMITED PROXY FORM adopted by the division as DBPR Form CO 6000-7 BPR form 33-033, incorporated herein by reference and effective 11-23-93. The form may be obtained by writing the Division of Florida Condominiums, Timeshares, and Mobile Homes, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-1030 32399-1033 or may be downloaded at <http://www.myflorida.com/dbpr/lsc/LSCMHCondominiumForms.html>.

(6) through (10) No change.

Rulemaking Specific Authority 718.112(2)(b)2., (d)3., 718.501(1)(f) FS. Law Implemented 718.1085, 718.111(12), 718.112(2)(b)2., (c), (d)3., 4., (d)4., 718.117, 718.501(2)(a), 718.504 FS. History—New 7-22-80, Amended 8-31-83, 10-1-85, Formerly 7D-23.02, Amended 1-27-87, 7-10-88, 3-21-89, 2-18-92, Formerly 7D-23.002, Amended 11-23-93, 2-20-97, 4-14-99, 12-23-02, 1-28-04, 11-30-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Cochran, Director, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles W. Drago, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 12, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 23, 2009

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

Division of Medical Quality Assurance

RULE NOS.:	RULE TITLES:
64B-1.001	Application Deadlines; Examination Rescheduling
64B-1.002	Notification of Applicants
64B-1.003	Examination Administration
64B-1.004	Conduct at Test Site
64B-1.005	Special Testing Accommodations
64B-1.006	Practical or Clinical Examinations
64B-1.007	Selection Criteria for Examiners and Examination Consultants
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64B-1.009	Pre-hearing Review Request
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64B-1.013	Post-Examination Review
64B-1.016	Fees: Examination and Post-Examination Review
64B-1.017	Use of Pilot Test Items

PURPOSE AND EFFECT: The Department proposes to review this rule section for the possibility of clarifying certain provisions, to reorganize certain provisions in a more logical manner, promulgate new definitions of terms and delete definitions of terms. This process will include, but not be limited to, reviewing this section for rule promulgations related to changes to the Americans With Disabilities Act of 1990 (Pub. L. 101-336) as adopted in the "A.D.A. Amendments Act of 2008" adopted by the U.S. Congress. The department also wants to update exam fees to cover actual costs.

SUMMARY: The proposed rule will clarify examination terms and procedures, delete outdated language, standardize language used throughout the rule, and reorganize certain provisions in a more logical manner. The proposed rule will also update language with regards to special testing accommodations pursuant to the Americans with Disabilities Act of 1990 (Pub. L. 101-336) in accordance with the A.D.A. Amendment's Act of 2008. The proposed rule will incorporate forms regarding the reapplication for A.D.A. special testing accommodations and the use of English translation dictionaries for certain examinations. Finally, the proposed amendments will affect the examination fees based on the requirement that the department adjust examination fees periodically to cover the actual cost of the examination.

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

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

RULEMAKING AUTHORITY: 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS.

LAW IMPLEMENTED: 456.013(1), 456.017(1) 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: Jennifer Wenhold, 4052 Bald Cypress Way, Bin C-90, Tallahassee, FL 32399-3290

THE FULL TEXT OF THE PROPOSED RULES IS:

64B-1.001 Application Deadlines; Examination Rescheduling.

(1) ~~Candidates shall submit applications for licensure examinations as prescribed by board rule or policy. With regards to department-developed practical or clinical examinations, completed applications for licensure examinations shall be submitted to the department at least 60 days prior to the scheduled examination. Unless otherwise specified by board rule, completed applications for licensure examinations shall be submitted to the department at least 60 days prior to the scheduled examination.~~

(2) No change.

~~(3) Examination Administrator is defined as a person(s) responsible for the administration or the delivery of the examination to the candidate either in person or electronically.~~

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.013(1), 456.017(1) FS. History–New 9-7-98, Amended 7-20-03, _____.

64B-1.002 Notification of Applicants.

(1) Unless otherwise specified by board rule, after a decision is made that an applicant meets the lawful requirements for the licensure examination, the department or contract provider will schedule the applicant for the next examination for which space is available ~~that begins at least forty five (45) days after the applicant is certified or after ninety (90) days from receipt of a complete application.~~

(2) If all ~~eligible certified~~ candidates cannot be scheduled for the next subsequent examination due to space, time or other limitations beyond the control of the department or contract provider, the candidates will be scheduled chronologically according to the date the application was complete.

(3) The department or contract provider will notify candidates of the place, date and time of the examination and provide the candidate with verification of scheduling. For department-developed practical or clinical examinations, a candidate will also receive an official admission slip which will be required for admission to sit for the examination. The department or contract provider shall inform the candidate of the length of the examination, patient criteria when a patient is

needed for a practical or clinical examination, and any special equipment or materials the candidate needs to bring to the examination, including required identification. Except with regard to national examinations, the department or contract provider shall also inform a candidate of the major content areas tested on the examination.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(1) FS. History–New 9-7-98, Amended 7-20-03, _____.

64B-1.003 Examination Administration.

Unless the national examination requires a different set of administration procedures, the following procedures shall be followed for any examination administered by the department or its contract provider.

(1) All examinations will be administered in accordance with the department's "General Administration Manual for Examinations," 20098, incorporated herein by reference, and can be obtained from the Division of Medical Quality Assurance, Bureau of Operations, Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290.

(2) Examination Administrator is defined as a person(s) responsible for the administration or the delivery of the examination to the candidate either in person or electronically.

~~(3)(2)~~ During the examination, the candidates will follow the instructions given by the examination administrator. The instructions shall be provided to the candidates in either written or oral form by the examination administrator.

~~(4)(3)~~ The department's valid admission slip for the specified examination and a government-issued photo identification such as a valid driver's license or passport, shall be presented in order to gain admission to the examination. A government-issued photo identification shall be acceptable in the absence of the admission slip provided the candidate's name appears on the examination admission roster that has been prepared for the specific examination. Department contracted vendors may require additional forms of identification for security purposes.

(5) Candidates and/or their patients shall not be in possession of electronic devices including, but not limited to, cell phones, palm pilots, pagers, or cameras at the examination site.

~~(6)(4)~~ If the candidate arrives at the designated testing location after the designated starting time, the candidate shall not be permitted to take the examination. However, if the examination has not begun, the examination administrator may attempt reasonable accommodations.

~~(7)(5)~~ If through some mechanical or clerical error of the department or the contract provider, the candidate does not receive the allotted time to complete the examination, additional time shall be allowed upon approval of the examination administrator.

~~(8)(6)~~ All examination questions, booklets, answer sheets, electronic files and other examination papers and materials, in any form, are the sole property of the department or the national provider. No candidate shall take any part of the examination questions, booklets, answers sheets, electronic files and/or other examination papers and materials, in any form, from the examination room, or retain, reproduce or compromise the examination in whole or in part by any means or method whatsoever.

~~(9)(7)~~ Candidates must wait at least 30 days after an examination before they can re-examine.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(1) FS. History–New 9-7-98, Amended 7-20-03, 3-26-07, 4-7-08,_____.

64B-1.004 Conduct at Test Site.

For examinations administered by the department or a contract provider, the conduct at the test site shall be as follows:

(1) The examination administrator and proctors are the department’s designated agents in maintaining a secure and proper examination administration. Failure to comply with the written and/or oral instructions provided by the department’s designated agents shall result in the removal of the examinee from the examination site ~~room~~.

(2) Any individual found by the department or any board within the department to have engaged in conduct which subverts or attempts to subvert the examination process shall have his or her scores on the examination withheld and/or declared invalid, be disqualified from the practice of the profession, and/or be subject to the imposition of other appropriate sanctions by the applicable board or department, when there is not board.

(3) Conduct, which subverts or attempts to subvert the examination process includes:

(a) Conduct which violates the security of the examination materials, such as removing from the examination ~~site room~~ any of the examination materials; reproducing or reconstructing any portion of the licensure examination; aiding by any means in the reproduction or reconstruction of any portion of the licensure examination; selling, distributing, buying, receiving or having unauthorized possession of any portion of a future or current licensure examination.

(b) Conduct which violates the standard of test administration, such as communicating with any other examinee during the administration of the examination; copying answers from another examinee or permitting one’s answers to be copied by another examinee during the administration of the examination; having in one’s possession during the administration of the examination any book, notes, written or printed materials or data of any kind, other than the examination materials distributed or specifically listed as approved materials for the examination in the information

provided to the examinee in advance of the examination date by the department and/or the contracted vendor ~~national provider~~ of the examination.

- (c) No change.
- (4) No change.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(1) FS. History–New 9-7-98, Amended 7-20-03, _____.

64B-1.005 Special Testing Accommodations.

(1) Definitions.

(a) The term “disability” means, with respect to an individual:

1. A physical or mental impairment that substantially limits one or more ~~of the~~ major life activities of such individual;
2. A record of such an impairment; or
3. Being regarded as having such an impairment.

(b) A physical or mental impairment means:

1. through 2. No change.

(c) Major life activities include: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Major life activity also includes the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions ~~are activities that an average person can perform with little or no difficulty which include: walking, talking, hearing, seeing, speaking, breathing, learning, working, caring for one’s self and performing manual tasks.~~

(2)(a) No change.

(b) For national examinations the national vendor will determine the accommodations ~~are~~ available to candidates who demonstrate to the department the necessity of such accommodations due to disability.

(3)(a) Candidates requesting special testing accommodation due to a disability shall file a request for special testing accommodation no later than sixty (60) days prior to the first day of the examination for which special testing accommodation is requested on form DH-MQA 4000, 6/08, Application For Candidates Requesting Special Testing Accommodation in Accordance with the Americans with Disabilities Act., for which special testing accommodation is requested. Form DH-MQA 4000, 6/08, is hereby incorporated by reference, and can be obtained on the Testing Services website at <http://www.doh.state.fl.us/mqa/exam/spectest.htm> or from the Division of Medical Quality Assurance, Bureau of Operations, Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290. If a candidate becomes

disabled after the sixty-day deadline has passed and that candidate has not requested special accommodation, the department will provide any such requested accommodation that can be made available without posing undue burden or jeopardizing the security and integrity of the examination. However, in no event will accommodation be provided to exam candidates requesting special accommodation ten (10) days or less, before the examination.

(b) through (e) No change.

(4) through (6) No change.

(7) Candidates who have previously received special testing accommodations for an examination in accordance with the Americans with Disabilities Act and need accommodations for another examination or for a retake of the same examination must submit their request to the department no later than (60) days from the date of the first day of the examination for which special testing accommodation is requested on form DH-MQA 1191, 3/09, Reapplication for Special Testing Accommodations in Accordance with the Americans with Disabilities Act. Form DH-MQA 1191, 3/09, is hereby incorporated by reference, and can be obtained on the Testing Services website at <http://www.doh.state.fl.us/mqa/exam/spectest.htm> or from Division of Medical Quality Assurance, Bureau of Operations, Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290. Candidate must file form DH-MQA 1191 each time accommodations are needed.

~~(8)(7)~~ Candidates requesting special testing accommodation due to religious beliefs shall submit their request to the department no later than sixty (60) days from the date of the first day of the examination for which special testing accommodation is requested on form DH-MQA 4001, 6/08, Application For Candidates Requesting Special Testing Accommodation Due to Religious Conflict, ~~for which special testing accommodation is requested.~~ Form DH-MQA 4001, 6/08, is hereby incorporated by reference, and can be obtained on the Testing Services website at <http://www.doh.state.fl.us/mqa/exam/spectest.htm> or from Division of Medical Quality Assurance, Bureau of Operations, Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290. If the sixty-day deadline has passed and that candidate has not requested special accommodation, the department will provide any such requested accommodation that can be made available without posing undue burden or jeopardizing the security and integrity of the examination. However, in no event will accommodation be provided to exam candidates requesting special accommodation ten (10) days or less, before the examination.

(9) Candidates requesting the use of a translation dictionary due to English as a second language. shall submit their request to the department no later than forty (40) days from the date of the first day of the examination for which special testing accommodation is requested on form DH-MQA

1192, 3/09, Application For Use of a Translation Dictionary Due to English as a Second Language. Form DH-MQA 1192, 3/09, is hereby incorporated by reference, and can be obtained on the Testing Services website at <http://www.doh.state.fl.us/mqa/exam/spectest.htm> or from the Division of Medical Quality Assurance, Bureau of Operations, Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290. If the sixty-day deadline has passed and that candidate has not requested special accommodation, the department will provide any such requested accommodation that can be made available without posing undue burden or jeopardizing the security and integrity of the examination. However, in no event will accommodation be provided to exam candidates requesting special accommodation ten (10) days or less, before the examination. Translation Dictionaries due to English as a second language are only available for the Mental Health Counseling and Electrology examinations.

~~(10)(8)~~ National examinations used by the department may require that special testing accommodations be reviewed and approved by the National vendor.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(1) FS. History—New 9-7-98, Amended 7-20-03,

64B-1.006 Practical or Clinical Examinations.

Unless specified in board rule, the following procedures shall be used with regard to department-developed practical or clinical examinations:

(1) Candidates required to take a practical or clinical examination shall be informed by the department, or the department's contracted vendor, in writing of the applicable performance criteria, patient criteria and any special equipment required for such performance.

(2) In the event professional examiners are employed to evaluate candidate performance on practical or clinical examinations, no less than two ~~(2)~~ examiners shall independently evaluate the performance of each candidate.

(3) The examiners shall not discuss any candidate's performance with anyone at any time during the examination or before the grades are recorded. The candidates and examiners shall not engage in conversation during a practical or clinical examination unless such conversation is required as part of the practical or clinical examination.

~~(4) The department's contract provider shall provide instructions to the candidates.~~

~~(4)(5)~~ The examiners shall grade the candidates only with regard to the prescribed performance criteria.

~~(6) The candidates and examiners shall not engage in conversation during the practical performance unless said conversation is part of the practical examination.~~

(5) Preceding each examination administration, examiners shall attend a standardization session to discuss the scoring criteria and standards. Standardization is mandatory for all examiners and failure to attend excludes examiners from participating in the examination.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017 FS. History–New 9-7-98, Amended 7-20-03,

64B-1.007 Selection Criteria for Examiners and Examination Consultants.

(1) Examiners and examination consultants are to be selected based upon criteria adopted by board rule.

(2) Where there is no board, or board rule, in order to be eligible to serve as an examiner or an examination consultant for department-developed examinations, the prospective examiner or examination consultant must meet the following criteria:

a.(4) Has ~~Must~~ have three (3) years of continuous practice in the respective field in the state;

b.(2) Has ~~Must~~ possess an active license in the respective field in the state at the time of the examination;

c.(3) Has not had ~~Must not~~ have his/her license in the respective field suspended or revoked. If the prospective examiner or examination consultant's license has been disciplined other than with suspension or revocation, the department reserves the right to evaluate his/her selection as deemed appropriate;

d.(4) Is not ~~Must not~~ currently be under investigation by the department; and

e.(5) Is not ~~Must not~~ currently be teaching or presently employed in the respective field in either: an academic setting in this state, or an examination preparation course in any state.

f. Does not have a relative currently enrolled in an educational institution pursuing a course of study in the respective field.

(3) The department reserves the right to remove an examiner or examination consultant including but not limited to the following reasons:

(a) Failure to satisfactorily perform.

(b) Failure to disclose actual or apparent conflicts of interest to the department.

(c) Failure to maintain eligibility criteria as outlined in this rule.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(1) FS. History–New 9-7-98, Amended 7-20-03,

64B-1.008 Grading of Examinations; Grade Notification; Chiropractic Examination Grading.

(1) Grading of all examinations shall be processed as follows:

(a) National examinations shall be graded solely and exclusively by the national examination provider or its contract provider.

(b) Department-developed practical or clinical or computer-based testing, electronically administered, objective, multiple-choice examinations shall be graded by the department or its contract provider. The department or its contract provider shall review any statistically questionable items for psychometric soundness via the item analysis after the examination has been administered. Based upon this review and/or the examination consultant's recommendations, the department or its contract provider shall adjust the scoring key by rejecting psychometrically unsound questions, crediting for more than one correct answer, or giving partial credit for any question or procedure which does not adequately and reliably measure the applicant's ability to practice the profession totally disregarding psychometrically unsound questions for grading purposes, or by giving credit for more than one correct answer per question. The department or its contract provider shall calculate each candidate's grade utilizing the scoring key, or adjusted scoring key if applicable, and shall provide each candidate a grade report.

~~(c) Department developed practical/CBT examinations shall be graded by the department or its contract provider. Examiners are to be selected based upon criteria adopted by board rule, and where there is no board, examiners are to be selected based upon criteria adopted by the department.~~

~~1. The department shall review any statistically questionable items or procedures for psychometric soundness after the examination has been administered. Based upon this review or the examination consultant's recommendations, the department shall adjust the scoring key by rejecting, crediting, or giving partial credit for any question or procedure which does not adequately and reliably measure the applicant's ability to practice the profession. The department or its contract provider shall calculate each candidate's grade using the scoring key, or adjusted scoring key if applicable, and shall provide each candidate a grade report.~~

~~2. In the event professional examiners are employed to evaluate candidate performance on practical examinations, no less than two (2) examiners shall independently evaluate the performance of each candidate.~~

~~3. Preceding each examination administration, examiners shall attend a standardization session to discuss the scoring criteria and standards. Standardization is mandatory for all examiners and failure to attend excludes examiners from participating in the examination.~~

~~(c)(d)~~ With regard to the Chiropractic examination:

1. Examiners shall meet the qualifications of Rule 64B2-11.007, F.A.C.

2. The practical examination of candidates shall be reevaluated at a discrepancy review if the total score by one examiner is below passing and the total score by the second examiner is passing.

a. through e. No change.

(2) through (3) No change.

(4) The department or its contract provider shall notify the candidate of the results of the candidate's examination no later than ~~sixty (60)~~ days after the examination date except when the grades are computed by or for a national organization responsible for a national examination in Florida. In the case of a national examination, the grades shall be posted on the Testing Services website at <http://www.doh.state.fl.us/mqa/exam/> or sent to the candidate no later than ~~thirty (30)~~ days after the department's receipt of the grades from the national examination provider.

(5) ~~Official~~ If the grades are to be posted on the Testing Services department's website, the website shall notify applicants ~~indicate~~ in advance of the window when the official notification date the grades will be available on the internet.

(6) through (7) No change.

(8) For computer-based testing examinations, candidates shall receive a preliminary grade report at the computer-based testing site. Preliminary score reports are not official score reports. Preliminary score reports are subject to review and changes for accuracy and psychometric soundness.

(9) Computer-based testing examinations developed by or for the department may include pilot test or experimental questions for the purpose of evaluating the statistical and psychometric qualities of new or revised questions prior to their use in an examination.

(a) Pilot test or experimental questions will not be identified to the candidates as pilot test questions on the examination.

(b) The maximum number of pilot test questions included on an examination form shall not exceed 20 percent of the number of scored questions on the examination or ten questions, whichever is greater.

(c) Pilot test questions shall not be counted toward the candidate's score on the examination. Answers to pilot test questions shall not be subject to review by the candidates during the candidates' post-examination review session.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(1) FS. History—New 9-7-98, Amended 7-20-03,

64B-1.009 Pre-hearing Review Request.

(1) After the candidate's petition for a hearing, pursuant to Section 120.57, F.S., and Rule 28-106.201, F.A.C., has been filed, the candidate and the candidate's attorney shall be permitted a pre-hearing review pursuant to Rule 28-106.209, F.A.C., of the disputed examination questions and answers at the department's headquarters in Tallahassee to prepare for the administrative hearing under the following conditions:

~~(a)(1)~~ Pre-hearing reviews will not be conducted during the ~~(30)~~ days immediately prior to the candidate's next examination date.

~~(b)(2)~~ The candidate shall submit a written request for such review to the department's attorney at least ~~(14)~~ days prior to the hearing date.

~~(c)(3)~~ The candidate must pay a pre-hearing review fee as established by the department in order to receive a pre-hearing review.

~~(d)(4)~~ The department will not respond to any oral or written comments made about the examination during the pre-hearing review.

~~(e)(5)~~ All procedures outlined in Rules 64B-1.004 and 64B-1.013, F.A.C., shall apply to pre-hearing reviews. Rule 64B-1.013, F.A.C., shall apply to the candidate and the candidate's attorney, if present, for the pre-hearing review.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.014, 456.017 FS. History—New 9-7-98, Amended 2-21-00, 7-20-03, 6-19-08,

64B-1.011 Requirements and Standards of a National Examination.

(1) National examinations will be certified by the department according to the criteria established in this rule. National examinations shall be recertified during contract renewal periods as established by the department.

(a) The national examinations shall be developed either by or for a national, regional, or multi-state professional association, board, council or society (hereinafter referred to as national organization). The ~~national~~ organization providing the examination shall either:

1. Be recognized by state regulatory boards as a national organization, or

2. Be recognized by a substantial number of that profession's licensed practitioners as a national organization, or

3. Have a substantial number of the nation's practitioners licensed or certified through an examination provided by or for the national organization.

(b) Examinations prepared by or for a national organization shall meet the following requirements:

1. The examinations shall be administered for the purpose of assessing entry-level skills to ensure the minimum competence of practitioners necessary to protect the health, safety and welfare of the public, ~~from incompetent practice.~~

- 2. through 6. No change.
- (2) through (3) No change.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(1) FS. History—New 9-7-98, Amended 7-20-03, 4-7-08,_____.

64B-1.013 Post-Examination Review.

(1) Procedures for post-examination review of a national examination, if permitted per policy, shall be in accordance with the policies and procedures of the national examination or contracted vendor. ~~When review of a national/regional examination administered by the department is permitted, the review shall be conducted in accordance with national examination security procedures.~~

(2) A candidate who has taken and failed a department-developed practical or clinical examination or a department-developed computer-based testing electronically administered examination shall have the right to one (1) post-examination review of those examination questions answered incorrectly, the answers to those examination questions answered incorrectly, and to materials, grades and grading keys related thereto.

(a) A candidate who has taken and failed a department-developed practical or clinical examination ~~or a (written) paper and pencil examination~~ shall request a post-examination review in writing to the department. The request shall be postmarked received by the department within ~~twenty one (21) days from the date that official~~ of notification of the failing grade is posted. ~~If the official grade report is sent by regular U.S. mail, the department will allow an additional five (5) days for mailing. If the Official grades are~~ is posted on the Testing Services department's website, at <http://www.doh.state.fl.us/mqa/exam/>. ~~the candidate's request for post examination review shall be post marked within twenty one (21) days from the date the official grades are posted as indicated on the department's website.~~

(b) A candidate who has taken and failed a department-developed computer-based examination shall request a post-examination review in writing to the contracted vendor. The request shall be emailed to the contracted vendor within 21 days from the date that official notification of the failing grade is posted. Official grades are posted on the Testing Services website at <http://www.doh.state.fl.us/mqa/exam/>.

(c)(b) Post-examination reviews shall be completed no later than ~~sixty (60) days~~ following the date on which the grades for the examination are posted on the Testing Services website released.

(d)(e) Post-examination reviews will not be conducted during the ~~thirty (30) day~~ period immediately prior to the next administration of the examination to the candidate.

(e)(d) The provisions outlined in Rule 64B-1.004, F.A.C., shall apply to all review sessions. Violation of such provisions by a candidate shall result in termination of the review session and the candidate shall be subject to other sanctions as determined by the appropriate board pursuant to the board's disciplinary guidelines.

(f)(e) Post-examination reviews for department-developed clinical or practical examinations shall be conducted in the presence of a representative of the department at its Tallahassee headquarters during regular working hours which are defined as 8:00 a.m. through 4:30 p.m., Monday through Friday, excluding official state holidays. ~~For opticianry neutralization and computer-based testing examinations, post-examination reviews may be conducted at another location.~~

(g)(f) A representative or designee of ~~from~~ the department shall remain with all candidates throughout all post-examination reviews. The representative shall inform candidates that he or she cannot defend the examination or attempt to answer any examination questions during the review.

(h)(g) For computer-based testing electronically administered or written examinations, the candidate will be provided one-half the time given for the examination administration for completion of a post-examination review. For clinical examinations, the time provided will be determined for each specific profession.

(i)(h) Prior to a post-examination review, candidates shall be provided written instructions and shall acknowledge in writing at that time, receipt of such instructions and agree that they will abide by the following instructions:

- 1. through 5. No change.
- 6. All examination materials are to be given to the department representative or designee ~~Review Coordinator~~ prior to departing the review room; and
- 7. No change.

(j)(i) Upon completion of a post-examination review, candidates shall acknowledge in writing: the start and end time of the review, all materials that have been reviewed and any other relevant review information.

(k)(j) In addition to the other provisions of this rule, candidates shall be prohibited from leaving a post-examination review with written notes, grade sheets, or any other examination materials.

(3) A candidate who has taken and failed a department-developed practical or clinical examination or a department-developed computer-based testing electronically administered examination, completed a post-examination review and wishes to challenge the examination shall file a request/petition for administrative hearing with the department

within 21 days after the date on which he/she completes his/her post-examination review. The petition/request for administrative hearing must be received or postmarked within 21 days after the date of the post-examination review.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.017(2) FS. History–New 9-7-98, Amended 7-20-03, 6-19-08,_____.

64B-1.016 Fees: Examination and Post-Examination Review.

(1)(a) The following fees shall be assessed by the department to cover administrative costs, actual per-applicant costs, and costs incurred to develop, purchase, validate, administer, and defend the following department developed, administered, or managed examinations:

Exam Fees		
Profession	Exam	Exam Fee
Chiropractic Medicine	Physical Diagnosis	\$450.00
	Technique	\$450.00
	X-Ray	\$450.00
Dental	Laws & Rules	\$170.00
	Clinical	\$165.00 \$300.00
	Laws & Rules	\$80.00 \$55.00
Dental Hygiene	Clinical	\$120.00
	Laws & Rules	\$30.00
Electrolysis	National	\$135.00 \$150.00
Hearing Aid Specialist	National	\$110.00 \$300.00
Massage	Colonics	\$225.00 \$150.00
Nursing Home Administrator	Laws & Rules	\$250.00 \$150.00
	National	\$85.00 \$20.00
Opticianry	Practical	\$470.00 \$580.00
	Neutralization	\$100.00 \$170.00
Optometry	Clinical	\$1,125.00 \$900.00
	Pharmacology	\$550.00
Osteopathic Medicine	Laws & Rules	\$100.00 \$25.00
	National	\$995.00
Physical Therapy	Laws & Rules	\$20.00
	National	\$5.00
Physical Therapist Assistant	Laws & Rules	\$20.00
	National	\$5.00
Psychology	Laws & Rules	\$30.00 \$20.00
	National	\$150.00 \$75.00

(b) For those examinations administered by the computer-based testing vendor, the candidate will be assessed a fee by the vendor.

(c) For those National examinations managed by the department, the candidate shall be assessed an additional fee to be determined by the National organization administering the examination.

(2) The department shall assess the following non-refundable post examination review fees to cover the actual cost to the department to provide the examination review:

Review Fees		
Profession	Exam	Review Fee
Chiropractic Medicine	Physical Diagnosis	\$100.00
	Technique	\$100.00
Dental	Clinical	\$180.00 \$125.00
	Clinical	\$100.00
Hearing Aid Specialist	National Clinical	\$150.00
Opticianry	Practical	\$170.00 \$75.00
	Neutralization	\$60.00 \$100.00
Optometry	Clinical	270.00 \$100.00
	Laws & Rules	\$80.00 \$100.00
Physical Therapy Assistant	Laws & Rules	\$80.00 \$100.00

For those examinations administered through the department’s computer-based testing vendor, the candidate will be assessed a fee by the vendor to conduct the post-examination review.

Rulemaking Specific Authority 456.004(5), 456.004(10) 456.013(1), 456.014, 456.017(1), 456.017(2), 456.017(6), 456.017(7) FS. Law Implemented 456.004(10), 456.017(1), (2) FS. History–New 3-14-02, Amended 7-20-03, 7-12-05, 1-23-07, 4-7-08,_____.

64B-1.017 Use of Pilot Test Items.

~~Electronically administered Computer based testing examinations developed by or for the department might include pilot test or experimental questions for the purpose of evaluating the statistical and psychometric qualities of new or revised questions prior to their use in an examination.~~

~~(1) Pilot test or experimental questions will not be identified to the candidates as pilot test questions on the examination.~~

~~(2) The maximum number of pilot test questions included on an examination form shall not exceed 20 percent of the number of scored questions on the examination or ten (10) questions, whichever is greater.~~

~~(3) Pilot test questions shall not be counted toward the candidate’s score on the examination. Answers to pilot test questions shall not be subject to review by the candidates during the candidates’ post examination review session.~~

Rulemaking Specific Authority 456.004(5), 456.017(1) FS. Law Implemented 456.017(1) FS. History–New 7-20-03, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jennifer Wenhold

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 24, 2009

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

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE NO.: 64B6-5.001
 RULE TITLE: Continuing Education as a Condition for Renewal

PURPOSE AND EFFECT: The proposed changes will require in person attendance at all continuing education courses and will require HIV/AIDS for the first renewal only.

SUMMARY: The rule amendment requires all continuing education classes to be in person and requires all licensees to take a live 2-hour course on HIV/AIDS prior to the first licensure renewal period.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed changes to the rule are not expected to have an impact on small business.

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

RULEMAKING AUTHORITY: 456.013(6), (8), 484.044, 484.047(1), (4) FS.

LAW IMPLEMENTED: 456.013(7), 484.047(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Hearing Aid Specialists/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-5.001 Continuing Education as a Condition for Renewal.

(1) As a condition of the biennial renewal of an active license, each hearing aid specialist shall attend and certify attending 20 credit hours (per biennium) of Board approved continuing education which are relevant to, and which enhance, the licensee's ability to dispense hearing aids. Attendance at continuing education courses shall be in person. Board-approved means approved by a chairman-appointed committee of one, or as specified by subsection 64B6-5.002(1), F.A.C. Continuing education courses, or portions thereof, which are devoted to content areas other than those identified in Rule 64B6-8.003, F.A.C., or risk management, shall not be approved for continuing education credit. Effective for the biennium beginning in 2001, these certified hours shall include two hours per biennium relating to hearing aid laws and rules.

- (a) through (b) No change.
- (2) No change.

(3) Each licensee shall be required to complete no later than upon first renewal that requires continuing education, a two-hour course on human immunodeficiency virus and acquired immune deficiency syndrome (HIV/AIDS). Each licensee may take up to four (4) hours Hearing Aid Specialist attend and certify attending two (2) hours and may take up to four (4) hours per biennium of continuing education which includes the topics of Human Immunodeficiency Virus, Acquired Immune Deficiency Syndrome, and other communicable illness to protect both the recipient and dispenser; modes of transmission, infection control procedures, clinical management, and prevention of any communicable illness. Such continuing education shall be accepted by the Board toward the continuing education requirement. Dually-licensed individuals, under Chapter 456, F.S., shall only be required to take one HIV/AIDS course to satisfy the continuing education requirements for this Board.

(4) Each licensee as part of the renewal process Hearing Aid Specialist shall attend and certify attending a Board-approved two-hour continuing education course relating to the prevention of medical errors. Licensees who are licensed under other professions regulated by Chapter 456, F.S., shall only be required to take one medical errors course to satisfy the continuing education requirements for this Board. The two-hour course shall count toward the total number of continuing education hours required for license renewal.

Rulemaking Specific Authority 456.013(6), (8), 484.044, 484.047(1), (4) FS. Law Implemented 456.013(7), 484.047(4) FS. History—New 4-1-85, Formerly 21JJ-15.001, Amended 8-5-87, 4-8-90, 8-21-90, 8-19-91, Formerly 21JJ-5.005, Amended 11-20-95, Formerly 61G9-5.005, Amended 9-23-99, 6-28-00, 11-9-00, 2-19-03, 3-4-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Hearing Aid Specialists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 19, 2008

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE NO.: 64B6-5.002
 RULE TITLE: Continuing Education Programs

PURPOSE AND EFFECT: The proposed changes will require in person attendance at all continuing education courses.

SUMMARY: The rule amendment clarifies that only in-person Continuing Education Programs will be approved by the Board for continuing education credit.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed changes to the rule are not expected to have an impact on small business.

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

RULEMAKING AUTHORITY: 456.013(7), (9), 484.044, 484.047, (4) FS.

LAW IMPLEMENTED: 456.013(7)(9), 484.047(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Hearing Aid Specialists/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-5.002 Continuing Education Programs.

(1) Programs approved by the International Institute of Hearing Instrument Studies shall automatically be approved for continuing education credit, provided they are in-person contact hours.

(2) through (3)(d) No change.

(4) When attending an approved program, the licensee's in-person attendance must be certified by the program's registrar and submitted upon request to the Board office as verification.

(5) Attendees attending in-person a program not approved pursuant to the above subsections of this rule may request approval of the program attended. Such request must include sufficient information to demonstrate that the program meets the requirements of this rule.

(6) through (7) No change.

Rulemaking Specific Authority 456.013(6)-(9), 484.044, 484.047(4) FS. Law Implemented 456.013(6)-(9), 484.047(4) FS. History—New 4-1-85, Formerly 21JJ-15.002, Amended 8-5-87, 2-16-89, 6-21-89, 1-10-90, 8-19-91, 10-21-91, Formerly 21JJ-5.006, Amended 11-20-95, Formerly 61G9-5.006, Amended 9-23-99, 11-9-00, 3-24-02, 11-18-02, 9-13-07, 3-4-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Hearing Aid Specialists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 19, 2008

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE NO.: 64B6-6.004
 RULE TITLE: Certified Testing Room

PURPOSE AND EFFECT: The proposed changes would adopt and incorporate the waiver form in rule, indicate a website where the form may be obtained, and required, if applicable, the executed waiver to be attached to the client's copy of the contract and a copy to be retained by the licensee.

SUMMARY: The rule amendment clarifies that only in-person Continuing Education Program will be approved by the Board for continuing education credit.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed changes to the rule are not expected to have an impact on small business.

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

RULEMAKING AUTHORITY: 484.044, 484.0501(6) FS.

LAW IMPLEMENTED: 484.047, 484.0501FS.

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: Sue Foster, Executive Director, Board of Hearing Aid Specialists/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-6.004 Certified Testing Room.

(1) Each audiometric test conducted by a licensee or authorized trainee in the fitting and selling of hearing aids shall be made in a testing room that has been certified during the current biennium by the department, or by an agent approved by the department, not to exceed the sound pressure levels specified in Section 484.0501, F.S., unless the exception to this requirement stated in subsection (6) of that Section applies. If the exception in Section 484.0501(6), F.S., applies, the waiver shall be on the Certified Testing Room Waiver Form (Form DH-MQA 1157, Revised 10.08, hereby adopt and incorporated by reference), and shall be signed by the licensee and the client before testing. The Certified Testing Room Waiver Form can be obtained from the Board of Hearing Aid Specialists' website at <http://www.doh.mqa/HearingAid/>. The executed waiver shall be attached to the client's copy of the contract and a copy shall be retained by the licensee.

(2) through (4) No change.

Rulemaking Specific Authority 484.044, 484.0501(6) FS. Law Implemented 484.047, 484.0501 FS. History--New 5-14-87, Amended 2-16-89, Formerly 21JJ-6.003, 61G9-6.003, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Hearing Aid Specialists
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 19, 2008

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE NO.: 64B6-8.002
RULE TITLE: Qualifications for Trainees, Sponsors and Designated Hearing Aid Specialists

PURPOSE AND EFFECT: The proposed rule amendments are intended to require hearing aid specialist trainees to complete Stage I, the International Hearing Society Home Study Course, before beginning Stage II of the training program. The rule adopts and incorporates by reference the Sponsor Report Form and Training Program Continuation Request Form and provides a website to obtain the forms.

SUMMARY: The proposed rule amendments clarify the various stages of the training programs to be completed by hearing aid specialist trainees. In addition the relevant forms associated with the training programs are incorporated by reference in the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed changes to the rule are not expected to have an impact on small business.

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

RULEMAKING AUTHORITY: 484.044, 484.0445(1) FS.

LAW IMPLEMENTED: 484.0445 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: Sue Foster, Executive Director, Board of Hearing Aid Specialists/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-8.002 Qualifications for Trainees, Sponsors and Designated Hearing Aid Specialists.

(1) The Department shall temporarily certify, until the next Board meeting, only those applicants who meet the following requirements, in addition to those imposed by law:

(a) No change;

(b) The applicant must complete the Training Program Registration Application, (Form DH-MQA 1158 (revised 10/08), hereby adopted and incorporated by reference, which can be obtained from the Board of Hearing Aid Specialists' website at <http://doh.state.fl.us/mqa/HearingAid/>), application furnished by the Department and pay the appropriate fee; and

(c) No change.

(2) The Department shall temporarily certify as a sponsor, until the next Board meeting, only those persons who meet the following requirements, in addition to those imposed by law:

(a) The prospective sponsor must have possessed an active license and have been actively practicing for at least two (2) consecutive years immediately prior to sponsorship, and must be Board certified by the National Board for Certification in Hearing Instrument Sciences. (NBCHIS), except that audiologists who are also licensed hearing aid specialists licensed under Chapter 484, Part II, Florida Statutes, are not required to be NBCHIS certified. ~~Compliance with national board certification will take effect three (3) years from the time this rule takes effect;~~

(b) through (c) No change.

(3) The sponsor may designate only those persons who meet the following requirements, in addition to those imposed by law, to assist in the training of a trainee pursuant to Section 484.0445, Florida Statutes, and this chapter:

(a) The designated person must have possessed an active hearing aid specialist license and have been actively practicing for at least two (2) consecutive years immediately prior to being designated to assist in a training program; and must be Board certified by the National Board for Certification in Hearing Instrument Sciences, except that audiologists who are also licensed hearing aid specialists licensed under Chapter 484, Part II, Florida Statutes, are not required to be NBCHIS certified. ~~Compliance with national board certification will take effect three (3) years from the time this rule takes effect;~~ and

(b) The designated person must not have been disciplined during the past four (4) two (2) years.

Rulemaking Specific Authority 484.044, 484.0445 FS. Law Implemented 484.0445 FS. History--New 1-12-84, Formerly 21JJ-8.02, Amended 8-12-87, 9-13-90, Formerly 21JJ-8.002, Amended 12-6-94, Formerly 61G9-8.002, Amended 6-2-03, 3-4-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Hearing Aid Specialists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 19, 2008

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 10, 2008

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE NO.: 64B14-2.0015
 RULE TITLE: Application, Examination and Initial Licensure Fees

PURPOSE AND EFFECT: The purpose and effect of this rule development is to implement the statutory amendments in Section 4, 2008-121, Laws of Florida.

SUMMARY: In the proposed rule amendment, the statutory amendments in Section 4, 2008-121, Laws of Florida are implemented.

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

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

RULEMAKING AUTHORITY: 456.013(2), 468.803(2)(a) FS.
 LAW IMPLEMENTED: 456.013(2), 468.803(2)(a), (5)(a), (b), (c), (d), (e) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-2.0015 Application, Examination and Initial Licensure Fees.

(1) through (2) No change.

(3) An applicant for a residency or an internship shall remit an application fee of \$250.00 and a registration fee of \$250.00 at the time the application is submitted.

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

Rulemaking Specific Authority ~~456.004(5)~~, 456.013(2), 468.803(2)(a) FS. Law Implemented 456.013(2), ~~456.025(1)~~, 468.803(2)(a), (5)(a), (b), (c), (d), (e) FS. History—New 9-2-98, Formerly 64B-3.003, Amended 2-8-01, 5-30-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Orthotists and Prosthetists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-2.001
 RULE TITLE: Fees for Application, Re-Application and Initial Licensure

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to adjust fees for initial licensure and licensure by endorsement.

SUMMARY: The fees for initial licensure and licensure by endorsement will be adjusted.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Allen Hall, Executive Director, at the address listed below.

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

RULEMAKING AUTHORITY: 486.025, 486.041(1), 486.081(2) FS.

LAW IMPLEMENTED: 456.013, 456.065, 486.041, 486.061, 486.081, 486.103, 486.106, 486.107 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-2.001 Fees for Application, Re-Application and Initial Licensure.

(1) No change.

(2) The application fee for licensure by endorsement is \$100 ~~175~~.

(3) through (5) No change.

(6) The initial licensure fee is \$75 ~~100~~.

(7) through (8) No change.

Rulemaking Specific Authority 486.025, 486.041(1), 486.081(2) FS. Law Implemented 456.013, 456.065, 486.041, 486.061, 486.081, 486.103, 486.106, History—New 12-13-83, Amended 5-29-85, Formerly 21M-7.25, Amended 6-20-89, Formerly 21M-7.025, 21MM-2.001, 61F11-2.001, 59Y-2.001, Amended 2-1-99, 4-18-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2008

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2008

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-2.005
RULE TITLE: Biennial Renewal and Inactive Status; Delinquency; Reactivation; and Change of Status Fees

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to adjust biennial renewal fees for an active license.

SUMMARY: The biennial renewal fees for an active license will be adjusted.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Allen Hall, Executive Director, at the address listed below.

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

RULEMAKING AUTHORITY: 486.025, 486.085 FS.

LAW IMPLEMENTED: 456.036(4), (6), 486.085, 486.108(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-2.005 Biennial Renewal and Inactive Status; Delinquency; Reactivation; and Change of Status Fees.

(1) The biennial renewal fee for an active license is \$75 400.

(2) through (8) No change.

Rulemaking Specific Authority 486.025, 486.085 FS. Law Implemented 456.036(4), (6), 486.085, 486.108(1) FS. History--New 8-6-84, Formerly 21M-8.10, Amended 9-22-87, 6-20-89, Formerly 21M-8.010, Amended 10-17-90, Formerly 21MM-2.005, 61F11-2.005, 59Y-2.005, Amended 12-6-01, 4-18-04, 1-18-06,

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-6.001
RULE TITLE: Minimum Standards of Physical Therapy Practice

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify conflict with AHCA rules.

SUMMARY: Conflict with AHCA rules will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Allen Hall, Executive Director, at the address listed below.

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

RULEMAKING AUTHORITY: 486.025 FS.

LAW IMPLEMENTED: 483.021(6), (9), (10), (11), 486.123, 486.125(1)(b), (d), (e), (f), (i), (j), 486.135, 486.151(1)(d), 486.161(3), 486.171 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-6.001 Minimum Standards of Physical Therapy Practice.

(1) through (4) No change.

(5) Physical Therapist – Physical Therapist Assistant Responsibilities and Supervisory Relationships.

(a) Regardless of the setting, physical therapists and physical therapist assistants shall abide by all Federal and State Laws and regulations related to the particular site of practice.

(b) During an acute phase of injury or illness, or while the patient is an inpatient in a hospital, the physical therapist shall be readily and physically available for consultation to the physical therapist assistant.

(c) Delivery of Care:

1. During the delivery of physical therapy care by the physical therapist assistant to patients who are not inpatients in a hospital, or who are not in the acute phase of injury or illness, the physical therapist shall be accessible at all times by telecommunication and shall be within the same geographic location as the assistant.

~~2. The physical therapist shall provide on-site supervision of the physical therapist assistant consistent with the requirements of Rule Chapter 59A-8, F.A.C.~~

~~2.3.~~ The physical therapist should be readily available to the physical therapist assistant with emphasis placed on directing the assistant through frequent reporting, both verbal and written and frequent observations of the care rendered to the patient.

(d) The physical therapist shall not delegate portions of the skilled physical therapy functions or tasks to any lesser trained health personnel than the physical therapist assistant.

(6) through (8) No change.

Rulemaking Specific Authority 486.025 FS. Law Implemented 483.021(6), (9), (10), (11), 486.123, 486.125(1)(b), (d), (e), (f), (i), (j), 486.135, 486.151(1)(d), 486.161(3), 486.171 FS. History–New 8-6-84, Formerly 21M-9.30, Amended 9-22-87, Formerly 21M-9.030, Amended 9-5-90, 3-5-92, 3-24-93, Formerly 21MM-6.001, 61F11-6.001, Amended 8-16-95, Formerly 59Y-6.001, Amended 1-8-98, 1-11-99, 4-18-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Physical Therapy Practice
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 16, 2009

DEPARTMENT OF HEALTH

Board of Psychology

RULE NO.: 64B19-11.010
RULE TITLE: Limited Licensure:
PURPOSE AND EFFECT: The Board proposes the rule amendment to incorporate the application form for a limited license.

SUMMARY: A limited license application form will be incorporated into the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared. A copy can be obtained from Allen Hall, Executive Director at the address listed below. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 456.015(1), (4), 490.004(4) FS.

LAW IMPLEMENTED: 456.015, 490.009(1)(p) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-11.010 Limited License.

(1) Pursuant to Section 456.015, F.S., the Board shall grant a limited license to any applicants who meet the requirements of Section 456.015, F.S., and:

(a) through (b) No change.

(c) Complete and submit to the Board form DH-MQA 1188, 1/09, DOH/MQA/PY-LL-APP/rev. 08/01, "Application for Psychologist Limited Licensure, effective 1-23-09, 3-24-02, which is hereby incorporated by reference, copies of which may be obtained from the Board office or on the Board's website at <http://www.doh.state.fl.us/mqa/psychology>.

Rulemaking Specific Authority 456.015(1), (4)490.004(4) FS. Law Implemented 456.015, 490.009(1)(p) FS. History–New 6-14-94, Formerly 61F13-11.012, Amended 6-26-97, Formerly 59AA-11.010, Amended 3-24-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Psychology
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Psychology
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 23, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 13, 2009

DEPARTMENT OF HEALTH

Board of Psychology

RULE NO.: 64B19-11.011
RULE TITLE: Provisional License; Supervision of Provisional Licensees

PURPOSE AND EFFECT: The Board proposes the rule amendment to incorporate the application form for a provisional license.

SUMMARY: A provisional license application form will be incorporated into the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared. A copy can be obtained from Allen Hall, Executive Director at the address listed below. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 456.013, 490.003(6), 490.004(4), 490.0051 FS.

LAW IMPLEMENTED: 456.013, 490.003(6), 490.004(4), 490.0051, 490.009 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-11.011 Provisional License; Supervision of Provisional Licensees.

All applicants applying for provisional licensure shall:

(1) Complete and submit to the Board form DH-MQA 1189, 1/09, DOH/MQA/PY/PROVISIONAL App/rev 10/01, "Application for Provisional Psychology Licensure," which is hereby incorporated by reference, effective 1-23-09 ~~3-24-02~~, copies of which may be obtained from the Board office or on the Board's website at http://www.doh.state.fl.us/mqa/psychology.

(2) through (6) No change.

Rulemaking Specific Authority 456.013, 490.003(6), 490.004(4), 490.0051 FS. Law Implemented 456.013, 490.003(6), 490.004(4), 490.0051, 490.009 FS. History—New 1-27-98, Amended 3-24-02, 9-8-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 13, 2009

DEPARTMENT OF HEALTH

School Psychology

RULE NO.: 64B21-503.002 RULE TITLE: Renewal of an Active License

PURPOSE AND EFFECT: To update the rule by removing out of date and inaccurate information about the renewal period.

SUMMARY: The rule is being amended to delete the biennial renewal period language, which need not be included in this rule.

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

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

RULEMAKING AUTHORITY: 120.53(1), 490.015 FS.

LAW IMPLEMENTED: 490.007 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, 4052 Bald Cypress Way, Bin #C05, Tallahassee, FL 32399-3250

THE FULL TEXT OF THE PROPOSED RULE IS:

64B21-503.002 Renewal of an Active License.

The Department of Health shall renew an active license upon receipt of the renewal card, the biennial licensure fee as established in Rule 64B21-501.003, F.A.C., and demonstration to the Department that the licensee has satisfactorily completed continuing education requirements as defined in Rule 64B21-502.004, F.A.C., and maintained documentation of same pursuant to Rule 64B21-502.001, F.A.C. ~~Each biennial renewal period shall begin on February 1, of odd numbered years.~~

Rulemaking Specific Authority 120.53(1), 490.015 FS. Law Implemented 490.007 FS. History—New 2-21-85, Formerly 21U-503.02, Amended 12-26-91, 8-12-92, Formerly 21U-503.002, 61E9-503.002, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Allen Hall

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 24, 2009

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

DEPARTMENT OF HEALTH

Board of Athletic Training

RULE NO.: 64B33-2.001
 RULE TITLE: Licensure Requirements

PURPOSE AND EFFECT: The proposed rule amendment is intended incorporate the revised licensure application into the Board’s licensure rule.

SUMMARY: The proposed rule amendment incorporates the revised application for licensure in the rule and sets forth the Board’s website address for the purpose of obtaining the licensure application.

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

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

RULEMAKING AUTHORITY: 456.013(7), (9), 468.705, 468.707 FS.

LAW IMPLEMENTED: 456.013(7), 468.707 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: Susan Foster, Executive Director, Board of Athletic Training, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B33-2.001 Licensure Requirements.

All candidates for licensure shall pay the application fee and shall submit to the Department a completed DOH form DOH-AT-001 entitled “BOARD OF ATHLETIC TRAINING STATE OF FLORIDA EXAMINATION APPLICATION FOR LICENSURE AS AN ATHLETIC TRAINER” (Revised 2/09) incorporated herein by reference ~~and effective 1/19/96, to the Department~~. The application can be obtained by writing the Department of Health, Board of Athletic Training, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258. The application is also available from the Board’s website address as follows: http://www.doh.state.fl.us/mqa/athtrain/at_lic_req.html.

(1) through (2) No change.

Rulemaking Specific Authority 456.013(7), (9), 468.705, 468.707 FS. Law Implemented 456.013(7), 468.707 FS. History–New 5-29-96, Formerly 61-25.002, 64B30-25.002, Amended 8-22-00, 5-9-02, 3-6-07, 8-12-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Athletic Training

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 25, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 30, 2009

DEPARTMENT OF HEALTH

Division of Family Health Services

RULE NO.: 64F-22.001
 RULE TITLE: Eligibility

PURPOSE AND EFFECT: Establish the rules for cancer patients to receive financial aid for the diagnosis and treatment of cancer in any hospital or clinic.

SUMMARY: If funding is appropriated by the legislature, the rule outlines the criteria for cancer patients to receive financial aid for diagnosis and treatment of cancer in any hospital or clinic.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared and there is no cost to the state for any activities related to the rule.

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

RULEMAKING AUTHORITY: 1004.435(5)(d) FS.

LAW IMPLEMENTED: 1004.435 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: Sue Middleton, Administrative Director, Cancer Control and Research Advisory Council, 12902 Magnolia Drive, Tampa, Florida 33612; (813)745-1339 or Susan Fleming, Cancer Program Administrator, Bureau of Chronic Disease Prevention & Health Promotion, Florida Department of Health, 4052 Bald Cypress Way, Bin #A18, Tallahassee, Florida 32399; (850)245-4444, ext. 2945

THE FULL TEXT OF THE PROPOSED RULE IS:

64F-22.001 Eligibility.

The Florida Department of Health may offer a Program of coverage for Diagnosis and Treatment of Cancer, if and when funds become available, for individuals that meet the following requirements:

(1) Has a current prescription for cancer screening, diagnostic procedure or cancer treatment written by a licensed physician or dentist.

(2) Is a bona-fide resident of Florida.

(3) Is uninsured or is lacking insurance that covers the cancer screening, diagnostic procedure or treatment.

(4) Has a net family income at or below 200% of the Federal poverty guidelines.

(5) Has no more than \$5,000 in private funds, bank accounts, or assets other than a homestead.

If an individual does not meet the program requirements but cannot afford the particular procedure or treatment prescribed, the program may consider emergency assistance on a one time basis.

The program eligibility requirements and the emergency issuance provision are subject to change depending upon availability of resources.

Rulemaking Authority 1004.435(5)(d) FS. Law Implemented 1004.435 FS. History-New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Sue Middleton

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 24, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 19, 2008

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.: 65A-1.900
RULE TITLE: Overpayment and Benefit Recovery

PURPOSE AND EFFECT: The proposed rule amendment amends policy governing the compromise of a food stamp overpayment. Included in this proposed rule amendment are some wording changes and technical changes of a non-substantive nature improving the overall content of the rule.

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

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

RULEMAKING AUTHORITY: 409.919, 414.41, 414.45 FS.
LAW IMPLEMENTED: 414.31, 414.41 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: April 28, 2009, 1:30 p.m.
PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Keil, ACCESS Florida Program Policy, 1317 Winewood Boulevard, Building 3, Tallahassee, Florida 32399-0700; (850)410-3291

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.900 Overpayment and Benefit Recovery.

The purpose of this section is to define the administrative policies applicable to the establishment and recovery of overpayment in the public assistance programs.

(1) No change.

(a) Overpayment: Overpayment is tThe amount of public assistance received for which an individual was not entitled.

(b) Intentional Program Violation: Intentional Program Violation (IPV) or fraud ~~error~~ is defined pursuant to Sections 414.39(1)-(2) and (4), F.S., 7 C.F.R. §273.16 (c), 45 C.F.R. §235.110(a)(2) and Section 414.14, F.S. Section 414.39, F.S., incorporated by reference (2008), 7 C.F.R. 273.16 incorporated by reference (2008), and 45 C.F.R. 235.110 incorporated by reference (2008).

(c) Direct Reimbursement: Direct reimbursement is repayment by an individual a person to the Ddepartment or contractor ~~by cash, check or money order.~~

(d) Recoupment of Benefits: Recoupment of benefits is the deduction of repayment amounts from benefits prior to disbursing them ~~to the person receiving assistance.~~

(e) Refusal to Repay: Refusal to repay occurs when the individual person responsible for repayment ~~has:~~

1. Received notification of the overpayment or request for repayment agreement as specified in subsection (8) ~~of this section~~ and subsequently:

a. No change.

b. Advises the Ddepartment either orally or in writing that they refuse to repay the amount owed; or

c. through 2. No change.

a. Fails to contact the Ddepartment within ten days for food stamp IPV Intentional Program Violation, 20 days for food stamp Inadvertent Household Error (IHE), or 30 days for food stamp aAgency eError and all other public assistance errors including those for the Refugee Assistance (RAP) and Optional State Supplementation (OSS) Programs from the date of ~~such~~ notification; or

b. Contacts the Ddepartment, but still fails to make the delinquent payment by the last day of the month following the month in which the payment was originally due, unless the individual has obtained, in writing, the Ddepartment's consent to a change in the repayment agreement.

(f) Notification: Notification, for purposes of this section, is defined as any correspondence from the Department that advises an individual of the status of an overpayment. Any Such notification will shall be in compliance with 7 C.F.R. §273.18 (e)(3), 45 C.F.R. §235.110 and Section 414.14, F.S. 7 CFR 273.18 incorporated by reference (2008) or 45 CFR 235.110 as appropriate.

(g) Extreme hardship: Extreme hardship policy applies only to cash assistance agency errors and. Extreme hardship occurs when monthly expenses for basic maintenance needs exceed monthly income. Expenses taken into account Basic maintenance needs are those items required for survival, include including food, shelter, clothing, medical expenses, transportation, clothing and personal and household incidentals, child or adult care and court ordered child support payments. Any expenses paid by someone outside the household are not used. The Department requires verification if it considers reported items excessive.

1. Food expenses exclude food stamp benefits will be considered according to the current USDA thrifty food plan with no income for the number of people in the household.

2. Shelter expenses expense will include rent, or mortgage, mandatory maintenance or membership fees; loan repayments, including interest for the purchase of a mobile home payments; property taxes and insurance on the home; cost of fuel, electricity, water, sewerage and garbage pickup or both with which to heat, cool and cook; and the basic service fees fee for one telephone. These expenses will not be considered if paid by someone outside those residing together.

3. Medical expenses include those will be considered if not paid by insurance or by someone outside those residing together.

4. Transportation expenses will include those necessary for household vehicles private automobile or public transportation.

5. Clothing and personal and household incidental expenses include those necessary for individuals in the household incidental expenses will be considered in the amount of actual expenses. Verification will be required if the department considers reported expenses excessive.

6. Child or adult care expenses include those costs paid to someone not residing in the household.

7. Court ordered child support payment expenses include those paid to someone not residing in the household.

(2) Individuals Persons Responsible for Repayment of Overpayment.

(a) Individuals Persons who received Aid to Families with Dependent Children (AFDC) AFDC and other cash assistance overpayments as an adult will shall be responsible for repayment of the overpayment.

(b) Food stamp overpayments will shall be recovered from an individual as specified in 7 C.F.R. §273.18 (a)(4) incorporated by reference (2009) 7 CFR 273.18.

(c) Individuals Persons who received Medicaid overpayments as an adult will shall be responsible for repayment of the overpayment.

(d) Adults who apply for or and receive assistance on behalf of others if they provide inaccurate information.

(e) For the purpose of this rule, an adult is defined as:

1. Eighteen (18) years of age or older,
2. through (3) No change.

(a) Monthly repayment amounts of all AFDC and cash assistance overpayments shall include the following provisions:

1. Any individual person no longer receiving cash assistance will shall negotiate a repayment agreement with the Department or contractor.

2. Any individual person affected by the preceding subparagraph 65A-1.900(3)(a)1., F.A.C., is entitled to a departmental review or hearing pursuant to Chapter 65-2, F.A.C.

(b) Monthly repayment amounts of all food stamp overpayments will shall be determined in accordance with 7 C.F.R. §273.18 (c) incorporated by reference (2009) 7 C.F.R. 273.18.

(c) Any adult who applied for and/or received Medicaid benefits for themselves or the assistance group are liable or responsible for repayment. They will negotiate a repayment agreement with the Department or contractor. Monthly repayment amounts of all Medicaid overpayments shall be determined with those persons responsible for repayment based on factors relating to the amount of the claim, the persons' financial situation and the period over which the claim will be liquidated.

(4) No change.

(a) The methods of repayment of cash assistance overpayment are shall be as follows:

1. As specified in 45 C.F.R. §233.20(a)(13) 45 C.F.R. 233.20(a)(13) incorporated by reference (2008); or

2. Through application of child support credit. Child support credit exists when child support collected and retained by the state department during any month in which overpayment occurred exceeds the amount of AFDC or cash assistance to which the assistance group was entitled for that month after computation of the overpayment has been completed. The excess amount of child support can may, if requested by the absent parent or recipient, be credited as repayment and the amount owed by the individual person responsible for repayment will be reduced by that amount. In addition, all or part of the overpayment claim can be satisfied should the absent parent of an overpaid assistance group repay to the Department all AFDC or cash assistance benefits received on behalf of the overpaid assistance group. Child support credit is not applicable to RAP Refugee Assistance Program overpayments.

(b) The method of repayment of all food stamp overpayment ~~will shall~~ be as specified in 7 C.F.R. §273.18 (f)-(g) incorporated by reference (2009) 7-C.F.R. 273.18.

(c) For purposes of this rule only, the method of repayment of a Medicaid overpayment ~~will shall~~ be by direct reimbursement.

(5) Refusal to Repay. When ~~an individual a person~~ refuses to make repayment by direct reimbursement after ~~a request being requested~~ to do so, the ~~D~~Department, at its discretion, may take appropriate civil action against the income or resources of the ~~individual person~~ involved.

(6) Compromising Food Stamp Claims. Effective August 1, 2001, a food stamp claim or any portion of a food stamp claim may be compromised. The ~~D~~Department reserves the right to approve or not approve the compromise. ~~Compromise will be considered to resolve (1) pending litigation; (2) bankruptcy proceedings.~~

(a) Individuals with an overpayment claim in the Food Stamp Program may request a compromise of their claim at any time after they are notified of the claim.

(b) The Department will only consider such claims for individuals liable on the overpayment claim being considered or someone duly authorized to do so on behalf of the liable individual(s).

(c) For purposes of a compromise request made pursuant to this rule, the Department will determine that an individual's economic household circumstances reasonably demonstrate the overpayment claim or debt will not be paid within three years of the debtor being notified of the overpayment claim or debt only when the information or materials permitted by paragraph (d) below also include or involve at least one of the following:

1. The death of the debtor or liable individual(s);

2. The probability of an impending death of the debtor or liable individual(s);

3. Pending litigation in a court, including a bankruptcy court, that involves the debtor or liable individual's obligation to repay the overpayment or debt;

4. The debtor or liable individual(s) are sentenced to a period of incarceration in a city, county, state or federal correctional institution that will exceed the three-year period by which the overpayment or debt is expected to be paid; or

5. The debtor or other liable individual(s) sole household's income is based on either age or disability projecting a fixed, limited economic potential to repay the overpayment or debt within three years.

(d) For purposes of evaluating a compromise request, in addition to the information or materials required by paragraph (c) above, individuals liable for an overpayment claim or debt may submit to the Department any other information or written materials related to their household's economic circumstances. Expenses taken into account include food, shelter, medical, transportation, clothing and personal and household

incidentals, child or adult care and court ordered child support payments as described in subparagraphs (1)(g)1. through 7. Any items paid by someone outside the household are not used. The Department requires verification if it considers reported items excessive. The information or materials must state how the overpayment claim or debt will not be paid within the three-year period. When a decision is made concerning the compromise request, the Department will give the individual making the request a written notice of the decision including information about hearing appeal rights.

1. The overpayment or debt will be compromised to zero for situations indicated in subparagraphs 1. through 4. above.

2. The overpayment or debt will be compromised to no less than \$5.00 per month for situations indicated in subparagraph 5. above.

(7) through (a) No change.

(b) When the ~~D~~Department determines that it needs additional documentation of expenses ~~expense is needed~~ to compute overpayment, ~~it the department~~ will notify the ~~individuals persons~~ responsible for repayment of the information needed. The individual must provide aAny requested items ~~must be provided~~ within the time requested by the ~~D~~Department, or the expense will not be considered in computing the overpayment amount.

(8) Notification of Overpayment. The Department must notify the individuals ~~The persons~~ responsible for repayment of overpayment ~~must be notified~~ in writing that overpayment exists and that they are required, by law, to repay the entire amount pursuant to Section 414.41 (1), F.S., ~~incorporated by reference (2008)~~, or that they may seek compromise of a food stamp overpayment pursuant to 7 C.F.R. §273.18(e)(3), (7) incorporated by reference (2009) 7-CFR-273.18(e)(3), (7).

(a) The individual has a right to an administrative hearing in accordance with the ~~D~~Department's hearings procedures in Chapter 65-2, F.A.C., ~~Part VI, Hearings.~~

(b) The Department will send nNotification of overpayment ~~can be sent~~ to current recipients by regular mail at the address ~~to which~~ the ~~D~~Department sends benefits or correspondence. The Department presumes dDelivery ~~will be presumed~~ unless the postal service returns the notice to the ~~D~~Department.

(c) Notification of overpayment to ~~individuals persons~~ no longer receiving assistance will be made as follows:

1. By regular mail to the last known address available to the ~~D~~Department. ~~The Department presumes d~~Delivery ~~will be presumed~~ unless the postal service returns the notice to the ~~D~~Department.

2. The last notification prior to the initiation of civil action will ~~shall~~ be sent certified mail, return receipt requested, or hand delivered with certification that ~~such~~ delivery was made to the ~~individuals persons~~ responsible for repayment.

(d) ~~The assistance group or individuals that receive notification will be considered to have refused to repay when they fail to contact the Department within ten days for food stamp IPV, 20 days for food stamp IHE, or 30 days for food stamp agency error and all other public assistance errors including those for RAP and OSS Programs from the date of notification. The assistance group or persons that receive such notification will have 30 calendar days in which to contact the department before being considered to have refused to repay, except for food stamp recipients the period to contact the department shall be, from the post-marked date of the letter: five days for intentional program violations; 10 days for inadvertent household error; and, 30 days for agency error. For those persons notified via mail, the time in which to contact the department begins five days after the notification is mailed.~~

(9) Claim Thresholds. ~~The Bbenefit Rrecovery Pprogram~~ will not pursue a claim in bankruptcy proceedings if the amount of the claim is at or below \$1,250.

(10) No change.

(a) Pursuant to Sections 414.39 and 414.41, F.S., when the ~~Ddepartment~~ has information that an individual has committed fraud, ~~it the department~~ will refer the case to the Florida Department of Law Enforcement, Division of Public Assistance Fraud (PAF) Unit (DPAF) for investigation. In cases where the ~~Ddepartment~~ determines that an individual has committed fraud in the cash assistance or ~~Ffood Sstamp Pprograms~~, ~~it the department~~ will pursue a determination of IPV Intentional Program Violation (IPV) through either court action, administrative disqualification hearing, or both, where permitted by 7 C.F.R. §273.16 (a) incorporated by reference (2009), or 45 C.F.R. §235.110 incorporated by reference (2008) 7 C.F.R. 273.16, or 45 C.F.R. 235.110. The ~~PAF Unit department~~ will pursue a determination of IPV through court action in instances where ~~it the department~~ determines that an individual has committed fraud in the Medicaid ~~Pprogram~~.

(b) Individuals found by an administrative hearing officer or court to have committed an act of ~~IPV intentional program violation~~ while receiving, or attempting to receive, food stamp, cash assistance, or food stamp and cash assistance benefits ~~will shall~~ be disqualified from participation in the program(s) under which that act was committed or attempted in accordance with 7 C.F.R. §273.16 (b) incorporated by reference (2009), 45 C.F.R. §235.110 or Section 414.14, F.S. 7 C.F.R. 273.16 or 45 C.F.R. 235.110.

(11) No change.

(a) The ~~Ddepartment~~ will refer individuals who owe past-due, legally enforceable federal food stamp overpayment debts to the U.S. United States Department of the Treasury for purposes of collection of such debt through offset against federal payments pursuant to 26 U.S.C. 6402 (d)(1)-(2), (f), 26 U.S.C. 6402, incorporated by reference (2000 Ed., Sup. 5). Referral of individuals owing such debt will be completed in accordance with procedures and criteria contained in 26 C.F.R.

Part 301 §301.6402-6 26 C.F.R. Part 301 et. seq., incorporated by reference (2008); and 31 C.F.R. Part 5 Subpart C et. seq., incorporated by reference (2008); as provided for in 7 C.F.R. Part 3 Subpart D §3.46 7 C.F.R. Part 3 Subpart 3.82, incorporated by reference (2008).

(b) A past-due, legally enforceable debt exists when an individual in receipt of overpayment as defined in Section 414.41(1), F.S. Section 414.41, F.S., and paragraph (1)(b) of this rule is at least 180 days delinquent in repayment of the ~~such~~ overpayment, and ~~the which~~ overpayment has not been discharged through administrative or legal action.

(c) The ~~Ddepartment~~ must make a reasonable attempt as defined in 26 C.F.R. Part 301, §301.6402-6(d), 26 C.F.R. Part 301, 301.6402-6(d), to notify individuals owing such debt that:

1. No change.

2. Unless repaid within 180 days from the date on the notification, ~~it will refer~~ the debt ~~will be referred~~ to the U.S. United States Department of the Treasury for offset against any refund of federal tax due that individual, and

3. The individual debtor has 60 days from the date of notification to appeal, via presentation of evidence to the ~~Ddepartment~~, that all or part of the debt is not past-due or legally enforceable.

(d) The ~~Ddepartment~~ will consider evidence presented timely by an individual in receipt of ~~such~~ notification described in paragraph (1)(c) above that indicates all or part of their debt is not past-due or legally enforceable, and will make a determination as to the status of that debt prior to referral for offset. This consideration process is separate and apart from the administrative hearings appeals process and will address only the past-due status or legal enforceability of all or part of the debt.

(e) The ~~Ddepartment~~ will provide a toll free telephone number for use in obtaining information concerning the offset.

(12) The following forms, incorporated by reference, are used by the Department in the process of establishing and recovering overpayment: Information Concerning Administrative Disqualification Hearings, CF-ES 3057, 09/2006; Request for Additional Information, CF-ES 3400, 02/2006; Waiver of Administrative Disqualification Hearing With a Program Loss, CF-ES 3410, 09/2006; Waiver of Administrative Disqualification Hearing Without a Program Loss, CF-ES 3410A, 09/2006; Disqualification Consent Agreement, CF-ES 3414, 11/2007; and Notice of Compromise Decision, CF-ES 3110, 03/2009. Copies of the forms and materials incorporated by reference are available from the ACCESS Florida Headquarters Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700. Forms are also available on the Department's web site at <http://www.dcf.state.fl.us/DCFForms/Search/DCFFormSearch.aspx>. The following notices, hereby incorporated by reference, are used by the department in the process of establishing and recovering overpayment: CF-ES Form 3057, 09/2006,

~~Information Concerning Administrative Disqualification Hearings; CF-ES Form 3400, 02/2006, Request for Additional Information; CF-ES Form 3410, 09/2006, Waiver of Administrative Disqualification Hearing With a Program Loss; CF-ES Form 3410A, 09/2006, Waiver of Administrative Disqualification Hearing With a Program Loss; and, CF-ES Form 3414, Nov. 2007, Disqualification Consent Agreement. Each of these forms listed as incorporated by reference may be obtained without cost from any Benefit Recovery office or by written request to the ACCESS Florida Program Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700.~~

~~Rulemaking Specific Authority 409.919, 414.41, 414.45 FS. Law Implemented 414.31, 414.41 FS. History—New 7-21-92, Amended 1-5-93, 9-5-93, Formerly 10C-1.900, Amended 7-9-98, 4-2-00, 2-26-02, 3-18-03, 7-21-05, 1-19-09, _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
Nathan Lewis
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: George H. Sheldon
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 25, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 30, 2009

DEPARTMENT OF FINANCIAL SERVICES
Division of Funeral, Cemetery and Consumer Services
RULE NO.: 69K-25.004
RULE TITLE: Limited License for Retired Professionals During Times of Critical Need

PURPOSE AND EFFECT: Section 497.143, F.S., provides that it is the Legislature’s intent to encourage the use of retired professionals in good standing to serve the State during times of critical need. Critical need is defined as an executive order from the Governor or a federal order declaring a state of emergency in an area. The Department is authorized to adopt rules permitting practice by retired professionals as limited licensees during times of critical need.

SUMMARY: The proposed rule sets forth the procedure for obtaining a limited license as a retired professional during a time of critical need.

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

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

RULEMAKING AUTHORITY: 497.103(5)(b), 497.143 FS.
LAW IMPLEMENTED: 497.143 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: April 27, 2009, 2:00 p.m.
PLACE: Alexander Building, 2020 Capital Circle, S. E., Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Doug Shropshire, (850)413-3039 or doug.shropshire@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Doug Shropshire, (850)413-3039 or doug.shropshire@myfloridacfo.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-25.004 Limited License for Retired Professionals During Times of Critical Need.

(1) A limited licensee shall only provide services during times of critical need within the State and shall work for an entity licensed under Chapter 497, F.S. A limited license shall be effective for so long as the executive order from the Governor or federal order declaring a state of emergency remains in effect including the time the state of emergency is extended as authorized by law.

(2) Each person desiring to obtain a limited license as a retired funeral director, embalmer, or combination funeral director/embalmer shall apply to the Department by submitting the following:

(a) A completed “Application for Retired Professionals.” Form DFS-N1-1746, effective 10/06, which is incorporated by reference in Rule 69K-1.001, F.A.C., and is available on the Department’s website (www.myfloridacfo.com/FuneralCemetery) or by contacting the Department of Financial Services, Division of Funeral, Cemetery and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361.

- (b) A notarized affidavit stating that the applicant:
1. Has been licensed to practice in any jurisdiction in the United States for at least ten years in the profession for which the applicant seeks a limited license;
 2. Has retired from the practice of that profession;
 3. Intends to practice only pursuant to the restrictions of the limited license; and
 4. Shall not engage in preneed sales under such license.

Rulemaking Authority 497.103(5)(b), 497.143 FS. Law Implemented 497.143 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Doug Shropshire, Director, Division of Funeral, Cemetery, and
 Consumer Services, Alexander Building, 2020 Capital Circle
 S.E., Tallahassee, Florida 32399-0361; (850)413-3039
 NAME OF AGENCY HEAD WHO APPROVED THE
 PROPOSED RULE: Alex Sink, Chief Financial Officer,
 Department of Financial Services
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: March 20, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: February 20, 2009

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
690-163.0075	Term and Evidence of Insurance
690-163.009	Determination of Reasonableness of Benefits in Relation to Premium Charge

690-163.011 Credit Disability Insurance Rates
 PURPOSE AND EFFECT: Credit Life and Credit Disability
 Insurance is being amended to address the statutory changes
 contained in House Bill 343, which the Governor approved on
 May 28, 2008. The bill removes the fifty thousand dollar
 (\$50,000) for credit life, but did not remove the ten (10) year
 limit that is still contained in section 627.681, Florida Statutes.
 Similarly, the bill removed the ten (10) year limit for credit
 disability, but did not remove the fifty thousand dollar limit
 (\$50,000) that is still contained in Section 627.679, Florida
 Statutes.

SUMMARY: Credit Life and Credit Disability Insurance is
 being amended to address the statutory changes contained in
 House Bill 343, which the Governor approved on May 28,
 2008.

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

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

RULEMAKING AUTHORITY: 627.678, 627.6785 FS.

LAW IMPLEMENTED: 627.681, 627.682 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: May 6, 2009, 9:30 a.m.

PLACE: 143 Larson Building, 200 East Gaines Street,
 Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE
 PROPOSED RULES IS: Gerry Smith, Division of Life and
 Health, Office of Insurance Regulation, E-mail
 gerry.smith@fldfs.com

THE FULL TEXT OF THE PROPOSED RULES IS:

690-163.0075 Term and Evidence of Insurance.
~~The term of insurance and evidence of insurance shall not
 exceed ten years subject to the following limitations:~~

~~(1) Credit life insurance shall not exceed ten years from
 the date of issue and provide coverage for at least 5 years or the
 term of the loan if the loan is for less than 5 years.~~

~~(2) Credit disability insurance shall provide for monthly
 payments which are the lesser of 60 monthly payments or the
 number of monthly payments for the full term of the loan.~~

Rulemaking Specific Authority 624.308(1), 627.678 FS. Law
 Implemented 624.307(1), 627.681, 627.6785(3), 627.681(3) FS.
 History--New 2-11-03, Formerly 4-163.0075, Amended _____.

690-163.009 Determination of Reasonableness of
 Benefits in Relation to Premium Charge.

(1) Section 627.682, F.S., requires that benefits provided
 by credit insurance policies must be reasonable in relation to
 the premium charged. This requirement is satisfied if the
 premium rate charged develops or may be reasonably expected
 to develop a loss ratio of claims incurred to premiums earned
 of not less than:

- (a) 55% for credit life insurance, and
- (b) 50% for credit disability insurance.

(2) Use of rates not greater than those contained in Rules
 690-163.010 and 690-163.011, F.A.C., (“prima facie rates”) shall
 be deemed premium rates reasonably expected to develop
 the required loss ratio. An insurer may only file and use rates
 with such forms which are greater than prima facie rates upon a
 satisfactory filing with the Office showing to the Director that
 the use of such rates will not result on a statewide basis for that
 insurer of a ratio of claims incurred to premiums earned of less
 than the required loss ratio.

(3) If an actual rate is greater than the prima facie rates, the
 actual rate may not exceed the prima facie rates plus the
 difference between:

- (a) Claims which may be reasonably expected, and
- (b) The product of the required loss ratio and the prima
 facie rate set forth for the coverage being provided.

(4) When some rates are based on subsection (1) above
 and others on the prima facie rate, the expected loss ratios of
 statewide business must meet the minimum loss ratio standard
 in subsection (1) above.

(5) Nonstandard Coverage. If any insurer files for
 approval of any form providing coverage more restrictive than
 that described in Rules 690-163.010 and 690-163.011, F.A.C.,
 the insurer shall make a filing to demonstrate to the satisfaction

of the ~~Office Director~~ that the premium rates to be charged for such restricted coverage comply with subsection (1) above or, are less than or equal to rates which are actuarially equivalent to the prima facie rates.

Rulemaking Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.678, 627.682 FS. History—New 5-9-82, Formerly 4-7.09, Amended 6-11-91, Formerly 4-7.009, Amended 3-15-94, 2-11-03, Formerly 4-163.009, Amended.

69O-163.011 Credit Disability Insurance Rates.

(1) Credit disability insurance premium rates for the insured portion of an indebtedness repayable in equal monthly installments, where the insured portion of the indebtedness decreases uniformly by the amount of the monthly installment paid, shall not be greater than in paragraphs (a) and (b). Paragraphs (c), (d) and (e) refer to premium rates for other types of coverages either alone or in combination with the type of coverages applicable to paragraphs (a) and (b).

(a) If premiums are payable on a single-premium basis for the duration of the coverage:

TABLE I

No. of months in which indebtedness is repayable	14-Day Non-Retroactive	30-Day Non-Retroactive	7-Day Retroactive	14-Day Retroactive	30-Day Retroactive
6 or less	\$0.81	\$0.36	\$1.47	\$1.30	\$1.05
7-12	1.13	0.72	1.76	1.58	1.36
13-18	1.46	1.08	2.05	1.87	1.67
19-24	1.78	1.44	2.34	2.16	1.97
25-30	2.11	1.80	2.64	2.45	2.28
31-36	2.43	2.16	2.93	2.74	2.58
37-48	2.84	2.70	3.34	3.10	2.97
49-60	3.16	2.97	3.69	3.38	3.28
61-72*	3.43	3.27	3.97	3.62	3.53
73-84*	3.61	3.47	4.18	3.79	3.70
85-96*	3.76	3.64	4.34	3.92	3.84
97-108*	3.86	3.75	4.46	4.01	3.94
109-120*	3.95	3.85	4.55	4.09	4.02
<u>Per month for terms exceeding 120 months</u>	<u>.0303</u>	<u>.0296</u>	<u>.0348</u>	<u>.0313</u>	<u>.0308</u>

~~*Maximum benefit is 60 monthly payments.~~

(b) If premiums are paid on the basis of a premium rate per month per thousand of outstanding insured indebtedness, these premiums shall be computed according to the formula: $OPn = (20XSPn) / (n + 1)$ using a rate no less than the 24 month rate in Table I above. A company may submit a different formula for approval which produces rates actuarially equivalent to the single premium rates in Table I:

Where

SPn = Single Premium Rate per \$100 of initial insured indebtedness repayable in equal monthly installments (Table I). The Single Premium Rate shall not be less than the 19-24 month rate for the appropriate coverage.

OPn = Monthly Outstanding Balance Premium Rate per \$1,000.

n = Original repayment period, in months.

(c) Coverage which provides a constant maximum indemnity for a given period of time shall use rates no greater than those rates which are actuarially equivalent to the rates in paragraph (a) or (b).

(d) If the coverages provided are other than those described in this subsection (1), rates for such coverages shall be actuarially equivalent to the rates provided in paragraph (a), (b) or (c).

(e) Joint coverage rates shall be no greater than 175% of the specific rate for that type of coverage.

(f) The monthly outstanding balance rate for credit disability insurance may be either a term specified rate or may be a single composite term rate applicable to all insured loans.

(2) The premium rates in subsection (1) shall apply to policies providing credit disability insurance to be issued with or without evidence of insurability, to be offered to all eligible debtors, and containing:

(a)1. No provision excluding or denying a claim for disability resulting from pre-existing conditions, except for those conditions for which the insured debtor received medical advice, diagnosis, or treatment within six months preceding the effective date of the debtor's coverage, and which caused loss within the 6 months following the effective date of coverage;

2. Disability commencing after 6 months following the effective date of coverage resulting from the condition shall be covered.

3. Coverage with no pre-existing provision limitation shall result in an additional premium of 10% of the amounts shown in subsection (1), above.

(b) No other provision which excludes or restricts liability in the event of disability caused in a specific manner, except that it may contain provisions excluding or restricting coverage for intentionally self-inflicted injuries and normal pregnancy.

(c) No provision which requires that the debtor be employed more than thirty (30) hours per week in order to be eligible for insurance coverage.

(d) No age restrictions, or only age restrictions making ineligible for coverage debtors 66 or over at the time the indebtedness is incurred.

(e) However, coverage shall be provided, at a minimum, until the earlier of the maturity date of the loan or the loan anniversary at age 66. Where loans are in the form of revolving credit arrangements, an insurer may terminate coverage when the debtor attains the age 66.

(f) A daily benefit equal in amount to one-thirtieth of the monthly benefit payable under the policy for the indebtedness.

(g)1. A definition of "disability" which provides that during the first 12 months of disability the insured shall be unable to perform the duties of his occupation at the time the disability occurred, and thereafter the duties of any occupation for which the insured is reasonably fitted by education, training or experience.

2. This paragraph shall not apply to lump sum disability coverage.

Rulemaking Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.678, 627.6785, 627.682 FS. History—New 5-9-82, Formerly 4-7.11, Amended 6-11-91, Formerly 4-7.011, Amended 2-11-03, Formerly 4-163.011, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gerry Smith, Division of Life and Health, Office of Insurance Regulation, E-mail: gerry.smith@fldfs.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 28, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 22, 2008

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.: 690-164.040
 RULE TITLE: Determining Reserve Liabilities for Preneed Life Insurance

PURPOSE AND EFFECT: The purpose of this rule is to recognize the inadequacy of the 2001 Commissioners Standard Ordinary Life Valuation Mortality Table for use in determining the minimum standard of valuation and the minimum standard nonforfeiture value, and to require the continued use of the 1980 Commissioners Standard Ordinary Life Valuation Mortality Table for use in determining the minimum standard of valuation and the minimum standard nonforfeiture value.

SUMMARY: This rule calls for adopting the 1980 Commissioner’s Standard Ordinary Life Valuation Mortality Tables (1980 CSO) for use in determining reserve value and non-forfeiture value of pre-need life insurance, rather than using the new 2001 Commissioners’ Ordinary Standard Life

Valuation Mortality Tables (2001 CSO). The rule allows use of the 2001 CSO for pre-need life insurance policies issued before January 1, 2012, but only after the insurance company submits documentation demonstrating they have adequate reserves.

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

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

RULEMAKING AUTHORITY: 625.121(5)(a)(3), 627.476(9)(h), (5) FS.

LAW IMPLEMENTED: 625.121(5)(a)(3), 627.476(9)(h), (5) 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: May 5, 2009, 9:30 a.m.

PLACE: 143 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Kerry Krantz, Office of Insurance Regulation, E-mail: kerry.krantz@flor.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, Office of Insurance Regulation, E-mail: kerry.krantz@flor.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

690-164.040 Determining Reserve Liabilities for Preneed Life Insurance.

(1) Authority.

This rule is adopted by the commission pursuant to Sections 625.121(5)(a), (3) and 627.476(9), F.S.

(2) Scope.

This rule applies to preneed life insurance policies and certificates as defined in Section Four (4) of this rule, and similar policies and certificates.

(3) Purpose.

The purpose of this rule is to recognize the inadequacy of the 2001 Commissioners Standard Ordinary Life Valuation Mortality Table for use in determining the minimum standard of valuation and the minimum standard nonforfeiture value, and to require the continued use of the 1980 Commissioners Standard Ordinary Life Valuation Mortality Table for use in determining the minimum standard of valuation and the minimum standard nonforfeiture value.

(4) Definitions.

(a) The term "2001 CSO Mortality Table" means the 2001 Commissioners Standard Ordinary Life Valuation Mortality Table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002). Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

(b) The term "Ultimate 1980 CSO" means the Commissioners' 1980 Standard Ordinary Life Valuation Mortality Tables (1980 CSO) without ten-year (10-year) selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983.

(c) For the purposes of this rule, preneed insurance is any life insurance policy or certificate that is issued in combination with, in support of, with an assignment to, or as a guarantee for a prearrangement agreement for goods and services to be provided at the time of and immediately following the death of the insured. Goods and services may include, but are not limited to embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased. The status of the policy or contract as preneed insurance is determined at the time of issue in accordance with the policy form filing.

(5) Minimum Valuation Mortality Standards.

For preneed insurance contracts, as defined in section (4)(c), and similar policies and contracts, the minimum mortality standard for determining reserve liabilities and non-forfeiture values for both male and female insureds shall be the Ultimate 1980 CSO.

(6) Minimum Valuation Interest Rate Standards.

(a) The interest rates used in determining the minimum standard for valuation of preneed life insurance shall be the calendar year statutory valuation interest rates as defined in Section 625.121(6), F.S.

(b) The interest rates used in determining the minimum standard for nonforfeiture values for preneed life insurance shall be the calendar year statutory nonforfeiture interest rates as defined in Section 627.476(9)(i), F.S.

(7) Minimum Valuation Method Standards.

(a) The method used in determining the minimum standard for valuation of preneed life insurance shall be the method as defined in Section 625.121(5), F.S.

(b) The method used in determining the minimum standard for nonforfeiture values for preneed life insurance shall be the method as defined in Section 627.476(9), F.S.

(8) Transition Rules.

(a) For preneed insurance policies issued on or after the effective date of this rule and before January 1, 2012, the 2001 CSO may be used as the minimum standard for reserves and minimum standard for non-forfeiture benefits for both male and female insureds.

(b) If an insurer elects to use the 2001 CSO as a minimum standard for any policy issued on or after the effective date of this rule and before January 1, 2012, the insurer shall provide, as a part of the actuarial opinion memorandum submitted in support of the company's asset adequacy testing, an annual written notification to the domiciliary commissioner. The notification shall include:

1. A complete list of all preneed policy forms that use the 2001 CSO as a minimum standard;

2. A certification signed by the appointed actuary stating that the reserve methodology employed by the company in determining reserves for the preneed policies issued after the effective date and using the 2001 CSO as a minimum standard, develops adequate reserves (For the purposes of this certification, the preneed insurance policies using the 2001 CSO as a minimum standard cannot be aggregated with any other policies.); and

3. Supporting information regarding the adequacy of reserves for preneed insurance policies issued after the effective date of this rule and using the 2001 CSO as a minimum standard for reserves.

(c) Preneed insurance policies issued on or after January 1, 2012, must use the Ultimate 1980 CSO in the calculation of minimum nonforfeiture values and minimum reserves.

(9) Effective Date.

This rule is applicable to preneed life policies and certificates as defined in (2) issued on or after January 1, 2009.

Rulemaking Authority 625.121(5)(a), (3), 627.476(9)(h), (5) FS. Law Implemented 625.121(5)(a)(3), 627.476(9)(h), (5) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kerry Krantz, Office of Insurance Regulation, E-mail:
kerry.krantz@flor.com

NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: April 22, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: June 13, 2008

Section III
Notices of Changes, Corrections and
Withdrawals

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.: 61G15-19.004
 RULE TITLE: Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 32, August 8, 2008 issue of the Florida Administrative Weekly.

This change was made to address a concern expressed by the Joint Administrative Procedure Committee.

When changed, subsection 2. Negligence, shall now read as follows:

2. a. Negligence (subsection 61G15-19.001(4), F.A.C.)	Reprimand, two (2) years probation and \$1,000 fine, to \$5,000 fine, five (5) year suspension and ten (10) years probation	Two (2) years probation and \$1,000 fine, to \$5,000 fine and Revocation
b. Negligence in procedural requirements (61G15-30.003(2), (3) and (5), F.A.C.; 61G15-30.005 and 61G15-30.006, F.A.C.)	Reprimand to two (2) years probation and \$1,000 fine,	Two (2) years probation and \$1,000 fine, to \$5,000 fine and Revocation
c.b. As a special inspector	Reprimand, two (2) years probation and \$1,000 fine, to \$5,000 fine,	Two (2) years probation and \$1,000 fine, to \$5,000 fine and Revocation

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

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 ENVIRONMENTAL PROTECTION

RULE NO.: 62-341.494
 RULE TITLE: Noticed General Permit for Maintenance of Public Navigation Channel and Canal Infrastructure by the West Coast Inland Navigation District within Lee County

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 53, December 31, 2008 issue of the Florida Administrative Weekly.

62-341.494 Noticed General Permit for Maintenance of Public Navigation Channel and Canal Infrastructure by the West Coast Inland Navigation District within Lee County.

- (1) No change.
- (2) This general permit is further limited as follows.
 - (a) through (c) No change.

(d)1. The "No Internal Combustion Motor Zones" (NICMZs) shown and described in the attached Exhibit A, which reflect the boundaries approved in Resolution 07-09-49 of the Lee County Board of County Commissioners on September 25, 2007, are hereby established by this general permit. Within these NICMZs, the use of electric motors is permitted, but operators of all vessels equipped with internal combustion motors (e.g.: gasoline or diesel motors) for propulsion must turn off the internal combustion motor and, if possible to do so, tilt or raise the internal combustion motor out of the water. ~~For purposes of implementing this rule, the definition of "No Internal Combustion Motors" in Rule 68D-23, F.A.C., shall not apply.~~

2. Prior to any dredging authorized by this general permit within an Aquatic Preserve, WCIND shall demonstrate that the NICMZ(s) within that aquatic preserve have been established and marked in the field with signage in accordance with the requirements of the Florida Fish and Wildlife Conservation Commission's (FWC) Boating and Waterways Section. ~~Nothing in this rule shall be construed to relieve WCIND from obtaining sign permits required by the Florida Fish and Wildlife Conservation Commission (FWC).~~ For this purpose, DEP authorizes WCIND, as its agent, to apply to FWC for all required sign permits to mark the boundaries of the NICMZs established by this general permit. WCIND shall pay all permitting fees, and shall be responsible for installing and maintaining all permitted signs.

3. WCIND will design and implement a program to monitor seagrasses within the NICMZs using various scientifically approved methods after consultation with DEP and FWC staff. The monitoring shall be designed to establish the baseline coverage of seagrasses by species, the number and coverage of prop scarring, and document any change in coverage over time. At a minimum, the first monitoring will