

DEPARTMENT OF JUVENILE JUSTICE

Program Accountability

RULE NOS.:	RULE TITLES:
63L-2.001	Purpose and Scope
63L-2.002	Definitions
63L-2.003	Frequency of Reviews
63L-2.004	Program Notification and Review Preparation
63L-2.005	Conducting Reviews
63L-2.006	Indicators, Standards and Ratings
63L-2.007	Certified Reviewers
63L-2.008	Challenges to Program Reports
63L-2.009	Failed Standards
63L-2.010	Internal Review Board
63L-2.011	Deemed Status

PURPOSE AND EFFECT: The rule chapter governs the administration of the department’s statewide quality assurance system, which ensures the quality of programs operated by or on behalf of the department to serve youth and families.

SUBJECT AREA TO BE ADDRESSED: The rule chapter governs the quality assurance system, including the review and reporting of program performance.

RULEMAKING AUTHORITY: 985.64 FS.

LAW IMPLEMENTED: 985.632 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Tuesday, April 13, 2010, 2:00 p.m.

PLACE: DJJ Headquarters, 2737 Centerview Drive, General Counsel’s Conference Room 3223, Tallahassee, Florida. For information about participation by telephone, contact John Milla at (850)921-4129

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John Milla, 2737 Centerview Dr., Ste. 3200, Tallahassee, FL 32399-3100, e-mail: john.milla@djj.state.fl.us

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

DEPARTMENT OF HEALTH

Board of Psychology

RULE NO.:	RULE TITLE:
64B19-11.012	Application Forms

PURPOSE AND EFFECT: The Board proposes the rule review to delete unnecessary language and to add new language to clarify the application forms.

SUBJECT AREA TO BE ADDRESSED: Application forms.

RULEMAKING AUTHORITY: 490.004(4) FS.

LAW IMPLEMENTED: 490.005. 490.006(1)(b) 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, IF AVAILABLE, IS: Allen Hall, Executive Director, Board of Psychology/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

**Section II
Proposed Rules**

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE NO.:	RULE TITLE:
5E-1.012	Reports and Inspection Fee Payment, Inspection Fees, Reporting, Continuous Bond, Certificate of Deposit Requirement

PURPOSE AND EFFECT: Provide a reference for the Application for Monthly Report of Fertilizer Sold in the State of Florida, (DACS-13239, Rev. 02/10) and Application for Monthly Fertilizer Tonnage Reporting, (DACS-13238, Rev. 05/08), not previously referenced in rule language. Update the rule tonnage reporting requirements to agree with the Application for Monthly Fertilizer Tonnage Reporting, (DACS-13238, Rev. 05/08). To provide fertilizer companies the means to submit the Application for Monthly Report Of Fertilizer Sold In The State of Florida, (DACS-13239, Rev. 02/10) and Application for Monthly Fertilizer Tonnage Reporting, (DACS-13238, Rev. 05/08).

SUMMARY: Rule 5E-1.012, F.A.C., references the forms to be utilized for reporting monthly fertilizer tonnage sales and reporting statistical tonnage data.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small business. The SERC prepared by the agency states that the proposed rule will update and amend existing rules already in effect and specified in Rule 5E-1.012, F.A.C., affecting the 522 estimated fertilizer licensees. There are no anticipated costs of implementation or maintenance of this proposed rule to the Florida Department of Agriculture and Consumer Services or any other government agencies. There are no anticipated additional costs to be incurred by individuals and entities required to comply with

this proposed rule. This proposed rule should have a negligible to null impact on any small business and is not expected to have a disproportionate impact on small business, small counties or small cities.

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: 570.07(23), 576.181 FS.

LAW IMPLEMENTED: 576.041, 576.045 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: Mr. Bruce Nicely, Chief of Bureau of Compliance Monitoring; 3125 Conner Boulevard, Building 8, Tallahassee, Florida 32399; (850)487-8731

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-1.012 Reports and Inspection Fee Payment, Inspection Fees, Reporting, Continuous Bond, Certificate of Deposit Requirement.

(1) Licensees must make a monthly report of fertilizer sold in the State of Florida and pay a monthly inspection fee. Each Licensee shall report the amount of all fertilizers sold each month, using DACS 13239, Monthly Report of Fertilizer Sold in the State of Florida, Rev. 02/10 (Form AB-7110) on or before the 15th day of the following month, accompanied by inspection fee payment, as provided by law. A negative report shall be made for any month in which there were no sales.

(2) Statistical report of fertilizer tonnage. This report covers all fertilizer movements other than wholesale. Each Licensee shipping or delivering fertilizers in other than wholesale movements in lots of one or more tons shall notify the department thereof. Notification shall consist of:

(a) A monthly summary to be submitted on or before the 15th of the month following the reporting period. A negative report shall be made for any month in which there were no sales.

(b) The monthly summary shall be submitted using DACS 13238, Monthly Fertilizer Tonnage Reporting, Rev. 05/08, Form No. IN-142 Rev. 9/91 indicating the following information:

1. Date, Licensee Name, Licensee Number, Licensee Address, Reporting Month and Year, or month and year, as appropriate;

2. Destination County Code using the five digit (state + county) United States Environmental Protection Agency (EPA) County Federal Information Processing Standard (FIPS) code. The EPA County FIPS Code Listing for the State of Florida, Updated April 10, 2009 is hereby adopted and incorporated by

reference and can be obtained at the following website: www.epa.gov/enviro/html/codes/fl.html. Point of destination, including name or code number of county;

3. Quantity (net weight in tons);

4. Material Code (materials only; not for mixed fertilizer). The material codes can found in Appendix C of the Uniform Fertilizer Tonnage Reporting System Instruction Manual, Edition 2 (08/25/2006) which is hereby adopted and incorporated by reference and can be obtained at the following website: www.aapfco.org/uftrsvXP/UFTRSXPDoc.pdf. Brand and grade (analysis);

5. Mixed Grades Guaranteed Analysis N-P-K. Product code (Florida license and/or registration number);

6. Form (bulk, bagged, or liquid);

7. Use (Farm, Non-Farm Residential Lawn/Turf, Non-Farm Golf/Athletic Field, Non-Farm Garden/Landscape, Non-Farm Potting/Planting Soil, Non-Farm Nursery/Greenhouse farm or non-farm).

~~(3) All invoices shall show the inspection fee on bulk fertilizers.~~

~~(3)(4)~~ Each applicant for a fertilizer license shall post a continuous Surety Bond in the amount of \$1,000 using Fertilizer Dealer's Bond DACS 13229, Fertilizer Dealer's Bond, Rev. 10/09 (Fertilizer Form No. IN-140, Rev. 2/93) or a continuous Certificate of Deposit in the amount of \$1,000 made jointly in the names of the applicant and the Department with dividends payable to the applicant, or a continuous Certificate of Deposit in the amount of \$1,000 accompanied by an Assignment of Certificate of Deposit DACS 13201, Assignment of Certificate of Deposit, Rev. 11/09 using (Fertilizer Form IN-204, Rev. 2/93).

~~(4)(5)~~ Any Licensee who fails to report the amount of all fertilizers sold each month, using DACS 13239, Monthly Report of Fertilizer Sold in The State of Florida, Rev. 02/10, Form AB-7110 on or before the 15th day of the following month and accompanied by the inspection fee payment shall be required to secure with the Department a Surety Bond or Certificate of Deposit as outlined in the schedule below:

Highest Amount of Fees Paid During a Single Month of Last Year	Amount of Bond Deposit Required
0 - \$1,000	\$1,000
1,001 - 3,000	3,000
3,001 - 5,000	5,000
5,001 - 7,000	7,000
7,001 - 9,000	9,000
9,001 - 11,000	11,000
Over 11,000	15,000

~~(6) This schedule shall be implemented following the effective date of this rule.~~

(5)(7) FORMS. The Department following forms contained in this rule are hereby adopted and incorporated by reference and. ~~These forms~~ may be obtained from the Florida Department of Agriculture and Consumer Services, Division of Agricultural Environmental Services, Bureau of Compliance Monitoring, 3125 Conner Boulevard, Building 8, Tallahassee, Florida 32399-1650, (850)487-2085 or by visiting the Department's website at www.doacs.state.fl.us/onestop/index.html.

- (a) ~~Form No. IN 140, Rev. 2/93.~~
- (b) ~~Form No. IN 142, Rev. 9/91.~~
- (c) ~~Form No. IN 204.~~
- (d) ~~Form AB 7110, Rev. 6/92.~~

Rulemaking Specific Authority 570.07(23), 576.181 FS. Law Implemented 576.041, 576.045 FS. History—Revised 1-23-67, 6-24-69, 2-26-71, 3-1-73, 1-1-77, Formerly 5E-1.12, Amended 8-3-93, 10-25-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Anderson Rackley, Director, Division of Agriculture Environmental Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mr. Charles H. Bronson, Commissioner of Agriculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 9, 2010

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE NO.: 5E-2.031
 RULE TITLE: Pesticide Registration; Exemptions from Registration; Experimental Use Permits

PURPOSE AND EFFECT: To provide a reference for the form Application For New Or Amended Pesticide Product Brand Registration (DACS-13342, Rev. 12/09) and the Application For Reregistration Pesticide Product Brand(s) (DACS-13501, Rev. 12/09), not previously referenced in rule language and to describe documents that must be submitted with new or amended pesticide product brand registration.

SUMMARY: The rule will update the revision dates on forms DACS-13342, Rev. 12/09 and DACS-13501, Rev. 12/09 and describe documents that must be submitted with new or amended pesticide product brand registration.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small business. A SERC has been prepared by the agency. The rule provides a reference for the Application for New or Amended Pesticide Product Brand Registration DACS-13342, Rev. 12/09 and Application for

Reregistration Pesticide Product Brand(s) DACS-13501, Rev. 12/09. It also lists the documents for registration that were previously included in the Application for New or Amended Pesticide Product Brand Registration DACS-13342, Rev. 06/08.

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: 487.041 FS.

LAW IMPLEMENTED: 487.041 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: Dr. Dennis F. Howard, Chief of Bureau of Pesticides, 3125 Conner Boulevard, Building 6, Tallahassee, Florida 32399; (850)487-0532

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-2.031 Pesticide Registration; Exemptions from Registration; Experimental Use Permits.

(1) through (4)(a) No change.

(b) When it is determined by the Pesticide Review Council that it is necessary that the applicant or registrant conduct Florida field testing of a restricted-use pesticide, that applicant or registrant shall apply to the department for an Experimental Use Permit pursuant to subsection (11) of this rule. During the period of experimentation, the department may deny, revoke, suspend or conditionally accept the registration.

(5) through (10) No change.

~~(11) The department's "Procedural Guidelines and Standards for the Review of State Pesticide Registrations, Emergency Exemptions and Experimental Use Permits" (September 1991) are hereby adopted by reference. A copy of the guidelines may be obtained from the Pesticide Registration Section, 3125 Conner Boulevard, MD-2, Tallahassee, Florida 32399-1650.~~

(11)(a) Applicants for new or amended pesticide brand registration shall submit a completed form DACS-13342, Application for New or Amended Pesticide Product Brand Registration, Rev. 12/09 together with the following documents: 1. One final printed label (that which appears on the product container); 2. One EPA stamped accepted label including a copy of any EPA comment, notification and amendment letter(s) issued in connection with acceptance of the label; 3. One Material Safety Data Sheet (MSDS), which includes a statement of emergency treatment; 4. For sub-registrations, the information required in item 2 above must be obtained from or submitted by the manufacturer along with the EPA Notice of Supplemental Distribution of a Registered Pesticide Product (EPA Form 8570-5) which is

hereby adopted and incorporated by reference and may be obtained at the website <http://www.epa.gov/opprd001/forms/8570-5.pdf>.

(b) Applicants for pesticide brand product re-registration shall submit a completed form DACS-13501, Application for Reregistration Pesticide Product Brand(s), Rev. 12/09.

(12) All forms, filing specifications and materials contained in this rule are hereby adopted and incorporated by reference and unless indicated otherwise herein may be obtained from the Florida Department of Agriculture and Consumer Services, Bureau of Pesticides, 3125 Conner Boulevard, Building 6, MS L6, Tallahassee, Florida 32399-1650; (850)487-2130 or by visiting the Department's website at <http://www.doacs.state.fl.us>.

Rulemaking Specific Authority 487.041, 487.051(2), 570.07(23) FS. Law Implemented 487.041, 487.042, 487.051(2), 487.0615 FS. History—New 2-20-85, Formerly 5E-2.31, Amended 8-2-89, 7-18-95,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Anderson H. Rackley, Director of Agricultural Environmental Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mr. Charles H. Bronson, Commissioner of Agriculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 9, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 22, 2010

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Community Planning

RULE NOS.:	RULE TITLES:
9J-11.004	Submittal Requirements for Proposed Local Government Comprehensive Plans
9J-11.006	Submittal Requirements for Proposed Local Government Comprehensive Plan Amendments
9J-11.009	Action Upon Receipt of Proposed Local Government Comprehensive Plan Amendment
9J-11.011	Local Government Adoption of the Comprehensive Plan or Plan Amendment and Submittal for the Compliance Review
9J-11.012	Compliance Review and Notice of Intent
9J-11.015	Submittal Requirements for Adopted Amendments that Are Exempt from State and Regional Review

9J-11.019	Action to Require Local Government to Submit Land Development Regulations for Review
9J-11.021	Action if Local Government Has Failed to Adopt the Required Land Development Regulations

PURPOSE AND EFFECT: The purpose and effect is to revise the rule to conform to current statutory requirements.

SUMMARY: The revisions of Chapter 9J-11, F.A.C., pertaining to local government comprehensive plans, including submittal requirements, action upon receipt, review requirements and notices of intent. The revisions of Chapter 9J-11, F.A.C., pertaining to comprehensive plan amendments exempt from the twice per calendar year limitation on the adoption of comprehensive plan amendments. The revision of Chapter 9J-11, F.A.C., pertaining to the submittal requirements for amendments that are exempt from State and regional review. The revision of Chapter 9J-11, F.A.C., pertaining to the submittal requirements for evaluation and appraisal reports and appraisal report-based amendments.

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: 163.3177(9), 163.3202(5) FS. LAW IMPLEMENTED: 163.3167(2), (3), 163.3175(2), (3), (4), 163.3177(1), (3), (4), (6), (7), (9), (10), (12), (13), (14), 163.3184(1), (2), (3),(4), (5), (6), (7), (14), (15), (16), (17), (18), 163.3187(1), (2), (5), (6), 163.3189, 163.3191, 163.3202, 369.321(5), 163.3146(9), 380.06(6) FS.

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

DATE AND TIME: April 12, 2010, 9:00 a.m.

PLACE: The Randall Kelley Training Center, Third Floor, Room 305, Sadowski Building, 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: Ray Eubanks, Plan Review Administrator, Division of Community Planning, Plan Review and Processing Unit, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1767. 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: Ray Eubanks, Plan Review Administrator, Division of Community Planning, Plan Review and Processing Unit, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100; (850)922-1767

THE FULL TEXT OF THE PROPOSED RULES IS:

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

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

(c) The comprehensive plan including goals, objectives, policies, maps in color format, and support documents which include data and analyses specified in Rule 9J-5.005, F.A.C. Summaries of support documents may be submitted consistent with subsection 9J-5.005(2), F.A.C.;

(d) In the event the local government does not include all of the goals, objectives, policies, maps in color format, and support documents which include data and analyses required by Chapter 9J-5, F.A.C., in its submittal, it shall include a list identifying all omitted items and the reason for each omission.

Rulemaking Specific Authority 163.3177(9) FS. Law Implemented 163.3167(2), 163.3177(1), (4)(b), (7), (9), 163.3184(2), (3), (14), (15), 163.3191 FS. History—New 9-22-87, Amended 10-11-88, 11-10-93, 11-6-96, 4-8-99, 11-24-02, 6-30-05, 4-17-06,_____.

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

(1) The local government shall submit three copies of each proposed amendment, of which at least one copy shall be paper and up to two copies may be on CD ROM in Portable Document Format (PDF), including applicable supporting documents which include data and analyses directly to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team, and one copy directly to the appropriate agencies list in subsection 9J-11.009(6), F.A.C. Proposed plan amendments, except those discussed under the exemption provisions of subparagraph 9J-11.006(1)(a)7., F.A.C., below, shall be consolidated into a single submission for each of the two plan amendment adoption dates ~~times~~ during the calendar year. The comprehensive plan submitted pursuant to Section 163.3167, F.S., shall be counted as one of the two plan amendment adoption times during the calendar year; however, only the submittal requirements of Rule 9J-11.004, F.A.C., must be followed. For each proposed plan amendment submittal package, the local governing body shall submit:

(a) through 7.g. No change.

h. ~~An amendment that changes the schedule in~~ The capital improvement element annual update required by Section 163.3177(3)(b)1., F.S., and any amendments directly related to the schedule pursuant to Section 163.3187(1)(f), F.S.;

i. through p. No change.

~~q. An amendment adopting a boating facility siting plan or policy pursuant to Section 380.06(24)(k)1., F.S.;~~

r. through u. renumbered; q through t. No change.

~~v. An amendment to the capital improvements element to update the schedule of capital improvements on an annual basis pursuant to Section 163.3177(3)(b)1., F.S.;~~

~~w. An amendment to the capital improvements element other than an update to the schedule of capital improvements pursuant to Section 163.3177(3)(b)2., F.S.;~~

~~u.x.~~ No change.

~~v.y.~~ An amendment that is intended to designate an urban service boundary meeting the criteria of Section 163.3177(14), F.S., pursuant to Section 163.3177(14)(c)(b), F.S.;

z. through cc. renumbered; w. through z. No change.

aa. An amendment to incorporate the interlocal service boundary agreement pursuant to Sections 171.203(6)(f), 171.203(9), and 171.203(11)(c), F.S.

bb. An amendment to incorporate recreational surface water use policies pursuant to Section 163.3177(6)(g)2., F.S.

cc. An amendment that is related to an affordable housing density bonus pursuant to Section 420.615(5), F.S.;

dd. An amendment adopting a transportation concurrency backlog plan pursuant to Section 163.3182(4)(b), F.S.;

ee. An amendment that is consistent with the local housing incentive strategies identified in Section 420.9076, F.S., pursuant to Section 163.3187(1)(p), F.S.;

ff. An amendment to implement a Community Workforce Housing Innovation Pilot Program consistent with Section 420.5095, F.S., pursuant to Section 420.5095(9), F.S.;

gg. An amendment to establish public school concurrency pursuant to Section 163.3180(13), F.S., as specified in Section 163.3187(1)(j), F.S.;

hh. An amendment to adopt a municipal overlay pursuant to Section 163.3217(2)(b)2., F.S.

ii. An amendment to designate an urban service area as a transportation concurrency exception area under Section 163.3180(5)(b)2., or 3., F.S. pursuant to Section 163.3187(1)(q), F.S.

8. through 10. No change.

(b) The proposed amendment package shall include all proposed text in a strike through and underline format or similar easily identifiable format, maps in color format and support documents which includes data and analyses, ~~as reflected on new pages of the affected element in a strike through and underline format or similar easily identifiable format identifying the plan amendment number on each page affected.~~ In the case of future land use plan map amendments, the following additional information must be provided:

1. Future land use map(s) in color format depicting the following information:

a. through 5. No change.

(c) through (3) No change.

Rulemaking Specific Authority 163.3177(9) FS. Law Implemented 163.3177(3), (6), (9), (13), (14), 163.3184(1), (2), (3), (15), (17), (18), 163.3187(1), (2), (5), 163.3191, 369.321(5), 380.06(6) FS. History—New 9-22-87, Amended 10-11-88, 11-10-93, 11-6-96, 4-8-99, 1-8-01, 11-24-02, 6-30-05, 4-17-06,_____.

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

(1) through (5) No change.

(6) The local government shall transmit three copies of plans, parts of plan, or plan amendments of which at least one copy shall be paper and up to two copies may be on CD ROM in Portable Document Format (PDF) to the Department and one copy directly to the various agencies and governments, as appropriate, for their review and written response. These agencies and governments may include, but not be limited to, the following:

(a) through (7) No change.

(8) Local governments are prohibited from adopting some amendments to their comprehensive plans for failure to comply with the following statutory requirements:

(a) Pursuant to Section 163.3177(3)(b)1., F.S., future land use map amendments may not be adopted if the local government has failed to adopt the annual capital improvements update by December 1 each year beginning 2011 2007, except a local government may adopt emergency amendments pursuant to Section 163.3187(1)(a), F.S.;

(b) No change.

~~(c) Pursuant to Section 163.3177(12)(j), F.S., amendments which increase residential density may not be adopted if the local government has failed to adopt the public school facility element and enter into an approved interlocal agreement by December 1, 2008;~~

(d) through (e) renumbered (c) through (d) No change.

~~(e)(f)~~ Pursuant to Section 163.3191(10), F.S., no amendment may be adopted if the local government has failed to timely adopt and transmit the evaluation and appraisal report-based amendments ~~after July 1, 2006~~; and

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

Rulemaking Specific Authority 163.3177(9) FS. Law Implemented 163.3167(2), (3), 163.3175(2), 163.3177(3), (6), (9), (12), 163.3184(2), (3), (4), (5), (6), 163.3187(6), 163.3191 FS. History—New 9-22-87, Amended 11-10-93, 11-6-96, 4-8-99, 1-8-01, 11-24-02, 6-30-05, 4-17-06,_____.

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

(1) through (5)(a)5.e. No change.

f. If package contains a future land use map amendment adopted after December 1, 2011 2007, a statement indicating the date that the annual capital improvement element update has been adopted and submitted along with the summary of de minimis impact records.

6. through (b)1. No change.

2. In the case of a future land use map plan amendment, the adopted future land use map in color format reflecting the changes made when adopted. The map amendments shall be submitted on maps that indicate the ordinance number and date of each amendment update. Also, it is not mandatory that completely reprinted future conditions maps be provided unless major, jurisdiction-wide changes are made. Appropriately labeled and cross-referenced maps may be acceptable;

3. through 5. No change.

~~6. Copies of the comprehensive plan pages that contain the newly adopted comprehensive plan amendments replacing the existing comprehensive plan pages in a manner that will update the plan and incorporate all plan amendments. To avoid reprinting all pages in the plan, it is permissible to number pages that contain additions or deletions to be inserted in the plan with the appropriate page number followed by decimals or some other equivalent sub-numbering system. These pages shall include the amendment ordinance number and adoption dates.~~

~~7. A new cumulative table of contents that includes all comprehensive plan amendments shall be submitted with each plan amendment package, and it shall indicate the revision date and ordinance numbers. The table of contents page(s) shall include the most recent amendment date.~~

(6) through (8)(a) No change.

(b) If the amendment is adopted to meet the annual update of the schedule or to eliminate, defer, or delay the construction for any facility listed in the 5-year schedule pursuant to Section 163.3177(3)(b), F.S., the local government must submit a copy of the executed ordinance, the amendment in strike thru and underline format, and a summary of the transportation concurrency de minimis impact records pursuant to Section 163.3180(6), F.S. The schedule must identify each year in fiscal year format. In the event local government does not grant exceptions for de minimis impact, an information statement indicating no records were included in the transmittal package must be submitted.

(9) through (10) No change.

Rulemaking Specific Authority 163.3177(9) FS. Law Implemented 163.3167(3), 163.3175(4), 163.3177(3), (9), 163.3184(1)(b), (2), (6), (7), (15), (16), 163.3187(1), 163.3189, 163.3191, 380.06(6) FS. History–New 9-22-87, Amended 10-11-88, 11-10-93, 11-6-96, 4-8-99, 1-8-01, 11-24-02, 6-30-05, 4-17-06, _____.

9J-11.012 Compliance Review and Notice of Intent.

(1) through (a) No change.

(b) In compliance or not in compliance within 45 calendar days after receipt of the complete adopted amendment, unless the amendment is the result of a compliance agreement entered into pursuant to Section 163.3184(16), F.S., in which case the time period for review and determination is 30 calendar days. The review period shall run from the determination of completeness pursuant to subsection 9J-11.012(1), F.A.C. If the Department did not, and was not, requested to review the proposed plan or plan amendment, the Department’s review must be based solely on the adopted plan or plan amendment.

(2) through (5) No change.

(6) If a Notice of Intent is issued to find the adopted plan or amendment not in compliance, the Department will forward a copy of the Notice of Intent to the Division of Administrative Hearings, Department of Management Services, requesting a hearing. During the review period provided in subsection 9J-11.012(1), F.A.C., the Department shall issue a written Statement of Intent describing how each portion of a comprehensive plan or plan amendment alleged to be not in compliance is not consistent with one or more provisions of Section 163.3177, F.S., ~~when local government adopts an educational facilities element~~, Sections 163.3178, 163.3180, 163.3191, and 163.3245, F.S., the state comprehensive plan, the appropriate strategic regional policy plan, or Chapter 9J-5, F.A.C., and a statement of remedial actions that the local government may complete in order to bring the plan into compliance. A copy of the Statement of Intent shall be mailed to the local government and to persons who requested a copy of the Notice of Intent. The Department shall file a petition requesting an administrative hearing and relief with the Division of Administrative Hearings. The petition shall incorporate the issues contained in the Statement of Intent, and the Statement of Intent and the Notice of Intent shall be filed with the petition. The administrative law judge shall submit the recommended order to the Administration Commission for final agency action.

(7) through (g) No change.

Rulemaking Specific Authority 163.3177(9) FS. Law Implemented 163.3177(9), 163.3184(8), (9), (10) FS. History–New 9-22-87, Amended 10-11-88, 11-10-93, 11-6-96, 7-21-97, 4-8-99, 1-8-01, 11-24-02, 4-17-06, _____.

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

(1) through (a)4.f. No change.

(b) The adopted amendment package shall include:

1. One copy of the future land use map in color format depicting the newly adopted land use designation and the boundaries and location of the subject property in relationship to the surrounding street and thoroughfare network;

2. through 4. No change.

5. A completed copy of Form RPM-BSP-Exempt Review, Form No. RPM-BSP-Exempt-1, effective _____ ~~4-17-06~~, incorporated by reference with the amendment. Copies of Form RPM-BSP-Exempt Review may be obtained from the Department of Community Affairs, Division of Community Planning, Plan Processing Team and from the Department’s web site.

(2) No change.

Rulemaking Specific Authority 163.3177(9) FS. Law Implemented 163.3184(17), (18), 163.3187, 163.3246(9)(a) FS. History–New 11-10-93, Amended 11-6-96, 4-8-99, 6-30-05, 4-17-06, _____.

9J-11.019 Action to Require Local Government to Submit Land Development Regulations for Review.

(1) No change.

(2) The Department shall consider that reasonable grounds exist only if the ~~Chief, Bureau of Local Planning~~, Department of Community Affairs, Division of Community Planning, has received a letter stating facts which show that the local government has completely failed to adopt one or more of the regulations required by Section 163.3202(2), F.S., within one year after submission of its revised comprehensive plan for review pursuant to Section 163.3167(2), F.S., or if the Department has received a letter stating facts which show that the local government has totally failed to adopt one or more of the regulations required by Section 163.3202, F.S. The letter shall include the name, address, telephone number and signature of the sender and shall provide any relevant background documentation and specific reasons for the assertion that the required regulations have not been adopted.

(3) If the Department has reasonable grounds to believe that a local government has completely failed to adopt one or more of the land development regulations required by Section 163.3202, F.S., the Department shall mail a certified letter, return receipt requested, to the chief local elected official requiring the local government to transmit two copies of whatever land development regulations have been adopted, including regulations of other agencies if incorporated into the local government’s development approval system, to the ~~Chief, Bureau of Local Planning~~, Department of Community Affairs, Division of Community Planning ~~and Management~~, within 30 calendar days from receipt of the letter from the Department. The land development regulations submitted must include copies of any separate adopting or enabling legislation. All copies of regulations and legislation must be certified as true and correct copies of the originals by the city or county clerk.

(4) If the local government has not adopted the required land development regulations, it shall send a letter to the ~~Chief, Bureau of Local Planning,~~ Department of Community Affairs, Division of Community Planning ~~and Management,~~ within 30 calendar days from receipt of the letter from the Department indicating that the regulations have not been adopted. The letter shall state what actions the local government has already taken to develop and adopt the required regulations and shall include a schedule approved by formal action of the local governing body for adoption of the regulations. The schedule must provide for the adoption of the required regulations within 120 calendar days from receipt of the Department's initial letter requesting copies of the regulations unless the Department agrees to refrain from taking further action for an additional period of time during the 120 day period. If the local government requests that the Department refrain from taking further action, the Department will respond to that request within 14 calendar days of receipt of the request. The Department shall not agree to refrain from taking further action for an additional period of time unless there is substantial evidence that the local government is unable to adopt the regulations within the 120 day period.

(5) No change.

Rulemaking Specific Authority 163.3202(5) FS. Law Implemented 163.3202 FS. History--New 11-6-96, Amended 4-8-99, 11-24-02,_____.

9J-11.021 Action if Local Government Has Failed to Adopt the Required Land Development Regulations.

(1) through (2) No change.

(3) The local government shall have 90 calendar days from receipt of the Department's notification letter to adopt the required regulations, unless the Department agrees to refrain from taking further action for an additional period of time during the 90 day period. If the local government requests that the Department agree to refrain from taking further action for an additional period of time, the Department will respond to that request within 14 calendar days of receipt of the request. Every request that the Department refrain from taking further action must include a schedule approved by formal action of the local government that provides for the adoption of the required regulations during the extension period. The Department shall not agree to refrain from taking further action for an additional period of time unless there is substantial evidence that the local government is unable to adopt the regulations within the 90 day period. Upon adoption, the local government shall submit two copies of the required regulations, including copies of any separate adopting or enabling legislation, to the ~~Chief, Bureau of Local Planning,~~ Department of Community Affairs, Division of Community Planning. All copies of regulations and legislation must be certified as true and correct copies of the originals by the city or county clerk.

(4) through (6) No change.

Rulemaking Specific Authority 163.3202(5) FS. Law Implemented 163.3202 FS. History--New 11-6-96, Amended 4-8-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Ray Eubanks, Plan Review Administrator

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas G. Pelham, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 5, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 8, 2010

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:
59G-13.051

RULE TITLE:
Assisted Living for the Elderly
Waiver Services Procedure Codes
and Fee Schedule

PURPOSE AND EFFECT: The purpose of proposed Rule 59G-13.051, F.A.C., is to incorporate by reference the Assisted Living for the Elderly Waiver Services Procedure Codes and Fee Schedule, July 2009. The proposed rule will create a stand-alone rule regarding the procedure codes and fee schedule.

SUMMARY: The fee schedule provides fees for case management and assisted living services under the waiver and provides information to providers on the Medicaid fee schedule for the program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A SERC has been prepared by the Agency and it has been determined there is no regulatory cost.

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 FS.

LAW IMPLEMENTED: 409.906, 409.909, 409.912 FS.

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

DATE AND TIME: Tuesday, April 13, 2010, 9:00 a.m. – 10:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, Florida 32308-5407

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 48 hours before the workshop/meeting by contacting: Carol Schultz at the Bureau of Medicaid Services, (850)412-4256. 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: Carol Schultz, Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, e-mail: schultzc@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-13.051 Assisted Living for the Elderly Waiver Services Procedure Codes and Fee Schedule.

(1) This rule applies to all Assisted Living for the Elderly waiver services providers enrolled in the Medicaid program.

(2) All Assisted Living for the Elderly waiver services providers enrolled in the Medicaid program must be in compliance with the Assisted Living for the Elderly Waiver Services Procedure Codes and Fee Schedule, July 2009, which is incorporated by reference. The Procedure Codes and Fee Schedule is available from the Medicaid fiscal agent's Web Portal at <http://mymedicaid-florida.com>. Click on Public Information for Providers, then on Provider Support, and then on Fee Schedules. Paper copies may be obtained from the Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, M.S. 20, Tallahassee, Florida 32308.

Rulemaking Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.912 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Carol Schultz

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas W. Arnold

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 5, 2010

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

Board of Medicine

RULE NO.: 64B8-9.0092
RULE TITLE: Approval of Physician Office Accrediting Organizations

PURPOSE AND EFFECT: The proposed rule amendment is intended to add the Institute of Medical Quality (IMQ) to the Board's rule as an accrediting organization for office surgery.

SUMMARY: The proposed rule amendment adds the Institute of Medical Quality (IMQ) to the Board's rule as an accrediting organization for office surgery for a period of one year beginning July 15, 2010.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Board has determined that the proposed rule amendment will not have an impact on small business.

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

RULEMAKING AUTHORITY: 458.309(3) FS.

LAW IMPLEMENTED: 458.309(3) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.0092 Approval of Physician Office Accrediting Organizations.

(1) through (6) No change.

(7) Board approved accrediting organizations include the Institute of Medical Quality (IMQ), approved February 6, 2010. IMQ is approved, effective July 15, 2010, through July 14, 2011.

(7) through (9) renumbered (7) through (10) No change.

Rulemaking Specific Authority 458.309(3) FS. Law Implemented 458.309(3) FS. History--New 3-9-00, Amended 3-25-02, 12-28-04, 1-30-07.

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

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 19, 2010

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-30.015
 RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The proposed rule amendments are intended to set forth additional disciplinary guidelines for specific violations.

SUMMARY: The proposed rule amendments set forth additional guidelines and penalties for various violations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Costs has been prepared. Essentially, the Statement estimates that physician assistants who are required to pay additional fines, attend courses and perform other duties as a result of violating laws and rules will be impacted by the rule. In addition, in instances where a license is revoked, the impact may negatively affect small business due to the loss of the licensee performing services. A positive impact in the community will result in instances where a physician assistant is required to perform community service at no charge to the public. Those entities providing continuing medical education will be positively impacted by the increased revenues derived from licensees who are required to complete designated CME as a result of certain violations of laws and rules.

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: 456.079, 458.309, 458.331(4) FS.

LAW IMPLEMENTED: 456.072, 456.079, 458.331(4), 458.347(4)(e)1., (7)(g) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-30.015 Disciplinary Guidelines.

(1) Purpose. Pursuant to Section 456.072, F.S., the Boards provide within this rule disciplinary guidelines which shall be imposed upon physician assistant applicants or licensees whom it regulates under Chapters 458 and 459, F.S. The purpose of this rule is to notify such applicants and licensees of the ranges of penalties which will routinely be imposed unless the Boards find it necessary to deviate from the guidelines for the stated reasons given within this rule. The ranges of penalties provided below are based upon a single count violation of each provision listed; for multiple counts of the violated provisions or a combination of the violations the Boards shall consider a higher penalty than that for a single, isolated violation. Each range includes the lowest and highest penalty and all penalties falling between, including continuing medical education (CME). The purposes of the imposition of discipline are to punish the applicants or licensees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants or licensees from violations.

(2) Violations and Range of Penalties. In imposing discipline upon physician assistant applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATIONS

(a) Attempting to obtain a license or certificate by bribery, fraud or through an error of the Department or the Board.

(Section 458.331(1)(a), F.S.)

(Section 456.072(1)(h), F.S.)

1. Attempting to obtain an initial license by bribery or fraud.
2. Attempting to renew a license by bribery or fraud.
3. Obtaining or renewing a license by bribery or fraud.

RECOMMENDED PENALTIES

First Offense

~~(a) From suspension of license to revocation with ability to reapply, or denial of licensure.~~

1. Denial of application and a \$10,000.00 fine.
2. Revocation of the license and payment of a \$5,000.00 fine to revocation and a \$10,000 fine.
3. Revocation of the license and payment of a \$5,000.00 fine to revocation and a \$10,000 fine.

Subsequent Offenses

~~(a) From denial of license to revocation of license with ability to reapply in not less than three years and a fine up to \$5,000.00 to denial of license without ability to reapply.~~

2. Revocation and a \$10,000.00 fine.
3. Revocation and a \$10,000.00 fine.

4. Obtaining or renewing a license through error of the Department of the Board.

(b) No change.

1. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(c) Guilty of crime directly relating to practice or ability to practice.

(Section 458.331(1)(c), F.S.)

(Section 456.072(1)(c), F.S.)

1. Involving a crime directly related to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Involving a crime directly related to healthcare fraud in dollar amounts of \$5,000.00 or less.

(d) False, deceptive, or misleading advertising.

(Section 458.331(1)(d), F.S.)

(e) Failure to report another licensee in violation.

(Section 458.331(1)(e), F.S.)

(Section 456.072(1)(i), F.S.)

(f) Aiding unlicensed practice.

(Section 458.331(1)(f), F.S.)

(Section 456.072(1)(j), F.S.)

4. Revocation.

1. ~~Revocation From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.~~

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, 100 hours of community service, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.

(c) From reprimand to revocation or denial of license, ~~and an administrative fine of \$1,000.00 to \$5,000.00, and 50 to 100 hours of community service.~~

1. ~~Revocation From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$5,000.00 to \$10,000.00 \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.~~

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, 100 hours of community service, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.

(d) From a letter of concern to reprimand, or denial of licensure, ~~and an administrative fine ranging from \$1,000.00 to \$2,500.00, and 50 to 100 hours of community service.~~

(e) From a letter of concern to probation ~~and an administrative fine ranging from \$1,000.00 to \$2,500.00, 25 to 50 hours of community service,~~ or denial of licensure.

(f) From reprimand to suspension, followed by probation, or denial of licensure, 25 to 50 hours of community service, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

4. Revocation.

1. From ~~permanent~~ revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, 200 hours of community service, and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.

(c) From probation to revocation or denial of the license, ~~and an administrative fine ranging from \$2,500.00 to \$5,000.00, and from 100 to 200 hours of community service.~~

1. ~~From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.~~

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, 200 hours of community service, and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.

(d) From a letter of concern to reprimand, or denial of licensure, ~~and an administrative fine ranging from \$1,000.00 to \$2,500.00, and 100 to 200 hours of community service.~~

(e) From reprimand to suspension or denial of licensure, ~~and an administrative fine from \$2,500.00 to \$5,000.00, and 50 to 100 hours of community service.~~

(f) From probation to revocation or denial of licensure, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

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| <p>(g) Failure to perform legal obligation.
(Section 458.331(1)(g), F.S.)
(Section 456.072(1)(k), F.S.)</p> <p>1. through 2. No change.
3. Failing to disclose financial interest to patient.
(Section 456.052, F.S.)</p> <p>(h) No change.
1. Involving healthcare fraud in dollar amounts in excess of \$5,000.00.</p> <p>2. Involving healthcare fraud in dollar amounts of \$5,000.00 or less.</p> <p>(i) Kickbacks or split fee arrangements.
(Section 458.331(1)(i), F.S.)</p> <p>(j) Sexual Misconduct.
(Section 458.331(1)(j), F.S.)
(Section 458.329, F.S.)
(Section 456.072(1)(u), F.S.)</p> <p>(k) Deceptive, untrue, or fraudulent representations in the practice of medicine.
(Section 458.331(1)(k), F.S.)
(Section 456.072(1)(a), (m), F.S.)
1. No change.
2. Deceptive, untrue, or fraudulent representations in the practice of medicine relating to healthcare fraud in dollar amounts of \$5,000.00 or less.</p> | <p>(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial of licensure, <u>50 hours of community service</u> and an administrative fine from \$1,000.00 to \$5,000.00.</p> <p>3. A refund of fees paid by or on behalf of the patient and from an administrative fine of \$1,000.00, <u>50 hours of community service</u> to a reprimand, <u>100 hours of community service</u> and an administrative fine of \$2,500.00.</p> <p>1. Revocation From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.</p> <p>2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, <u>50 to 100 hours of community service</u> and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.</p> <p>(i) A refund of fees paid by or on behalf of the patient, <u>25 to 50 hours of community service</u> and from a reprimand and an administrative fine of \$1,000.00 to a reprimand and an administrative fine of \$5,000.00, or denial of licensure.</p> <p>(j) From probation to revocation, or denial of licensure, <u>50 to 100 hours of community service</u>, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> <p>(k) From a letter of concern, <u>and 25 to 50 hours of community service</u> to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> <p>2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, <u>50 to 100 hours of community service</u>, and a reprimand through suspension of the license, or in the case of application for licensure, denial of licensure.</p> | <p>(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial, <u>from 50 to 100 hours of community service</u> and an administrative fine from \$2,500.00 to \$5,000.00.</p> <p>3. A refund of fees paid by or on behalf of the patient and from a reprimand, <u>100 hours of community service</u> and an administrative fine of \$2,500.00 to a reprimand, <u>200 hours of community service</u> and an administrative fine of \$5,000.00.</p> <p>1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.</p> <p>2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, <u>100 to 200 hours of community service</u> and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.</p> <p>(i) A refund of fees paid by or on behalf of the patient, <u>50 to 100 hours of community service</u>, and from suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> <p>(j) From suspension, <u>to be followed by a period of probation</u> to revocation, <u>100 to 200 hours of community service</u> or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> <p>(k) From probation or denial of licensure, <u>50 to 100 hours of community service</u>, and an administrative fine ranging from \$2,500.00 to \$5,000.00 to revocation.</p> <p>2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation to revocation, <u>100 to 200 hours of community service</u>, or in case of application for licensure, denial of licensure.</p> |
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| <p>(l) Improper solicitation of patients.
(Section 458.331(1)(l), F.S.)</p> | <p>(l) From an administrative fine ranging from \$1,000.00 to \$5,000.00, <u>25 to 50 hours of community service</u> and a reprimand to probation, or denial of licensure.</p> | <p>(l) From suspension, <u>to be followed by a period of probation, 50 to 100 hours of community service</u>, to revocation or denial of licensure, and an administrative fine from \$2,500.00 to \$5,000.00.</p> |
| <p>(m) Failure to keep legible written medical records.
(Section 458.331(1)(m), F.S.)</p> | <p>(m) From letter of concern, <u>25 to 50 hours of community service</u> to a reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> | <p>(m) From a reprimand to suspension followed by probation, <u>50 to 100 hours of community service</u>, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or denial of licensure.</p> |
| <p>1. No change.
2. Failure to keep legible written medical records relating to healthcare fraud in dollar amounts of \$5,000.00 or less.</p> | <p>2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand, <u>50 to 100 hours of community service</u> to through suspension of the license, or in the case of application for licensure, denial of licensure.</p> | <p>2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation, <u>100 to 200 hours of community service</u> to revocation, or in case of application for licensure, denial of licensure.</p> |
| <p>(n) Exercising influence on patient for financial gain.
(Section 458.331(1)(n), F.S.)
(Section 456.072(1)(n), F.S.)</p> | <p>(n) Payment of fees paid by or on behalf of the patient and from a reprimand, <u>25 to 50 hours of community service</u> to probation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> | <p>(n) Payment of fees paid by or on behalf of the patient and from probation, <u>50 to 100 hours of community service</u>, to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(o) Improper advertising of pharmacy.
(Section 458.331(1)(o), F.S.)</p> | <p>(o) From a letter of concern to probation, or a denial of licensure, <u>25 to 50 hours of community service</u>, and an administrative fine ranging from \$250.00 to \$2,500.00.</p> | <p>(o) From a reprimand, <u>50 to 100 hours of community service</u> and an administrative fine of \$2,500.00 to probation, and an administrative fine from \$2,500.00 to \$5,000.00, or denial of licensure.</p> |
| <p>(p) Performing professional services not authorized by patient.
(Section 458.331(1)(p), F.S.)</p> | <p>(p) From a letter of concern, <u>25 to 50 hours of community service</u> to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> | <p>(p) From a reprimand, <u>50 to 100 hours of community service</u> to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(q) Inappropriate or excessive prescribing.
(Section 458.331(1)(q), F.S.)</p> | <p>(q) From reprimand to probation, <u>25 to 50 hours of community service</u> and an administrative fine ranging from \$1,000.00 to \$5,000.00, or denial of licensure.</p> | <p>(q) From probation, <u>50 to 100 hours of community service</u> to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(r) Prescribing or dispensing of a scheduled drug by the physician assistant to himself or herself.
(Section 458.331(1)(r), F.S.)</p> | <p>(r) From probation to suspension or denial of licensure, <u>25 to 50 hours of community service</u> and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p> | <p>(r) From suspension to revocation or denial of licensure, <u>50 to 100 hours of community service</u> and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(s) Inability to practice medicine with skill and safety.
(Section 458.331(1)(s), F.S.)</p> | <p>(s) From reprimand to suspension, which may be stayed to allow a period of probation with supervision, and a demonstration by the licensee of the ability to practice with reasonable skill and safety, or denial of licensure, <u>25 to 50 hours of community service</u> and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p> | <p>(s) From probation to revocation, until the licensee is able to demonstrate ability to practice with reasonable skill and safety, followed by probation, or denial of licensure, <u>50 to 100 hours of community service</u> and an administrative fine from \$2,500.00 to \$5,000.00.</p> |

- (t)1. Malpractice: practicing below acceptable standard of care. (Section 458.331(1)(t), F.S.)
2. Gross Malpractice.
3. No change.
- (u) Performing of experimental treatment without informed consent. (Section 458.331(1)(u), F.S.)
- (v) No change.
- (w) Delegation of professional responsibilities to unqualified person. (Section 458.331(1)(w), F.S.) (Section 456.072(1)(p), F.S.)
- (x)1. Violation of law, rule, or failure to comply with subpoena. (Section 458.331(1)(x), F.S.); (Section 456.072(1)(b), (q), F.S.)
2. Violation of an order of the Board.
- (y) Conspiring to restrict another from lawfully advertising services. (Section 458.331(1)(y), F.S.)
- (z) Aiding an unlawful abortion. (Section 458.331(1)(z), F.S.)
- (aa) Presigning prescription forms. (Section 458.331(1)(aa), F.S.)
- (bb) Failure to adequately supervise assisting personnel. (Section 458.331(1)(dd), F.S.)
- (t)1. From a letter of concern, 25 to 50 hours of community service to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.
2. From probation, 25 to 50 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.
- (u) From a letter of concern to suspension, to be followed by a period of probation, or denial of licensure, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$5,000.00.
- (w) From reprimand to suspension, followed by probation, 25 to 50 hours of community service or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.
- (x)1. For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation, or denial of licensure, 25 to 100 hours of community service and an administrative fine ranging from \$1,000.00 to \$5,000.00.
2. From a reprimand, 25 to 50 hours of community service ~~letter of concern~~ and an administrative fine of \$1,000.00 to a reprimand ~~letter of concern~~ and an administrative fine of \$5,000.00.
- (y) From a letter of concern to a reprimand, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$2,500.00
- (z) From probation, 25 to 50 hours of community service to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.
- (aa) From a letter of concern to a reprimand and an administrative fine of \$1,000.00 to a letter of concern and an administrative fine of \$2,500.00.
- (bb) From a reprimand to probation, or denial of licensure, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$2,500.00.
- (t)1. From reprimand, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.
2. From suspension followed by probation to revocation or denial, 50 to 100 hours of community service and an administrative fine ranging from \$2,500.00 to \$5,000.00.
- (u) From suspension to be followed by a period of probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.
- (w) From probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.
- (x)1. From probation, 50 to 150 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.
2. From a reprimand, 50 to 100 hours of community service and an administrative fine of \$2,500.00 to a reprimand and an administrative fine of \$5,000.00 and probation.
- (y) From a reprimand, 50 to 100 hours of community service and an administrative fine of \$2,500.00 to a reprimand and an administrative fine of \$5,000.00.
- (z) From suspension, to be followed by a period of probation, 50 to 100 hours of community service, to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.
- (aa) From a reprimand to probation, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00.
- (bb) From probation to suspension followed by probation, or denial of licensure, 50 to 100 hours of community service and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(cc) Improper use of substances for muscle building or enhancement of athletic performance.

(Section 458.331(1)(ee), F.S.)

(dd) Use of amygdaline (laetrile).

(Section 458.331(1)(ff), F.S.)

(ee) Misrepresenting or concealing a material fact.

(Section 458.331(1)(gg), F.S.)

(ff) Improperly interfering with an investigation or a disciplinary proceeding.

(Section 458.331(1)(hh), F.S.)

(Section 456.072(1)(r), F.S.)

(gg) Failing to report any M.D., D.O. or PA, who is in violation of law.

(Section 458.331(1)(ii), F.S.);

(Section 456.072(1)(i), F.S.)

(hh) No change.

(ii) Violating Chapters 458, 456, F.S., or any rules adopted pursuant thereto.

(458.331(1)(nn), F.S.)

(j)(ii) Theft or reproduction of an examination.

(Section 456.018, F.S.)

(kk) Performing or attempting to perform health care services on the wrong patient, a wrong site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.

(456.072(1)(bb), F.S.)

(ll) Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures.

(456.072(1)(bb), F.S.)

(cc) From a reprimand to suspension, or denial of licensure, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(dd) From a reprimand to probation, or denial of licensure, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(ee) From a reprimand to probation, and an administrative fine ranging from \$500.00 to \$2,500.00, 25 to 50 hours of community service or the denial of licensure with the ability to reapply, upon payment of a \$500.00 fine.

(ff) From a reprimand to probation, 25 to 50 hours of community service or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(gg) From a letter of concern to probation, or denial of licensure, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$2,500.00

(ii) From a reprimand, 25 to 100 hours of community service, to revocation or denial and an administrative fine from \$1,000.00 to \$5,000.00.

(j)(ii) Revocation Suspension to revocation, or denial of licensure without an ability to reapply.

(kk) From a \$1,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, and one (1) hour lecture on wrong-site surgery in the State of Florida to a \$5,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, 50 to 100 hours of community service, undergo a risk management assessment, a one (1) hour lecture on wrong-site surgery, and suspension to be followed by a term of probation.

(ll) From a \$1,000.00 to a \$5,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, 50 to 100 hours of community service, and a one hour lecture to the staff of a Florida licensed healthcare facility on retained foreign body objects to revocation.

(cc) From suspension to be followed by a period of probation, to revocation or denial of licensure, 50 to 100 hours of community service and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(dd) From suspension to be followed by a period of probation to revocation or denial of licensure, 50 to 100 hours of community service and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(ee) From probation, 50 to 100 hours of community service to revocation or denial of licensure without the ability to reapply, and an administrative fine ranging from \$500.00 to \$5,000.00.

(ff) From probation, 50 to 100 hours of community service to revocation or denial of licensure without ability to re-apply, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(gg) From probation to revocation or denial of licensure, 50 to 100 hours of community service and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(ii) From probation, 100 to 200 hours of community service; to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.

(jj) Revocation or denial of licensure without ability to reapply.

(kk) From a \$7,500.00 fine, a reprimand, 100 to 200 hours of community service, and probation or denial to a \$10,000.00 fine and revocation.

(ll) From a \$7,500.00 fine, a reprimand and probation, 100 to 200 hours of community service, or denial to revocation.

(mm) Engaging in a pattern of practice when prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients.

(456.072(1)(gg), F.S.)

(nn) Being terminated from a treatment program for impaired practitioners, for failure to comply with the terms of the monitoring or treatment contract or for not successfully completing any drug-treatment or alcohol-treatment program.

(456.072(1)(hh), F.S.)

(oo) Being convicted of, or entering a plea of guilty or nolo contendere to any misdemeanor or felony, regardless of adjudication, under 18 USC s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 USC ss. 1320a-7b, relating to the Medicaid program.

(456.072(1)(ii), F.S.)

(pp) Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgment, or settlement.

(456.072(1)(jj), F.S.)

(qq) Being terminated from the state Medicaid program, or any other state Medicaid program, or the federal Medicare program.

(456.072(1)(kk), F.S.)

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

(456.072(1)(ll), F.S.)

(3) through (4) No change.

Rulemaking Specific Authority 456.079, 458.309, 458.331(4) FS. Law Implemented 456.072, 456.079, 458.331(4), 458.347(4)(e)1., (7)(g) FS. History—New 3-13-89, Formerly 21M-17.015, 61F6-17.015, 59R-30.015, Amended 6-7-98, 4-9-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Council on Physician Assistants
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 6, 2010

(mm) From reprimand to probation, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$5,000.00, or denial of licensure.

(nn) From suspension until licensee demonstrates compliance with all terms of the monitoring or treatment contract, and is able to demonstrate to the Board the ability to practice with reasonable skill and safety to be followed by a term of probation; and a fine of \$1,000 to \$2,500, to revocation.

(oo) Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.

(pp) From a letter of concern to probation, and a fine of \$500 to \$5,000.

(qq) From a letter of concern to suspension, and a fine of \$1,000 to \$5,000.

(rr) Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.

(mm) From probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(nn) From suspension until licensee demonstrates compliance with all terms of the monitoring or treatment contract and is able to demonstrate to the Board the ability to practice with reasonable skill and safety to be followed by a term of probation; and a fine of \$2,500 to \$5,000, to revocation.

(pp) From a reprimand to revocation, and a fine of \$2,500 to \$5,000.

(qq) From a reprimand to revocation, and a fine of \$5,000 to \$10,000.

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

DEPARTMENT OF HEALTH

Board of Nursing

RULE NO.: 64B9-8.005
RULE TITLE: Disciplinary Proceedings
PURPOSE AND EFFECT: The proposed rule is to establish professional guidelines for the administration of conscious sedation and to update the instances of unprofessional conduct.

SUMMARY: The proposed rule is to establish guidelines for the administration of conscious sedation and to update the instances of unprofessional conduct in the nursing occupation.

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: 464.006, 464.018(1)(h) FS.

LAW IMPLEMENTED: 464.018(1)(h) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rick Garcia, Executive Director, Board of Nursing/MQA, 4052 Bald Cypress Way, Bin #C02, Tallahassee, Florida 32399-3252

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 64B9-8.005, F.A.C. See Florida Administrative Code for present text.)

64B9-8.005 Disciplinary Proceedings Unprofessional Conduct.

Unprofessional conduct shall include: Practicing beyond the scope of the licensee's license, educational preparation or nursing experience, including but not limited to: administration or monitoring the administration of any medication intended to create an altered level of consciousness that is a deeper level than moderate sedation for a surgical, diagnostic or therapeutic procedure by a registered nurse or licensed practical nurse; provided:

(1) A registered nurse may, pursuant to physician order, administer or monitor the administration of medications to achieve deep sedation to a patient who is continuously monitored and mechanically ventilated with a secured, artificial airway, or to a patient for end of life care, including hospice patients. Examples of medications used for deep sedation in this situation include, but are not limited to, propofol, pentothal and dexmedetomidine. Due to the potential for rapid, profound changes in sedative/anesthetic depth and the lack of antagonist medications, even if moderate sedation is intended, patients receiving propofol should receive care consistent with that required for deep sedation. Therefore the administration of propofol should only be performed by a practitioner experienced in general anesthesia and not by a registered nurse, with the exception of a patient who is continuously monitored and mechanically ventilated with a secured, artificial airway.

(2) A registered nurse may administer prescribed pharmacologic agents to non-mechanically ventilated patients for the purpose of moderate sedation in anticipation of anxiety and or discomfort during a time-limited surgical, diagnostic or therapeutic procedure. The registered nurse must continuously monitor the patient throughout the procedure and have no other responsibilities that would require leaving the patient unattended or would compromise continuous monitoring during the procedure. The registered nurse must document the patient's level of consciousness at least every five minutes during the procedure. In the event a deeper level of sedation (such as deep sedation or general anesthesia) results from the administration of prescribed pharmacologic agents, the procedure must be stopped and the level of sedation returned to moderate sedation with the assistance of the prescribing physician.

(3) A registered nurse or licensed practical nurse may administer prescribed pharmacologic agents to patients for the relief of existing pain and anxiety, but not for the purpose of deep sedation for a surgical, diagnostic or therapeutic procedure.

(4) In order to administer or monitor any pharmacologic agents in accordance with subsection (1) or (2) above, a registered nurse must:

(a) Prior to any administration or monitoring of any pharmacologic agents, successfully complete a program of study which reflects the extent of privileges requested and which will include a criteria-based competency evaluation. At a minimum, course content will include: pharmacology and physiology, physical assessment and monitoring techniques, airway anatomy, airway management techniques and an opportunity for skill development. The evaluative criteria will cover knowledge and psychomotor skills in assessment and monitoring, principles of pharmacodynamics and pharmacokinetics (onset, duration, distribution, metabolism, elimination, intended and adverse effects, interactions, dosages and contraindications), basic and difficult airway management, mechanical ventilation, and cardiopulmonary resuscitation. The registered nurse must also be certified in advanced cardiac life support;

(b) Complete a patient assessment and ensure that the practice setting requires that the physician prescribing the pharmacologic agent has evaluated the patient based on established criteria;

(c) Ensure that the practice setting requires that the prescribing physician is immediately available throughout the procedure and recovery period;

(d) Ensure that written policies and procedures for managing patients who receive moderate sedation are reviewed periodically and are readily available within the practice setting;

(e) Ensure that the practice setting has in place a quality assurance and performance improvement process that measures patient, process and structural outcome indicators; and

(f) Evaluate the patient for discharge readiness based on specific discharge criteria and ensure that the practice setting requires that the physician approves of the patient discharge.

(5) The following definitions apply for purposes of this rule:

(a) Deep sedation means a medication-induced depression of consciousness that allows patients to respond purposefully only after repeated or painful stimulation. The patient cannot be aroused easily, and the ability to maintain a patent airway independently may be impaired with spontaneous ventilation possibly inadequate. Cardiovascular function usually is adequate and maintained.

(b) General anesthesia means the patient cannot be aroused, even by painful stimulation, during this medication-induced loss of consciousness. Patients usually require assistance in airway maintenance and often require positive pressure ventilation due to depressed spontaneous ventilation or depression of neuromuscular function. Cardiovascular function may also be impaired.

(c) Moderate sedation means a minimally depressed level of consciousness that allows a surgical patient to retain the ability to maintain a patent airway independently and continuously and respond appropriately to verbal commands and physical stimulation.

(d) Immediately available means having a health care provider trained in advanced cardiac life support and resuscitation skills available to assist with patient care within five minutes.

(6) Pharmacologic agents that may be administered by a registered nurse or licensed practical nurse pursuant to subsections (2) and (3) shall not include medications that are intended to result in loss of consciousness such as propofol, pentothal, dexmedetomidine, or any medication which the manufacturer's package insert states should be administered only by individuals trained in the administration of general anesthesia.

Rulemaking Specific Authority 464.006, 464.018(1)(h) FS. Law Implemented 464.018(1)(h) FS. History—New 11-28-79, Amended 3-16-81, 10-8-81, 9-11-83, Formerly 21O-10.05, Amended 4-21-86, 2-5-87, 8-2-90, 3-12-91, 9-16-91, 4-8-92, 9-29-92, Formerly 21O-10.005, Amended 9-7-93, Formerly 61F7-8.005, Amended 11-6-94, 5-1-95, 11-16-95, Formerly 59S-8.005, Amended 2-18-98, 3-23-00, 2-17-02, 7-5-06, 12-11-06, 4-28-09.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 3, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 1, 2009

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE NO.: 64B10-14.002
RULE TITLE: Probable Cause Determination

PURPOSE AND EFFECT: The Board proposes the rule amendment to add new language to clarify members of the probable cause panel and who can appoint the probable cause panel.

SUMMARY: The rule amendment will add new language to clarify members of the probable cause panel and who can appoint the probable cause panel.

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

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

RULEMAKING AUTHORITY: 456.073(1), 468.1685 FS.

LAW IMPLEMENTED: 456.073 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 Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-14.002 Probable Cause Determination.

(1) No change.

(2) The probable cause panel shall be composed of at least two (2) but not more than three (3) members, one of whom is authorized to be a past Board member. The probable cause panel shall be appointed by the Board Chair.

Rulemaking Specific Authority 456.073(1), 468.1685 FS. Law Implemented 456.073 FS. History—New 12-26-79, Amended 12-11-80, Formerly 21Z-14.02, 21Z-14.002, 61G12-14.002, Amended 8-1-95, 7-21-97, Formerly 59T-14.002, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing Home Administrators

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 23, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2010

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE NO.: 64B10-14.004
RULE TITLE: Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

PURPOSE AND EFFECT: The Board proposes the rule amendment to add new language to clarify disciplinary guidelines and penalties relating.

SUMMARY: The rule amendment will add new language to clarify disciplinary guidelines and penalties relating.

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

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

RULEMAKING AUTHORITY: 456.073(3), 456.079, 468.1685(1) FS.

LAW IMPLEMENTED: 456.072, 456.073(3), 456.079, 468.1685(4), (5), (6), 468.1755(1)(a), (j), (q) 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 Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-14.004 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

(1) No change.

(2) The following disciplinary guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees for violation of the below mentioned statutes and rules:

Minimum Maximum

(a) though (qq) No change.

(rr) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 USC s. 669, ss. 285-287, s. 371, s. 1001, s. 1035,

s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 USC ss. 1320a-7b, relating to the Medicaid program. (Section 456.072(1)(ii), F.S.)

First Offense: Revocation and a fine of \$10,000. or in the case of application for licensure, denial of license.

(ss) Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgement, or settlement. (Section 456.072(1)(jj), F.S.)

First Offense: letter of concern probation, and a fine of \$500 to \$1,000.

Second Offense: reprimand

revocation, and a fine of \$1,000.

(tt) Being terminated from the state Medicaid program, Or any other state Medicaid program or the federal Medicare program. (Section 456.072(1)(kk), F.S.)

First Offense: letter of concern suspension, and a fine of \$500 to \$1,000. Second

Offense: reprimand

revocation, and a fine of \$1,000.

(uu) Being convicted of, or entering into a plea Of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, which relates to health care fraud. (Section 456.072(1)(ll), F.S.)

First Offense: revocation and a fine of \$10, 000 or, in the case of application for licensure, denial of license.

(3) No change.

Rulemaking Specific Authority 456.073(3), 456.079, 468.1685(1) FS. Law Implemented 456.072, 456.073(3), 456.079, 468.1685(4), (5), (6), 468.1755(1)(a), (j), (q) FS. History--New 11-23-86, Amended 4-22-87, Formerly 21Z-14.004, 61G12-14.004, 59T-14.004, Amended 10-12-97, 10-16-00, 2-13-01, 2-10-03, 5-1-03, 7-27-06, 8-10-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing Home Administrators

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 23, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2010

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.: 64B13-15.005
 RULE TITLE: Designation of Administrative Violations; Major; Minor

PURPOSE AND EFFECT: The Board proposes the rule amendment to incorporate new statutory violations into the guidelines.

SUMMARY: The rule will incorporate new statutory violations into the guidelines.

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: 456.079 FS.

LAW IMPLEMENTED: 456.079 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 Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-15.005 Designation of Administrative Violations; Major; Minor.

(1) No change.

(2) Violations of the following statutory and rule provisions are considered to be Major Administrative Violations:

(a) Paragraphs 456.072(1)(a), (b), (c), (e), (f), (g), (h), (i), (k), (m), (q), (r), (s), (w), (x), (cc), ~~(gg), (ii), (jj), (kk), (ll)~~, F.S., entitled "Grounds for Discipline; Penalties; Enforcement."

(b) through (m) No change.

(3) No change.

Rulemaking Specific Authority 456.079 FS. Law Implemented 456.079 FS. History--New 2-24-87, Formerly 21Q-15.005, 61F8-15.005, Amended 8-18-96, Formerly 59V-15.005, Amended 5-1-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Optometry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2010

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-6.011
 RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The proposed rule amendments are intended to set forth additional disciplinary guidelines for specific violations.

SUMMARY: The proposed rule amendments set forth additional guidelines and penalties for various violations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Costs has been prepared. Essentially, the Statement estimates that physician assistants who are required to pay additional fines, attend courses and perform other duties as a result of violating laws and rules will be impacted by the rule.

In addition, in instances where a license is revoked, the impact may negatively affect small business due to the loss of the licensee performing services. A positive impact in the community will result in instances where a physician assistant is required to perform community service at no charge to the public. Those entities providing continuing medical education will be positively impacted by the increased revenues derived from licensees who are required to complete designated CME as a result of certain violations of laws and rules.

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: 456.079, 459.0015, 459.015(5) FS.

LAW IMPLEMENTED: 456.072, 456.079, 459.015(5), 459.022(4)(e)1., (7)(f) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-6.011 Disciplinary Guidelines.

(1) Purpose. Pursuant to Section 456.072, F.S., the Boards provide within this rule disciplinary guidelines which shall be imposed upon physician assistant applicants or licensees whom it regulates under Chapters 458 and 459, F.S. The purpose of this rule is to notify such applicants and licensees of the ranges of penalties which will routinely be imposed unless the Boards

find it necessary to deviate from the guidelines for the stated reasons given within this rule. The ranges of penalties provided below are based upon a single count violation of each provision listed; for multiple counts of the violated provisions or a combination of the violations the Boards shall consider a higher penalty than that for a single, isolated violation. Each range includes the lowest and highest penalty and all penalties falling between, including continuing medical education (CME). The purposes of the imposition of discipline are to punish the applicants or licensees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants or licensees from violations.

(2) Violations and Range of Penalties. In imposing discipline upon physician assistant applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATIONS

(a) Attempting to obtain a license or certificate by bribery, fraud or through an error of the Department or the Board.

(Section 459.015(1)(a), F.S.);

(Section 456.072(1)(h), F.S.)

1. Attempting to obtain an initial license by bribery or fraud.

2. Attempting to renew a license by bribery or fraud.

3. Obtaining or renewing a license by bribery or fraud.

4. Obtaining or renewing a license through error of the Department of the Board.

(b) No change.

1. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(c) Guilt of crime directly relating to practice or ability to practice.

(Section 459.015(1)(c), F.S.);

(Section 456.072(1)(c), F.S.)

RECOMMENDED PENALTIES

First Offense

~~(a) From suspension of license to revocation, with ability to reapply, or denial of licensure.~~

1. Denial of application and a \$10,000.00 fine.

2. Revocation of the license and payment of a \$5,000.00 fine to revocation and a \$10,000 fine.

3. Revocation of the license and payment of a \$5,000.00 fine to revocation and a \$10,000 fine.

4. Revocation.

1. Revocation ~~From revocation with leave to reapply in three (3) years,~~ and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, 100 hours of community service, and a reprimand through suspension of the license, or in the case of application for licensure, denial of licensure.

(c) From reprimand to revocation or denial of license, ~~and~~ an administrative fine of \$1,000.00 to \$5,000.00, and 50 to 100 hours of community service.

Subsequent Offenses

~~(a) From denial of license to revocation of license with ability to reapply in not less than three years and a fine up to \$5,000.00 to denial of license without ability to reapply.~~

2. Revocation and a \$10,000.00 fine.

3. Revocation and a \$10,000.00 fine.

4. Revocation.

1. From ~~permanent~~ revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, 200 hours of community service and suspension of the license, followed by a period of probation to revocation, or in the case of application for licensure, denial of licensure.

(c) From probation to revocation or denial of the license, ~~and~~ an administrative fine ranging from \$2,500.00 to \$5,000.00, and from 100 to 200 hours of community service.

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| <p>1. Involving a crime directly related to healthcare fraud in dollar amounts in excess of \$5,000.00.</p> <p>2. Involving a crime directly related to healthcare fraud in dollar amounts of \$5,000.00 or less.</p> <p>(d) False, deceptive, or misleading advertising.
(Section 459.015(1)(d), F.S.)</p> <p>(e) Failure to report another licensee in violation.
(Section 459.015(1)(e), F.S.);
(Section 456.072(1)(i), F.S.)</p> <p>(f) Aiding unlicensed practice.
(Section 459.015(1)(f), F.S.);
(Section 456.072(1)(j), F.S.)</p> <p>(g) Failure to perform legal obligation.
(Section 459.015(1)(g), F.S.);
(Section 456.072(1)(k), F.S.)</p> <p>1. through 2. No change.</p> <p>3. Failing to disclose financial interest to patient.
(Section 456.052, F.S.)</p> <p>(h) Giving false testimony in a legal or administrative proceeding.
(Section 459.015(1)(h), F.S.)</p> <p>(h)(+) No change.</p> <p>1. Relating to healthcare fraud in dollar amounts in excess of \$5,000.00.</p> | <p>1. <u>Revocation</u> From revocation with leave to reapply in three (3) years, and an administrative fine ranging from <u>\$5,000.00 to \$10,000.00</u> \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.</p> <p>2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, <u>100 hours of community service</u>, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.</p> <p>(d) From a letter of concern to reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00, <u>and 50 to 100 hours of community service</u>.</p> <p>(e) From a letter of concern to probation, and an administrative fine ranging from \$1,000.00 to \$2,500.00, <u>25 to 50 hours of community service</u>, or denial of licensure.</p> <p>(f) From reprimand to suspension, followed by probation, or denial of licensure, <u>25 to 50 hours of community service</u>, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> <p>(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial of licensure, <u>50 hours of community service</u> and an administrative fine from \$1,000.00 to \$5,000.00.</p> <p>3. A refund of fees paid by or on behalf of the patient and from an administrative fine of \$1,000.00, <u>50 hours of community service</u> to a reprimand, <u>100 hours of community service</u> and an administrative fine of \$2,500.00.</p> <p>(h) From a reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p> <p>1. <u>Revocation</u> From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.</p> | <p>1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.</p> <p>2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, <u>200 hours of community service</u>, and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.</p> <p>(d) From a letter of concern to reprimand or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00, <u>and 100 to 200 hours of community service</u>.</p> <p>(e) From reprimand to suspension or denial of licensure, and an administrative fine from \$2,500.00 to \$5,000.00 <u>and 50 to 100 hours of community service</u>.</p> <p>(f) From probation to revocation or denial of licensure, <u>50 to 100 hours of community service</u>, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> <p>(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial, <u>from 50 to 100 hours of community service</u> and an administrative fine from \$2,500.00 to \$5,000.00.</p> <p>3. A refund of fees paid by or on behalf of the patient and from a reprimand, <u>100 hours of community service</u> and an administrative fine of \$2,500.00 to a reprimand, <u>200 hours of community service</u> and an administrative fine of \$5,000.00.</p> <p>(h) From probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> <p>1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.</p> |
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2. Relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

~~(j)(+)~~ Kickbacks or split fee arrangements.
(Section 459.015(1)(j), F.S.)

~~(k)~~ Improper refusal to provide healthcare.
(Section 459.015(1)(k), F.S.)

~~(j)(+)~~ Sexual Misconduct.
(Section 459.015(1)(l), F.S.);
(Section 456.072(1)(u), F.S.)

~~(k)(m)~~ Deceptive, untrue, or fraudulent representations in the practice of osteopathic medicine.
(Section 459.015(1)(m), F.S.);
(Sections 456.072(1)(a), (m), F.S.)
1. No change.
2. Deceptive, untrue, or fraudulent representations in the practice of osteopathic medicine relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

~~(l)(n)~~ Improper solicitation of patients.
(Section 459.015(1)(n), F.S.)

~~(m)(o)~~ Failure to keep legible written medical records.
(Section 459.015(1)(o), F.S.)

1. No change.
2. Failure to keep legible written medical records relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, 50 to 100 hours of community service, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.

~~(j)(+)~~ A refund of fees paid by or on behalf of the patient from a reprimand and an administrative fine of \$1,000.00 25 to 50 hours of community service to a reprimand and an administrative fine of \$5,000.00, or denial of licensure.

~~(k)~~ From a letter of concern, and an administrative fine of \$1,000.00 to a letter of concern and an administrative fine of \$2,500.00, or denial of licensure.

~~(j)(+)~~ From probation to revocation, or denial of licensure, 50 to 100 hours of community service, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

~~(k)(m)~~ From a letter of concern, and 25 to 50 hours of community service to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, 50 to 100 hours of community service, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.

~~(l)(n)~~ From an administrative fine ranging from \$1,000.00 to \$5,000.00, 100 to 200 hours of community service, and a reprimand to probation, or denial of licensure.

~~(m)(o)~~ From letter of concern, 25 to 50 hours of community service to a reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand, 50 to 100 hours of community service to ~~through~~ suspension of the license, or in case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, 100 to 200 hours of community service, and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.

~~(j)(+)~~ A refund of fees paid by or on behalf of the patient, 50 to 100 hours of community service, from suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(k)~~ From a reprimand to probation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(j)(+)~~ From suspension, to be followed by a period of probation to revocation, 100 to 200 hours of community service or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(k)(m)~~ From probation or denial of licensure, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00 to revocation.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation to revocation, 100 to 200 hours of community service, or in case of application for licensure, denial of licensure.

~~(l)(n)~~ From suspension, to be followed by a period of probation, 50 to 100 hours of community service, to revocation or denial of licensure, and an administrative fine from \$2,500.00 to \$5,000.00.

~~(m)(o)~~ From a reprimand to suspension followed by probation, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation, 100 to 200 hours of community service, to revocation, or in case of application for licensure, denial of licensure.

~~(p)~~ Fraudulent alteration or destruction of patient records.
(Section 459.015(1)(p), F.S.)

~~(n)~~~~(q)~~ Exercising influence on patient for financial gain.
(Section 459.015(1)(q), F.S.);
(Section 456.072(1)(n), F.S.)

~~(o)~~~~(t)~~ Improper advertising of pharmacy.
(Section 459.015(1)(r), F.S.)

~~(p)~~~~(s)~~ Performing professional services not authorized by patient.
(Section 459.015(1)(s), F.S.)

~~(q)~~~~(t)~~ Inappropriate or excessive prescribing.
(Section 459.015(1)(t), F.S.)

~~(r)~~~~(u)~~ Prescribing, dispensing, administering of a scheduled drug by the physician assistant to himself or herself.
(Section 459.015(1)(u), F.S.)
~~(s)~~~~(v)~~ Use of amygdalin (laetrile).
(Section 459.015(1)(v), F.S.)

~~(t)~~~~(w)~~ Inability to practice osteopathic medicine with skill and safety.
(Section 459.015(1)(w), F.S.)

~~(u)~~~~(x)~~1. Malpractice: practicing below acceptable standard of care.
(Section 459.015(1)(x), F.S.)

2. Gross Malpractice

~~(p)~~ From a reprimand to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

~~(n)~~~~(q)~~ Payment of fees paid by or on behalf of the patient and from a reprimand, 25 to 50 hours of community service to probation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(o)~~~~(t)~~ From a letter of concern to probation, or a denial of licensure, 25 to 50 hours of community service, and an administrative fine ranging from \$250.00 to \$2,500.00.

~~(p)~~~~(s)~~ From a letter of concern, 25 to 50 hours of community service, to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

~~(q)~~~~(t)~~ From reprimand to probation, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$5,000.00, or denial of licensure.

~~(r)~~~~(u)~~ From probation to suspension or denial of licensure, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$2,500.00.

~~(s)~~~~(v)~~ From a reprimand to probation, or denial of licensure, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$2,500.00.

~~(t)~~~~(w)~~ From reprimand to suspension, which may be stayed to allow a period of probation with supervision, and a demonstration by the licensee of the ability to practice with reasonable skill and safety, or denial of licensure, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$2,500.00.

~~(u)~~~~(x)~~1. From a letter of concern, 25 to 50 hours of community service to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

2. From a probation, 25 to 50 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

~~(p)~~ From probation to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(n)~~~~(q)~~ Payment of fees paid by or on behalf of the patient and from probation, 50 to 100 hours of community service, to suspension, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(o)~~~~(t)~~ From a reprimand, 50 to 100 hours of community service and an administrative fine of \$2,500.00 to probation, and an administrative fine from \$2,500.00 to \$5,000.00, or denial of licensure.

~~(p)~~~~(s)~~ From a reprimand, 50 to 100 hours of community service to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(q)~~~~(t)~~ From probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(r)~~~~(u)~~ From suspension, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(s)~~~~(v)~~ From suspension to be followed by a period of probation to revocation or denial of licensure, 50 to 100 hours of community service and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(t)~~~~(w)~~ From probation to revocation, until the licensee is able to demonstrate ability to practice with reasonable skill and safety, followed by probation, or denial of licensure, 50 to 100 hours of community service and an administrative fine from \$2,500.00 to \$5,000.00.

~~(u)~~~~(x)~~1. From reprimand, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

2. From suspension followed by probation to revocation or denial, 50 to 100 hours of community service and an administrative fine ranging from \$2,500.00 to \$5,000.00.

3. No change.

~~(v)(y)~~ Performing of experimental treatment without informed consent. (Section 459.015(1)(y), F.S.)

~~(w)(z)~~ No change.

~~(x)(aa)~~ Delegation of professional responsibilities to unqualified person. (Section 459.015(1)(aa), F.S.); (Section 456.072(1)(p), F.S.)

~~(y)(bb)~~1. Violation of law, rule, or failure to comply with subpoena. (Section 459.015(1)(bb), F.S.); (Sections 456.072(1)(b), (q), F.S.)

2. Violation of an order of the Board.

~~(z)(ee)~~ Conspiring to restrict another from lawfully advertising services. (Section 459.015(1)(cc), F.S.)

~~(aa)(dd)~~ Aiding an unlawful abortion. (Section 459.015(1)(dd), F.S.)

~~(bb)(ee)~~ Presigning prescription forms. (Section 459.015(1)(ee), F.S.)

~~(cc)(ff)~~ Improperly interfering with an investigation or a disciplinary procedure. (Section 459.015(1)(kk), F.S.); (Section 456.072(1)(r), F.S.)

~~(dd)(gg)~~ Failing to report any M.D., D.O., or PA, who is in violation of law. (Section 459.015(1)(ll), F.S.); (Section 456.072(1)(i), F.S.)

~~(v)(y)~~ From a letter of concern to suspension, to be followed by a period of probation, 25 to 50 hours of community service, or denial of licensure, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$5,000.00

~~(x)(aa)~~ From reprimand to suspension, followed by probation, 25 to 50 hours of community service or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

~~(y)(bb)~~1. For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation, or denial of licensure, 25 to 100 hours of community service and an administrative fine ranging from \$1,000.00 to \$5,000.00.

2. From a reprimand, 25 to 50 hours of community service ~~letter of concern~~ and an administrative fine of \$1,000.00 to a reprimand ~~letter of concern~~ and an administrative fine of \$5,000.00.

~~(z)(ee)~~ From a letter of concern to a reprimand, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$2,500.00.

~~(aa)(dd)~~ From probation, 25 to 50 hours of community service to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

~~(bb)(ee)~~ From a letter of concern to a reprimand and an administrative fine of \$1,000.00 to a letter of concern and an administrative fine of \$2,500.00.

~~(cc)(ff)~~ From a reprimand to probation, 25 to 50 hours of community service or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

~~(dd)(gg)~~ From a letter of concern to probation, or denial of licensure, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$2,500.00.

~~(v)(y)~~ From suspension to be followed by a period of probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(x)(aa)~~ From probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(y)(bb)~~1. From probation, 50 to 150 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

2. From a reprimand, 50 to 100 hours of community service and an administrative fine of \$2,500.00 to a reprimand and an administrative fine of \$5,000.00 and probation.

~~(z)(ee)~~ From a reprimand, 50 to 100 hours of community service and an administrative fine of \$2,500.00 to a reprimand and an administrative fine of \$5,000.00.

~~(aa)(dd)~~ From suspension, to be followed by a period of probation, 50 to 100 hours of community service, to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(bb)(ee)~~ From a reprimand to probation, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(cc)(ff)~~ From probation, 50 to 100 hours of community service to revocation or denial of licensure without ability to re-apply, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(dd)(gg)~~ From probation to revocation or denial of licensure, 50 to 100 hours of community service and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(ee)(hh)~~ Failure to adequately supervise assisting personnel.
(Section 459.015(1)(hh), F.S.)

~~(ff)(ii)~~ Improper use of substances for muscle building or enhancement of performance.
(Section 459.015(1)(ii), F.S.)

~~(gg)(jj)~~ Misrepresenting or concealing a material fact during disciplinary or licensure procedure.
(Section 459.015(1)(jj), F.S.)

~~(hh)(kk)~~ Providing medical opinion on claim without reasonable investigation.
(Section 459.015(1)(mm), F.S.)

~~(ii)~~ Violating Chapters 459, 456, F.S., or any rules adopted pursuant thereto.
(459.331(1)(pp), F.S.)

~~(jj)(H)~~ Theft or reproduction of an examination.
(Section 456.018, F.S.)

~~(kk)~~ Performing or attempting to perform health care services on the wrong patient, a wrong site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.
(Section 456.072(1)(bb), F.S.)

~~(ll)~~ Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures.
(Section 456.072(1)(bb), F.S.)

~~(mm)~~ Engaging in a pattern of practice when prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients.
(Section 456.072(1)(gg), F.S.)

~~(ee)(hh)~~ From a reprimand to probation, or denial of licensure, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$2,500.00.

~~(ff)(ii)~~ From a reprimand to suspension, or denial of licensure, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$5,000.00.

~~(gg)(jj)~~ From a reprimand to probation, and an administrative fine ranging from \$500.00 to \$2,500.00, 25 to 50 hours of community service or the denial of licensure with the ability to reapply, upon payment of a \$500.00 fine.

~~(hh)(kk)~~ From a letter of concern to a reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

~~(ii)~~ From a reprimand, 25 to 100 hours of community service, to revocation or denial and an administrative fine from \$1,000.00 to \$5,000.00.

~~(jj)(H)~~ ~~Revocation~~ ~~Suspension~~ ~~to~~ ~~revocation~~, or denial of licensure ~~without an ability to reapply.~~

~~(kk)~~ From a \$1,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, and one (1) hour lecture on wrong-site surgery in the State of Florida to a \$5,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, 50 to 100 hours of community service, undergo a risk management assessment, a one (1) hour lecture on wrong-site surgery, and suspension to be followed by a term of probation.

~~(ll)~~ From a \$1,000.00 to a \$5,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, 50 to 100 hours of community service, and a one hour lecture to the staff of a Florida licensed healthcare facility on retained foreign body objects to revocation.

~~(mm)~~ From reprimand to probation, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$5,000.00, or denial of licensure.

~~(ee)(hh)~~ From probation to suspension followed by probation, or denial of licensure, 50 to 100 hours of community service and an administrative fine ranging from \$2,500.00 to \$5,000.00.

~~(ff)(ii)~~ From suspension ~~to be followed by a period of probation,~~ to revocation or denial of licensure, 50 to 100 hours of community service and an administrative fine ranging from \$1,000.00 to \$5,000.00.

~~(gg)(jj)~~ From probation, 50 to 100 hours of community service to revocation or denial of licensure without the ability to reapply, and an administrative fine ranging from \$500.00 to \$5,000.00.

~~(hh)(kk)~~ From probation to revocation or denial of licensure, and an administrative fine from \$2,500.00 to \$5,000.00.

~~(ii)~~ From probation, 100 to 200 hours of community service; to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.

~~(H)~~ ~~Revocation~~ ~~or~~ ~~denial~~ ~~of~~ ~~licensure~~ ~~without~~ ~~ability~~ ~~to~~ ~~reapply.~~

~~(kk)~~ From a \$7,500.00 fine, a reprimand, 100 to 200 hours of community service, and probation or denial to a \$10,000.00 fine and revocation.

~~(ll)~~ From a \$7,500.00 fine, a reprimand and probation, 100 to 200 hours of community service, or denial to revocation.

~~(mm)~~ From probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(nn) Being terminated from a treatment program for impaired practitioners, for failure to comply with the terms of the monitoring or treatment contract or for not successfully completing any drug-treatment or alcohol-treatment program.

(Section 456.072(1)(hh), F.S.)

(oo) Being convicted of, or entering a plea of guilty or nolo contendere to any misdemeanor or felony, regardless of adjudication, under 18 USC s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 USC ss. 1320a-7b, relating to the Medicaid program.

(Section 456.072(1)(ii), F.S.)

(pp) Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgment, or settlement.

(456.072(1)(jj), F.S.)

(qq) Being terminated from the state Medicaid program, or any other state Medicaid program, or the federal Medicare program.

(Section 456.072(1)(kk), F.S.)

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

(Section 456.072(1)(ll), F.S.)

(3) through (4) No change.

Rulemaking Specific Authority 456.079, 459.0015, 459.015(5) FS. Law Implemented 456.072, 456.079, 459.015(5), 459.022(4)(e)1., (7)(f) FS. History—New 4-18-89, Formerly 21R-6.011, Amended 11-4-93, Formerly 61F9-6.011, 59W-6.011, Amended 6-7-98, 4-9-01, 7-13-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Council on Physician Assistants

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 26, 2010

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

(nn) From suspension until licensee demonstrates compliance with all terms of the monitoring or treatment contract, and is able to demonstrate to the Board the ability to practice with reasonable skill and safety to be followed by a term of probation; and a fine of \$1,000 to \$2,500, to revocation.

(oo) Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.

(pp) From a letter of concern to probation, and a fine of \$500 to \$5,000.

(qq) From a letter of concern to suspension, and a fine of \$1,000 to \$5,000.

(rr) Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.

(nn) From suspension until licensee demonstrates compliance with all terms of the monitoring or treatment contract and is able to demonstrate to the Board the ability to practice with reasonable skill and safety to be followed by a term of probation; and a fine of \$2,500 to \$5,000, to revocation.

(pp) From a reprimand to revocation, and a fine of \$2,500 to \$5,000.

(qq) From a reprimand to revocation, and a fine of \$5,000 to \$10,000.

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-3.001
RULE TITLE: Licensure as a Physical Therapist by Examination

PURPOSE AND EFFECT: To delete outdated English requirement, to make the rule consistent with Section 486.031(3)(b), F.S., and to update the licensure application.

SUMMARY: The changes delete outdated language, make the rule consistent with statutory licensure requirements, and update the application to accommodate statutory changes to licensure requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: (a) Over a 5-year period, approximately 4,245 physical therapist and physical therapist assistant applications could be received. It is unknown how

many applicants would be affected by the new law. (b) The only costs to be incurred are rulemaking costs. (c) through (f) N/A.

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

RULEMAKING AUTHORITY: 486.025(1), 486.031(3) FS.

LAW IMPLEMENTED: 456.017, 486.031, 486.051 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-3.001 Licensure as a Physical Therapist by Examination.

Every physical therapist who applies for licensure by examination shall file DOH Form #DH-MQA 1142 Application for Licensure, Revised 02/10 ~~08/09~~, incorporated by reference, which is available through www.doh.state.fl.us/mqa, and demonstrate to the Board that the applicant:

(1) through (2) No change.

(3) Education.

(a) Has received a degree in physical therapy from an institution that has been approved for the training of physical therapists by the Commission on Accreditation for Physical Therapy Education (CAPTE), at the time of graduation; or

(b) Has graduated from a school giving a course in physical therapy in a foreign country and:

~~1.(4) For foreign graduates, H~~has received a determination that the credentials are equivalent to education required for licensure as a physical therapist in the United States. Educational credentials equivalent to those required for the education and preparation of physical therapists in this country shall be determined by the Foreign Credentialing Commission on Physical Therapy (FCCPT) or any other Board approved credentialing agency that meets at least the following criteria:

(a) through (i) renumbered a. through i. No change.

~~(j) Effective January 1, 2007, evidence of successful completion of a Board approved English proficiency examination if English was not the language of instruction as evidenced by a minimum total score of 89 on the TOEFL as well as accompanying minimum scores in the test's four components of: 24 in writing; 26 in speaking; 21 in reading comprehension; and 18 in listening comprehension.~~

2.(k) No change.

~~a.1.~~ No change.

~~b.2.~~ No change.

~~c.3.~~ No change.

~~d.4.~~ No change.

3. Effective January 1, 2007, evidence of successful completion of a Board approved English proficiency examination if English was not the language of instruction as evidenced by a minimum total score of 89 on the TOEFL as well as accompanying minimum scores in the test's four components of: 24 in writing; 26 in speaking; 21 in reading comprehension; and 18 in listening comprehension.

Rulemaking Authority 486.025(1), 486.031(3) FS. Law Implemented 456.017, 486.031, 486.051 FS. History—New 8-6-84, Amended 6-2-85, Formerly 21M-7.20, Amended 5-18-86, Formerly 21M-7.020, 21MM-3.001, Amended 3-1-94, Formerly 61F11-3.001, Amended 12-22-94, 4-10-96, Formerly 59Y-3.001, Amended 12-30-98, 1-23-03, 4-9-06, 9-19-06, 3-13-07, 5-11-08, 5-21-09, 8-10-09, _____.

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

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

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

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NO.: 69B-215.080

RULE TITLE: Immigration Bonds

PURPOSE AND EFFECT: The purpose of the proposed rule is to clarify the type of license required to transact immigration bond business.

SUMMARY: Proposed Rule 69B-215.080, F.A.C., provides that a general lines agent license (2-20) is required to transact surety bond business, including immigration bonds, and that a general lines agent license does not qualify the licensee to transact bail bond business.

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: 624.308(1), 648.26(1) FS.

LAW IMPLEMENTED: 626.015(5), 626.112, 626.311, 648.24, 648.30 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 13, 2010, 2:00 p.m.
PLACE: Room 142, Larson Building, 200 E. 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: Richard Brinkley (850)413-5654 or Richard.Brinkley@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: Richard Brinkley, Bureau of Investigations, Division of Insurance Agents and Agency Services, Room 412, Larson Building, Tallahassee, Florida 32399, (850)413-5654

THE FULL TEXT OF THE PROPOSED RULE IS:

69B-215.080 Immigration Bonds.

A general lines (2-20) agent license is required in order to transact surety bond business, including immigration bonds, in the State of Florida. A general lines agent license does not qualify the licensee to transact bail bond business. The general lines agent licensee must also be properly appointed by the surety as required by the Florida Insurance Code.

Rulemaking Authority 624.308(1), 648.26(1) FS. Law Implemented 626.015(5), 626.112, 626.311, 648.24, 648.30 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Brinkley, Bureau of Investigations, Division of Insurance Agents and Agency Services

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 29, 2010.

**DEPARTMENT OF FINANCIAL SERVICES
Division of Insurance Agents and Agency Services**

RULE NO.: 69B-221.006
RULE TITLE: Immigration Bonds Exclusion
PURPOSE AND EFFECT: The purpose of the proposed rule is to clarify the type of license required to transact immigration bond business.

SUMMARY: Proposed Rule 69B-221.006, F.A.C., provides that a limited surety (bail bond) (2-34) agent licensee may not transact immigration bond business unless the licensee also has a general lines agent license.

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: 624.308(1), 648.26(1) FS.

LAW IMPLEMENTED: 648.24, 648.25(5), 648.279, 648.30 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 13, 2010, 2:00 p.m.
PLACE: Room 142, Larson Building, 200 E. 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: Richard Brinkley (850)413-5654 or Richard.Brinkley@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: Richard Brinkley, Bureau of Investigations, Division of Insurance Agents and Agency Services, Room 412, Larson Building, Tallahassee, Florida 32399, (850)413-5654

THE FULL TEXT OF THE PROPOSED RULE IS:

69B-221.006 Immigration Bonds Exclusion.

The term “limited surety agent” does not include an individual authorized to transact immigration bond business. A limited surety (bail bond) (2-34) agent license is required to transact bail bond business in the State of Florida, but it does not qualify the licensee to transact business involving other types of surety bonds, including immigration bonds.

Rulemaking Authority 624.308(1), 648.26(1) FS. Law Implemented 648.24, 648.25(5), 648.279, 648.30 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Brinkley, Bureau of Investigations, Division of Insurance Agents and Agency Services

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 4, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 29, 2010

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO. RULE TITLE:
 IS-2.037 Provisional Ballots
 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. 36, No. 3, January 22, 2010 issue of the Florida Administrative Weekly.

The changes are made in response to public comment and are as follows:

Subsection (1) is revised to read:

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

(a) ~~Contact information for the Supervisor of Elections including phone number, facsimile number, e-mail address, mailing address and office address. Information on how to access the respective county supervisor of election's free access system and the information the voter will need to provide to obtain information on whether his or her provisional ballot was counted, and if not, the reason it was not counted.~~

(b) ~~The following statements: statement~~

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

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

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

3. "ATTENTION: If you voted this ballot because we could not verify your Florida driver's license number, Florida state identification card number or the last four digits of your social security card number, bring your card in person or provide a copy via mail, fax or email to the Supervisor by the deadline.

~~(d) The statement "If you voted this a provisional ballot solely because you did not have the proper photo and signature identification, you do not have to provide any further evidence. Your ballot will be counted if your signature on the provisional ballot Voter's Certificate and Affirmation matches the signature on your registration record and if you voted in the proper precinct. You will not need to provide further written evidence to the Supervisor of Elections.~~

4. "You have the right to find out if your ballot was counted, and if not, the reason why. [Insert instructions on how voter can access that information]."

Subsection (3) is also revised to remove reference to the activator card which is no longer used as a functioning part of the provisional ballot process for the Sequoia Touchscreen Voting System.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE NO.: RULE TITLE:
 5E-1.023 Procedures for Landowners and Leaseholders to Submit a Notice of Intent to Implement Nitrogen Best Management Practices (BMPs)

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. 35, No. 51, December 24, 2009 issue of the Florida Administrative Weekly.

5E-1.023 Procedures for Landowners and Leaseholders to Submit a Notice of Intent to Implement Nitrogen Best Management Practices (BMPs).

(1) through (4)(a) No change.

(b) Citrus. The document titled Nitrogen Best Management Practices (BMPs) for Florida Ridge Citrus dated 7-23-2002, and the associated recordkeeping requirements dated 7-23-02 are hereby adopted and incorporated by reference into this rule. Copies may be obtained from the Department of Agriculture and Consumer Services, Office of Water Policy, 1203 Governors Square Blvd., Suite 200, Tallahassee, FL 32301. "Ridge Citrus" Growers must submit a Notice of Intent to Implement the Best Management Practices for Florida Ridge Citrus, DACS-01328, Rev. 02/10, hereby adopted and incorporated by reference, for the "waiver