

Howerton, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256  
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
64B15-14.001	Advertisings
64B15-14.007	Standard of Care for Office Surgery
64B15-14.0076	Requirement for Osteopathic Physician Office Registration; Inspection or Accreditation

**PURPOSE AND EFFECT:** The Board proposes the development of rule amendments to address criteria for advertising in Rule 64B15-14.001, F.A.C.; to modify language with regard to supervision of nurse anesthetists in Rule 64B15-14.007, F.A.C.; and to clarify requirements for office surgery registration in Rule 64B15-14.0076, F.A.C.

**SUBJECT AREA TO BE ADDRESSED:** Advertising by osteopathic physicians; clarification of supervision of CNAs; and clarification of office surgery registration requirements.

**RULEMAKING AUTHORITY:** 459.005, 459.015, 459.026 FS.

**LAW IMPLEMENTED:** 456.069, 459.005(2), 459.015(1), 459.026 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:** Kaye Howerton, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

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

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
64E-19.002	Definitions
64E-19.004	Requirements for Premises
64E-19.006	Piercing Procedures
64E-19.007	Other Operations

**PURPOSE AND EFFECT:** The purpose of this rule development is to incorporate standards to fulfill the intent of Section 381.0075, F.S., and to remove standards that were time-limited. The incorporated language will maintain

consistency with statutory language, provide flexibility to body piercers who pierce with devices other than needles, and remove language that is now superfluous.

**SUBJECT AREA TO BE ADDRESSED:** The subjects to be addressed encompass devices used to pierce the skin, building and equipment requirements, and training of operators and piercers.

**RULEMAKING AUTHORITY:** 381.0075(10) FS.

**LAW IMPLEMENTED:** 381.0075(10), (11) 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:** Edward J. Golding, Environmental Specialist III, 4052 Bald Cypress Way, Bin #A08, Tallahassee, FL 32399-1710, (850)245-4277

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

**Section II  
Proposed Rules**

**DEPARTMENT OF STATE**

**Division of Elections**

<b>RULE NO.:</b>	<b>RULE TITLE:</b>
1S-2.0011	Constitutional Amendment Ballot Position

**PURPOSE AND EFFECT:** This proposed rule implements the Florida Supreme Court's holding that the initiative revocation law violates the state constitution. Initiative petition sponsors will no longer have to wait until February 1 of the election year to obtain a designating number for ballot position if the initiative petition obtains the requisite number of signatures before February 1.

**SUMMARY:** The rule clarifies the ballot position process when initiative amendments and other forms of proposed amendments are filed. The rule will permit designating numbers for ballot position to be assigned to initiative amendments when the initiative petition obtains the requisite number of signature if ballot position is obtained by February 1 of the election year.

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

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

RULEMAKING AUTHORITY: 20.10(3), 97.012(1), 101.161(2) FS.

LAW IMPLEMENTED: Art XI, Fla. Const., 100.371, 101.161 FS.

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

DATE AND TIME: May 24, 2010, 1:00 p.m.

PLACE: Room 307, R. A. Gray Building, Department of State, 500 S. Bronough 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: Eddie Phillips, Executive Assistant, Department of State, (850)245-6536; email: elphillips@dos.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gary J. Holland, Assistant General Counsel, Department of State, at (850)245-6536; email: gjholland@dos.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.0011 Constitutional Amendment Ballot Position.

(1) The Director of the Division of Elections shall assign in the following manner a designating number to any proposed revision or amendment to the State Constitution for placement on the general election ballot:

(a) The ballot position of each proposed revision or amendment shall correspond to the designating number assigned by the director. A designating number may not be assigned to a constitutional amendment by initiative until the Secretary of State has issued a certificate of ballot position in accordance with Section 100.371, F.S.

(b) All revisions submitted by a revision commission or constitutional convention shall be considered to be one set, but each individual revision received shall be assigned a designating number in the manner and order determined by the convention or commission. Revisions shall be titled and designated as such together with the assigned designating number. For example, the set of revisions would begin with No. 1, Constitutional Revision.

(c) Amendments submitted by the Florida Legislature or proposed by initiative shall be titled and designated as an amendment with the assigned designating number. For example, the amendment designation would be No. 2, Constitutional Amendment.

(d)1. Revision proposals and proposed amendments shall be assigned designating numbers in consecutive ascending numerical sequence in the order of:

a. Receipt by the Secretary of State, or his or her designee, of the constitutional convention or commission revision proposal,

b. The filing of the legislative resolution containing the proposed amendment with the Division of State Library, Archives and Records Services, or

c. The Secretary of State's certification of ballot position of a constitutional amendment proposed by initiative.

2. Initiative amendments ~~deemed~~ filed on the same date as ~~other revision proposals or proposed amendments~~ shall be assigned the number received in a random drawing of lots containing the remaining available designating numbers.

(2) No later than February 2 of the election year, the Director of the Division of Elections shall assign and post the designating numbers for proposed amendments or revisions to the constitution that have been properly filed by February 1 of the year the general election is held. Thereafter, through the 91st day prior to the election, the Division shall assign and post designating numbers within 24 hours after a joint resolution or proposal for amending or revising the constitution from a revision commission, constitutional convention, or taxation and budget reform commission is filed with the Secretary of State. Designating numbers shall be assigned and publicly announced promptly after 5:00 p.m. on February 1 preceding the general election date.

(3) In the event a proposed revision or amendment is removed or stricken from the ballot subsequent to its attaining ballot position and being assigned a designating number, all other proposals shall retain the number assigned. The designating number of the stricken proposal shall not be reused, unless that proposal is reinstated.

Rulemaking Specific Authority 20.10(3), 97.012(1), 101.161(2) FS. Law Implemented Art. XI, Fla. Const., 100.371, 101.161 FS. History—New 8-9-78, Amended 4-17-79, Formerly 1C-7.011, 1C-7.0011, Amended 3-16-06, 10-15-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gary J. Holland

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kurt S. Browning

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 21, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 2, 2010

**DEPARTMENT OF STATE**

**Division of Elections**

RULE NO.: 1S-2.0091  
 RULE TITLE: Constitutional Amendment Initiative Petition; Submission Deadline; Signature Verification

PURPOSE AND EFFECT: To implement the Florida Supreme Court's holding that the initiative revocation process violates the state constitution. The effect on this proposed rule is that the supervisors of elections and Division of Elections no longer must determine if voters had signed a revocation petition before verifying a voter's signature on an initiative petition.

SUMMARY: The proposed rule eliminates any reference to revocations of voter signatures concerning the signature verification process for initiative petitions. It also clarifies that a supervisor may verify a voter's signature unless the voter had signed the identical initiative which was already verified. To comply with the implementing statute, the rule requires only the voter's street address, not a residential street address, on the petition.

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

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

RULEMAKING AUTHORITY: 20.10(3), 97.012(1), 100.371(7) FS.

LAW IMPLEMENTED: Art. XI, Fla. Const., 100.371 FS.

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

DATE AND TIME: May 24, 2010, 1:00 p.m.

PLACE: Room 307, R. A. Gray Building, Department of State, 500 S. Bronough 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 hours before the workshop/meeting by contacting: Eddie Phillips, Executive Assistant, Department of State, at (850)245-6536; email: elphillips@dos.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gary J. Holland, Assistant General Counsel, Department of State, at (850)245-6536; email: gjholland@dos.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.0091 Constitutional Amendment Initiative Petition; Submission Deadline; Signature Verification.

(1) Submission. Signed initiative petition forms proposing amendments to the Florida Constitution shall be submitted solely by the sponsoring political committee to the Supervisor of Elections in the county in which the petition forms were circulated. It is the responsibility of the sponsoring political committee to ensure that the signed petition form is properly filed with, or if misfiled forwarded to, the Supervisor of Elections of the county in which the signee is a registered voter. In the case of a misfiled petition, the filing date of the petition is the date such petition is filed with the proper county.

(2) Signature Verification.

(a) In accordance with the signature verification fee provisions in Section 99.097(4), F.S., the Supervisor of Elections shall verify the signatures on each initiative petition form within 30 days of receipt of the form to ensure that each person signing the petition form:

1. Was, at the time of signing and verification of the petitions, a registered voter in the county in which the petition is submitted,

~~2. Had not previously revoked his or her signature on the petition;~~

~~2.3.~~ Had not signed the petition form more than four years prior to the date the Supervisor verified the petition, and

~~3.4.~~ Had not ever previously signed a petition form containing the identical initiative which had been verified.

(b) The Supervisor shall not verify a signature on an initiative petition form unless all of the following information is contained on the petition form:

1. The voter's name,

2. The voter's ~~residential~~ street address (including city and county),

3. The voter's date of birth or voter registration number,

4. The voter's original signature, and

5. The date the voter signed the petition, as recorded by the voter.

(3) Random Sampling Not Permitted. Supervisors of Elections may not use random sampling as a method for verifying signatures on constitutional amendment initiative petitions.

(4) Recordation of Verification. The appropriate supervisor of elections for each respective voter whose signature is verified as valid shall record the date the form was received, the date of the signature, the date the signature was verified, and the assigned serial number for the applicable initiative petition. Upon completion of the verifications as set forth in subsection (2), the Supervisors of Elections shall submit to the Division of Elections a certificate indicating the total number of signatures verified and the distribution by congressional district. In conjunction with each certificate submitted, each Supervisor shall submit a copy of one petition

showing the text of the constitutional amendment to which the verified signatures relate. Certificates may be submitted by the Supervisor via facsimile in order to meet the filing deadline, followed by the original certificates sent by mail.

(5) Filing Deadline. In order for the initiative petition to be timely filed for appearance on the ballot for the next general election, the constitutionally requisite number of verified signatures must be verified and reported to the Division no later than 5:00 p.m. on February 1 of the year in which the general election is held.

~~(6) Effective of Revocation Petition. Prior to any determination that the constitutionally requisite number of signatures has been obtained for purposes of placing an amendment by initiative on the ballot, the Division shall determine in accordance with Rule 1S-2.0095, F.A.C., the number of verified petition revocations reported to the Division no later than 5:00 p.m. on February 1 of the same year. The Division shall then deduct that number from the number of verified signatures reported for the underlying applicable constitutional initiative amendment. Upon a determination that the constitutionally requisite number of signatures has been obtained, the Secretary of State shall issue a certificate of ballot position in accordance with Section 100.371, F.S., to the appropriate sponsoring political committee and assign a designating ballot number.~~

~~(6)(7) Limitation on Use of Verified Signatures. Verified signatures used successfully to place a proposed amendment by initiative on the ballot that subsequently fails to be approved by the electors at the general election shall not be used again in support of any future initiative petition.~~

Rulemaking Specific Authority 20.10(3), 97.012(1), 100.371(7) FS. Law Implemented Art. XI, Fla. Const., 100.371 FS. History—New 1-6-80, Amended 12-20-83, Formerly 1C-7.091, 1C-7.0091, Amended 2-13-90, 3-5-96, 1-5-04, 3-16-06, 10-15-07, 10-13-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gary J. Holland

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kurt S. Browning

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 21, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 2, 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."

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.: 19B-16.003  
 RULE TITLE: Participation Agreement

PURPOSE AND EFFECT: To update the Florida College Investment Plan Participation Agreement Form.

SUMMARY: This rule change is being made to update the Florida College Investment Plan Participation Agreement Form.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.81(2) FS.

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

DATE AND TIME: May 24, 2009, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, 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: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514. 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: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.003 Participation Agreement.

(1) The contract between the Board and a benefactor shall consist of the benefactor's completed application and the participation agreement. The Florida College Investment Plan Participation Agreement, Form No. FPCB ~~2010-4~~ ~~2009-4~~, is hereby incorporated by reference. The form may be obtained from the Board by calling 1(800)552-GRAD (4723)(prompt 1).

(2) through (4) No change.

Rulemaking Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981(2) FS. History—New 11-27-02, Amended 12-28-04, 6-2-05, 7-17-06, 12-4-07, 5-29-08, 6-3-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Florida Prepaid College Board  
 NAME OF AGENCY HEAD WHO APPROVED THE  
 PROPOSED RULE: Florida Prepaid College Board  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: December 1, 2009  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: April 2, 2010

**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
 REGULATION**

**Board of Employee Leasing Companies**

RULE NO.: 61G7-5.001  
 RULE TITLE: Application Procedure; Application  
 Form; Fees; Confidential  
 Information; Denial of Application;  
 Request for Hearing

PURPOSE AND EFFECT: To amend Rule 61G7-5.001, F.A.C., to clarify what evidence of workers' compensation coverage applicants for initial licensure are required to present to the Board if they have no leased employees. This amendment also presents a more specific website address for accessing application forms, amends Rule 61G7-5.001, F.A.C., and a form incorporated by reference so that licensure applicants will be required to submit electronic fingerprints rather than fingerprint cards, changes the application fee for controlling person applicants, and amends the process for controlling persons who leave one employee leasing company to work for another.

SUMMARY: To amend Rule 61G7-5.001, F.A.C., to clarify what evidence of workers' compensation coverage applicants for initial licensure are required to present to the Board if they have no leased employees. This amendment also presents a more specific website address for accessing application forms, amends Rule 61G7-5.001, F.A.C., and a form incorporated by reference so that licensure applicants will be required to submit electronic fingerprints rather than fingerprint cards, changes the application fee for controlling person applicants, and amends the process for controlling persons who leave one employee leasing company to work for another.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared. The Board determined that the rule amendments would have an impact on small businesses. Currently, the applicant background check fees and the application fees are a combined cost. The rule amendment will separate the two fees. This new method will be more efficient, saving time and a reduction in paper records. Also, the costs of the background checks will be paid through the Department of Business and Professional Regulation's vendor. Although, this new method will be more efficient, the cost of the application process will increase by \$14.00, which is incurred by the applicant.

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

RULEMAKING AUTHORITY: 120.53(1), 455.2281, 468.522, 468.5245, 468.5275 FS.

LAW IMPLEMENTED: 468.524(2), 468.5245, 468.525, 468.526, 468.527, 468.5275, 468.529 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: Richard Morrison, Executive Director, Board of Employee Leasing Companies, 1940 North Monroe Street, Tallahassee, Florida 32399-0767

THE FULL TEXT OF THE PROPOSED RULE IS:

61G7-5.001 Application Procedure; Application Form; Fees; Confidential Information; Denial of Application; Request for Hearing.

(1) Applicants for licensure as an employee leasing company or as a controlling person shall file a completed application on Form DBPR EL 4501, "Application for Licensure as an Employee Leasing Company," effective March 18, 2004 and/or Form DBPR EL 4510, "Application for Licensure as an Employee Leasing Company Controlling Person," effective ~~March 18, 2004~~. The forms, together with ~~the their attached~~ instructions for completing ~~them the application forms~~, are incorporated herein by reference and may be obtained from the Board's office at 1940 North Monroe Street, Tallahassee, Florida 32399-0750 or from its Website located at [www.myflorida.com/dbpr/pro/emplo/forms.html](http://www.myflorida.com/dbpr/pro/emplo/forms.html). Applicants shall cure all deficiencies in their application noted by the board within 90 days from the date of the letter notifying the applicant or the application will be denied as an incomplete application. For purposes of this rule, an application is complete when all items on the application form have been fully answered, the applicant has paid the application fee specified in subsection (2), and has submitted all attendant documentation, certifications, electronic fingerprints through the Department's vendor fingerprint cards, explanations of answers, and other items specified in the form and its attached instructions. An application for licensure as an employee leasing company or group will not be deemed complete until both the controlling person(s) and employee leasing company parts are complete.

(2) The application fee shall be \$250 for each employee leasing company applicants, ~~\$106.75~~ \$50 for each controlling person applicants, \$250 for each change of ownership applicants, and registration fees for de minimus operations of \$250 for a single employee leasing company and \$500 for a de minimus ~~an~~ employee leasing company group.

(3) License fees shall be assessed as follows:

(a) through (c) No change.

(d) For purposes of this rule the first year of the biennium shall end on April 30 of every odd ~~even~~-numbered year.

(e) through (f) No change.

(4) through (5) No change.

(6) In determining that an applicant meets the licensure requirements in Section 468.525, F.S., the Board must find that the applicant:

(a) In the case of an individual applying for licensure as a controlling person:

1. Is at least 18 years of age;

2. Is of good moral character as defined in Section 468.525(2)(a), F.S.;

3. Has sufficient education or experience to successfully operate as a controlling person of an employee leasing company.

4. Notwithstanding the foregoing, an applicant shall not be deemed to meet the requirements of Section 468.525(1)(c), F.S., if the applicant has been affiliated directly or indirectly with any person, persons or entities (not only an employee leasing company) whose business operations are being or have been operated in a manner detrimental to clients, employees, governmental agencies, investors or creditors through the improper manipulation of assets or accounts. The foregoing shall apply only if the applicant would have been considered a "controlling person" of any such entity as that term is defined in Section 468.520(7), F.S. "Business operations which are deemed to be detrimental to clients, employees, governmental agencies, investors or creditors" shall mean a history, pattern or significant incidence of the following:

a. The imposition of federal or state withholding or payroll tax liens,

b. Unpaid federal, state or local withholding or payroll taxes,

c. Violating federal wage and hour laws,

d. Failure to comply with state or federal workers' compensation requirements,

e. Failure to comply with applicable laws relating to the providing and maintenance of health insurance benefits to employees, and

f. Failure to comply with occupational health and safety act (OSHA) requirements.

5. If any person applying for licensure as a controlling person, pursuant to Section 468.525, F.S., has engaged in the activities set forth in sub-subparagraphs 4.a. through f. above, this shall not be deemed to be an automatic bar to licensure. In determining whether to approve an applicant for licensure in spite of such activities, the Board shall consider the following factors:

a. The length of time since the prior activity.

b. The steps taken by the applicant to insure the non-occurrence of similar actions in the future.

c. The restitution of any damages suffered by any company, client or victim of the applicant's actions.

d. The lack of any recurrent actions by the applicant.

e. The lack of any wrongful intent by the applicant at the time of the action.

6. Any controlling person's license approved by the board shall exist only in conjunction with a license granted to an employee leasing company. When any controlling person ceases to meet the statutory and rule criteria to be a controlling person then the controlling person's license shall expire and become null and void. If a controlling person notifies the Department within ninety (90) days of the event which ends the individual's status as a controlling person that the individual is going to become a controlling person with another employee leasing company then a new controlling person license will be issued upon payment of a \$5.00 transfer application fee and written notification to the Department from all employee leasing companies involved. For such an application only, the background checks required of all initial controlling person applicants shall be waived insofar as the information would be available from the previous licensure file.

(b) In the case of a sole proprietorship, partnership, corporation, or other form of business entity applying for licensure as an employee leasing company:

1. If a corporation is validly organized in the State of Florida, or appropriately registered as a Foreign Corporation doing business in the State of Florida as evidenced by a Certificate of Standing issued by the Florida Secretary of State.

2. Has and is maintaining, at the time of application, a positive working capital as determined in accordance with generally accepted accounting principles as demonstrated in the information filed with the application.

3. Has a tangible accounting net worth of not less than \$50,000 in accordance with generally accepted accounting principles as demonstrated in the information filed with the application.

4. Has, at the time of application, a contract form meeting the requirements of Sections 468.525(3) and (4), F.S., which will be used after licensure to engage in employee leasing with new or renewal clients.

5. Has provided with the application a certificate of workers' compensation insurance coverage which shall name the Board as a Certificate Holder and shall provide for a minimum of 30 days' notification of cancellation or if a policy from the Florida Joint Underwriters Association (JUA) or from any carrier authorized by the Florida Office of Insurance Regulation is to be utilized by the applicant, the applicant has provided a letter from the JUA or other authorized carrier which sets forth that the policy will issue immediately upon licensure by the Board, and the policy issues ~~from the JUA~~ within thirty (30) days of the JUA or other authorized carrier's notification from the Board that the applicant has been

approved subject to the JUA policy issuing. The employee leasing company may not contract to provide any services to leased employees until the JUA policy has issued.

6.a. Has provided with the application a valid certificate of workers' compensation insurance coverage, pursuant to Rule 61G7-10.0014, F.A.C., for all copies of the declaration pages and all endorsements on all plans for worker's compensation insurance covering leased employees. Notice of any changes in these insurance plans shall be submitted to the Department in writing along with the new certificate of workers' compensation insurance coverage copies of any policies, declaration pages and endorsements within sixty (60) days; or

b. Has supplied the Board a letter signed by an agent or a carrier authorized to bind coverage on behalf of such carrier, which substantially reads as follows:

Board of Employee Leasing Companies  
Division of Business and Professional Regulation  
Northwood Centre  
1940 North Monroe Street  
Tallahassee, Florida 32399

RE: \_\_\_\_\_

Dear \_\_\_\_\_:

Enclosed is a copy of the Certificate of Liability Insurance for \_\_\_\_\_ is an authorized agent and has the authority to bind coverage with \_\_\_\_\_. This policy number is \_\_\_\_\_, effective from \_\_\_\_\_ to \_\_\_\_\_ and issued to \_\_\_\_\_. This policy provides coverage to leased employees in Florida.

~~7.a. With regard to all plans of group insurance for the provision of health benefits to leased employees, has Has provided the Board an affidavit which is substantially in the form set forth in paragraph 61G7-5.001(12)(b), F.A.C. with the application copies of the policies, declaration pages and all endorsements on all plans or arrangements of group insurance for the provision of health benefits to leased employees. Notice of any changes in these insurance plans shall be submitted to the Department in writing along with copies of any policies, declaration pages and endorsements within sixty (60) days; or An additional affidavit shall be submitted to the Board within (60) days of any material change in any such plan offered to leased employees.~~

~~b. Has supplied the Board the affidavit set forth in paragraph 61G7-5.001(12)(b), F.A.C.~~

~~(7) through (11) No change.~~

~~(12)(a) Every employee leasing company or employee leasing company group which sponsors a plan for health benefits for its employees shall submit a complete copy of the plan or health insurance policy to the Board for review to insure compliance with subsection 468.529(1), F.S. In the event that the Board's review indicates that the submitted plan or policy is a self-insured plan of health benefits, the applicant or licensee shall submit an amended policy in conformity with subsection 468.529(1), F.S.~~

~~(b) As an alternative to the submission of the plan or health insurance policy as provided in paragraph (a) the The applicant or licensee, within (60) days of a licensee's obtaining a plan of group insurance for the provision of health benefits shall may submit an affidavit from the insurer showing that the policy or plan is in compliance. Such affidavit Nothing in this rule shall impose any requirement on any insurer to provide such an affidavit. In the event that an affidavit is submitted, it shall be in substantially the following form:~~

AFFIDAVIT

I, (name of affiant), after being duly sworn upon my oath, depose and state:

1. I am employed by (name of employer) as (position). (Name of employer), is an admitted insurance carrier in the State of Florida. I possess the authority to make the following statements on behalf of (name of employer) and to bind (name of employer) concerning the statements made herein.

2. It is my understanding that, ~~as a requirement for licensure as an employee leasing company in Florida,~~ an employee leasing company may not sponsor a plan of self-insurance for health benefits except as may be permitted by the provisions of the Florida Insurance Code or, if applicable, by Pub. L. No. 93-406, the Employees Retirement Income Security Act. (name of insurer) Group Insurance Policy # issued to (name of leasing company), is in compliance with the requirements of this law as it is a fully insured insurance product which is fully insured by (name of insurer). Notwithstanding any provision in the policy which could be interpreted to the contrary (name of insurer) is ultimately fully responsible for all incurred claims under the terms of the policy.

After having read the above statements, I swear that they are true and correct to the best of my knowledge and belief.

FURTHER AFFIANT SAYETH NAUGHT.

Subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by (name of affiant), who being known to me/ produced written identification in the form of (type of identification), and did take an oath.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

Rulemaking Specific Authority 120.53(1), 455.2281, 468.522, 468.5245, 468.5275 FS. Law Implemented 455.213(11), 455.2281, 468.524, 468.5245, 468.525, 468.526, 468.527, 468.5275, 468.529 FS. History--New 5-5-92, Amended 7-15-92, 10-20-92, Formerly 21EE-5.001, Amended 10-24-93, 3-14-94, 7-4-94, 9-8-94, 11-13-94, 2-13-95, 6-4-95, 11-9-95, 5-26-96, 5-19-97, 4-29-99, 9-5-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Employee Leasing Companies

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Employee Leasing Companies

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 17, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 15, 2009

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Employee Leasing Companies**

RULE NO.: 61G7-5.005  
 RULE TITLE: Deficiency in Tangible Accounting and Accounting Net Worth; Guaranty Form Acceptable to Board; Sufficient Evidence of Guarantor’s Adequate Resources

PURPOSE AND EFFECT: To amend Rule 61G7-5.005, F.A.C., and Form DBPR EL 4505 to make the guarantor financially responsible until the deficiency has been corrected or until a new guarantor has filed an acceptable guaranty with the Board to replace the original guaranty.

SUMMARY: The rule amendment make the guarantor financially responsible until the new guarantor has filed an acceptable guaranty replace the original one.

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: 468.522, 468.525(3)(d) FS.  
 LAW IMPLEMENTED: 468.525(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: Richard Morrison, Executive Director, Board of Employee Leasing Companies, 1940 North Monroe Street, Tallahassee, Florida 32399-0767

THE FULL TEXT OF THE PROPOSED RULE IS:

61G7-5.005 Deficiency in Tangible Accounting Net Worth; Guaranty Form Acceptable to Board; Sufficient Evidence of Guarantor’s Adequate Resources.

(1) When an applicant chooses to have a guaranty to offset any deficiency in tangible accounting net worth regarding an initial application, accounting net worth or working capital regarding a renewal application, such guaranty shall be made on Form DBPR EL 4505, entitled “Board Approved Guaranty Form,” effective 3-18-04, which is incorporated herein by reference and available from the Board at 1940 North Monroe Street, Tallahassee, Florida 32399-0750 and from its Website located at <http://www.myflorida.com/dbpr/pro/emplo/forms>.

html. Such guaranty shall be irrevocable until such time that the deficiency causing the guaranty has been corrected as shown by an audited financial statement, or until a new guarantor has filed an acceptable guaranty with the Board which replaces a previously filed guaranty.

(2) through (3) No change.

Rulemaking Specific Authority 468.522, 468.525(3)(d) FS. Law Implemented 468.525(3) FS. History–New 9-6-93, Amended 5-29-94, 5-26-96, 9-5-04, 6-8-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Employee Leasing Companies

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Employee Leasing Companies

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 17, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 15, 2009

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Employee Leasing Companies**

RULE NO.: 61G7-10.002  
 RULE TITLE: Reporting of Change of Status Required; Effect on Licensees; Change of Licensee Name

PURPOSE AND EFFECT: To amend Rule 61G7-10.002, F.A.C., to clarify the process and fee due when a controlling person leaves employment with one employee leasing company for another.

SUMMARY: The rule amendment would require a new owner or owners to show workers compensation coverage during the change of ownership and for the employees by providing a certificate of coverage from an insurance carrier that is admitted in the State of Florida.

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: 455.201(2), 468.522, 468.524(2), 468.525(3), 468.526, 468.530(3), 468.531, 455.201(2) FS.

LAW IMPLEMENTED: 468.524(2), 468.525(3), 468.526, 468.530(3), 468.531 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: Richard Morrison, Executive Director, Board of Employee Leasing Companies, 1940 North Monroe Street, Tallahassee, Florida 32399-0767

61G7-10.002 Reporting of Change of Status Required; Effect on Licensees; Change of Licensee Name.

(1) No change.

(2) Licensees experiencing a change in status listed below in the left column shall file or do what is listed in the corresponding right column as follows:

THE FULL TEXT OF THE PROPOSED RULE IS:

CHANGE IN STATUS

NEEDED ACTION BY COMPANY, GROUP, OR CONTROLLING PERSON

(a) through (c) No change.

~~(d) Sale or transfer of company stock which causes a change in controlling person(s) or other changes in the information contained in the original application~~

~~Controlling Person, effective 03-18-04 and DBPR EL 4511, entitled Application for Certificate of Approval for Change of Ownership, effective 03-18-04, where applicable. The above forms are incorporated by reference and available from the Board office or from the website at [www.myflorida.com](http://www.myflorida.com). <http://www.myflorida.com/dbpr/pro/emplo/forms.html>~~

~~(d)(e) Sale or transfer of company stock which causes a change in control~~

~~Change of Ownership application EL 4511, which causes a change in control and where applicable, controlling person license application for each new controlling person, DBPR EL 4510, and Historical Sketch form, DBPR EL 4512, where applicable. The above forms are incorporated by reference and available from the Board office at 1940 North Monroe Street, Tallahassee, Florida 32399-0750 or from the website at <http://www.myflorida.com/dbpr/pro/emplo/forms.html>. [www.myflorida.com](http://www.myflorida.com).~~

~~(e)(f) Sale or transfer of a majority of Florida business assets~~

~~Application for Certificate of Approval for Change of Ownership EL-4511, new company application if buyer not already licensed, and fee from buyer – old license does not transfer but remains with seller; unless already licensed, new controlling person license application and fee for each new controlling person.~~

~~(f)(g) No change.~~

~~(g)(h) No change.~~

~~(h)(i) Controlling person resigns from Company A and is employed by Company B as controlling person~~

~~notification to Board from Company A and controlling person; notification to Board from Company B regarding new controlling person no new application or fee needed from controlling person license goes with controlling person; \$5 transfer fee from controlling person.~~

(3) The notification required in subsection (1) shall be submitted to the executive director by any form of certified mail that provides the sender with delivery confirmation within 14 days of a change in a licensee's status. Within 30 days of a change in its status, the licensee, or other entity resulting from such change or both, shall submit new applications, new financial or other information, and new or additional fees to the Board's office as needed to comply with Part XI of Chapter 468, F.S., and the rules of this Board.

~~involved the company to which the controlling person has moved shall submit notifications to the Board of the acceptance of the controlling person's transfer, along with a \$25 fee for the change of company name on the individual's license.~~

(7) No change.

(4) through (5) No change.

(6) In the event of a change in status of controlling person pursuant to paragraph (2)(h) or (i), as outlined above, the controlling person and all employee leasing companies

(8) In the event of a change in ownership pursuant to paragraph (2)(d), (2)(e), or (2)(f) above, the new owner or owners must demonstrate that workers compensation coverage is in effect during the change of ownership and at all time subsequent thereto for the employees of the acquired entity by providing a certificate of coverage from an insurance carrier that is admitted in the State of Florida naming the new owner or owners as the insurer.

Rulemaking Specific Authority 455.201(2), 468.522, 468.524(2), 468.525(3), 468.526, 468.530(3), 468.531, 455.201(2) FS. Law Implemented 468.524(2), 468.525(3), 468.526, 468.530(3), 468.531 FS. History–New 1-27-93, Amended 5-20-93, Formerly 21EE-10.002, Amended 10-24-93, 8-17-94, 11-9-95, 5-21-96, 11-24-96, 3-18-97, 3-1-05, 10-23-05, 12-31-06,\_\_\_\_\_

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Employee Leasing Companies  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Employee Leasing Companies  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 17, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 15, 2009

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE NO.: 61G15-22.011  
RULE TITLE: Board Approval of Continuing Education Providers

PURPOSE AND EFFECT: To delete outdated language.  
SUMMARY: The Board proposes to delete outdated language.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 455.213(6), 455.2178, 455.2179, 471.008, 471.017(3), 471.01 FS.

LAW IMPLEMENTED: 455.213(6), 455.2177, 455.2178, 455.2179, 471.008, 471.017(3), 471.019 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: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-22.011 Board Approval of Continuing Education Providers.

(1) through (8) No change.

(9) The following providers shall be approved as providers ~~until May 31, 2009~~, and the Board shall accept their courses for continuing education credit:

(a) through (c) No change.

Rulemaking Authority 455.213(6), 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS. History–New 9-16-01, Amended 9-4-02, 12-21-03, 8-8-05, 6-11-06, 1-29-07, 6-3-07, 8-10-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 15, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 19, 2010

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NO.: 62-204.800  
RULE TITLE: Federal Regulations Adopted by Reference

PURPOSE, EFFECT AND SUMMARY: The proposed rule amendments (OGC No. 10-1323) update, through March 31, 2010, the department’s adoption-by-reference of air pollution regulations promulgated by the U.S. Environmental Protection Agency (EPA) at 40 C.F.R. Parts 50 and 58.

RULEMAKING AUTHORITY: 403.8055 FS.

LAW IMPLEMENTED: 403.061, 403.087, 403.8055 FS.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 403.8055, F.S.

WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE TO: Ms. Lynn Searce, Division of Air Resource Management, 2600 Blair Stone Road, MS 5500, Tallahassee, FL 32399-3000.

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE ENVIRONMENTAL REGULATION COMMISSION, ADMINISTRATIVE ASSISTANT, DEP, MS 35, 3900 COMMONWEALTH BLVD., TALLAHASSEE, FL 32399-3000. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-204.800 Federal Regulations Adopted by Reference.

All federal regulations cited throughout the air pollution rules of the Department are adopted and incorporated by reference in this rule. The purpose and effect of each such federal regulation is determined by the context in which it is cited. Procedural and substantive requirements in the incorporated federal regulations are binding as a matter of state law only where the context so provides.

(1) Title 40, Code of Federal Regulations, Part 50, National Primary and Secondary Ambient Air Quality Standards.

(a) The provisions of 40 CFR Part 50, §§ 50.1 through 50.12, revised as of July 1, 2006; amended November 12, 2008, at 73 FR 66963; amended February 9, 2010, at 75 FR 6473; § 50.13, promulgated October 17, 2006, at 71 FR 61143; § 50.14, promulgated March 22, 2007, at 72 FR 13559; amended May 22, 2007, at 72 FR 28612; amended October 6, 2008, at 73 FR 58042; amended November 12, 2008, at 73 FR 66963; amended May 19, 2009, at 74 FR 23307, amended February 9, 2010, at 75 FR 6473; § 50.15 promulgated, March 27, 2008, at 73 FR 16435; and § 50.16, promulgated November 12, 2008, at 73 FR 66963; are adopted and incorporated by reference.

(b) The following appendices of 40 C.F.R. Part 50, revised as of July 1, 2006, or later as specifically indicated, are adopted and incorporated by reference:

1. through 17. No change.

18. 40 C.F.R. Part 50, Appendix S, Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen (Nitrogen Dioxide), promulgated February 9, 2010, at 75 FR 6473.

(2) through (5) No change.

(6) Title 40, Code of Federal Regulations, Part 58, Ambient Air Quality Surveillance.

(a) The following subparts of 40 C.F.R. Part 58, revised as of July 1, 2006, or later as specifically indicated, are adopted and incorporated by reference:

1. 40 C.F.R. Part 58, Subpart A, General Provisions; amended October 17, 2006, at 71 FR 61235; amended February 9, 2010, at 75 FR 6473.

2. 40 C.F.R. Part 58, Subpart B, Monitoring Network, amended October 17, 2006, at 71 FR 61235; amended June 12, 2007, at 72 FR 32193; amended November 12, 2008, at 73 FR 66963; amended February 9, 2010, at 75 FR 6473.

3. through 6. No change.

(b) The following appendices of 40 C.F.R. Part 58, revised as of July 1, 2006, or later as specifically indicated, are adopted and incorporated by reference:

1. 40 C.F.R. Part 58, Appendix A, Quality Assurance Requirements for SLAMS, SPMs and PSD Air Monitoring; amended October 17, 2006, at 71 FR 61235; amended June 12, 2007, at 72 FR 32193; amended November 12, 2008, at 73 FR 66963; amended February 9, 2010, at 75 FR 6473.

2. 40 C.F.R. Part 58, Appendix C, Ambient Air Quality Monitoring Methodology; amended October 17, 2006, at 71 FR 61235; amended November 12, 2008, at 73 FR 66963; amended February 9, 2010, at 75 FR 6473.

3. 40 C.F.R. 58, Appendix D, Network Design Criteria for Ambient Air Quality Monitoring; amended October 17, 2006, at 71 FR 61235; amended June 12, 2007, at 72 FR 32193; amended November 12, 2008, at 73 FR 66963; amended February 9, 2010, at 75 FR 6473.

4. 40 C.F.R. 58, Appendix E, Probe and Monitoring Path Siting Criteria for Ambient Air Quality Monitoring; amended October 17, 2006, at 71 FR 61235; amended February 9, 2010, at 75 FR 6473.

5. 40 C.F.R. Part 58, Appendix G, Uniform Air Quality Index (AQI) and Daily Reporting; amended March 27, 2008, at 73 FR 16435; amended June 26, 2009, at 74 FR 30469; amended February 9, 2010, at 75 FR 6473.

(7) through (27) No change.

PROPOSED EFFECTIVE DATE: July 1, 2010.

Rulemaking Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.087, 403.8055 FS. History—New 3-13-96, Amended 6-25-96, 10-7-96, 10-17-96, 12-20-96, 4-18-97, 6-18-97, 7-7-97, 10-3-97, 12-10-97, 3-2-98, 4-7-98, 5-20-98, 6-8-98, 10-19-98, 4-1-99, 7-1-99, 9-1-99, 10-1-99, 4-1-00, 10-1-00, 1-1-01, 8-1-01, 10-1-01, 4-1-02, 7-1-02, 10-1-02, 1-1-03, 4-1-03, 10-1-03, 1-1-04, 4-1-04, 7-1-04, 10-1-04, 1-1-05, 4-1-05, 7-1-05, 10-1-05, 1-1-06, 4-1-06, 7-1-06, 9-4-06, 9-6-06, 1-8-07, 1-31-07, 4-2-07, 5-31-07, 7-2-07, 10-1-07, 2-1-08, 7-1-08, 10-1-08, 10-6-08, 12-1-08, 11-18-09, 7-1-10.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

<b>RULE NO.:</b>	<b>RULE TITLE:</b>
62-204.800	Federal Regulations Adopted by Reference

**PURPOSE, EFFECT AND SUMMARY:** The proposed rule amendments (OGC No. 10-1322) update the department’s adoption-by-reference of air pollution regulations promulgated by the U.S. Environmental Protection Agency (EPA) at 40 C.F.R. Part 60, Subparts A, Ce, and Ec, to incorporate revisions to the new source performance standards and emission guidelines for hospital/medical/infectious waste incinerators promulgated by EPA October 6, 2009.

**RULEMAKING AUTHORITY:** 403.8055 FS.

**LAW IMPLEMENTED:** 403.061, 403.087, 403.8055 FS.

**THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 403.8055, F.S.**

**WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE TO:** Ms. Lynn Scarce, Division of Air Resource Management, 2600 Blair Stone Road, M.S. 5500, Tallahassee, FL 32399-3000

**SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE ENVIRONMENTAL REGULATION COMMISSION,**

ADMINISTRATIVE ASSISTANT, DEP, MS 35, 3900 COMMONWEALTH BLVD., TALLAHASSEE, FL 32399-3000. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-204.800 Federal Regulations Adopted by Reference.

All federal regulations cited throughout the air pollution rules of the Department are adopted and incorporated by reference in this rule. The purpose and effect of each such federal regulation is determined by the context in which it is cited. Procedural and substantive requirements in the incorporated federal regulations are binding as a matter of state law only where the context so provides.

(1) through (7) No change.

(8) Title 40, Code of Federal Regulations, Part 60, Standards of Performance for New Stationary Sources.

(a) No change.

(b) Standards Adopted. The following Standards of Performance for New Stationary Sources contained in 40 C.F.R. Part 60, revised as of July 1, 2001, or later as specifically indicated, are adopted and incorporated by reference:

1. through 7. No change.

8. 40 C.F.R. Part 60, Subpart Ec, Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996; amended October 6, 2009, at 74 FR 51368; except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 60.56(c)(i).

9. through 81. No change.

(c) No change.

(d) General Provisions Adopted. The general provisions of 40 C.F.R. Part 60, Subpart A, revised as of July 1, 2001; amended August 27, 2001, at 66 FR 44978; amended July 8, 2004, at 69 FR 41346; amended May 18, 2005, at 70 FR 28605; amended December 16, 2005, at 70 FR 74869; amended June 1, 2006, at 71 FR 31100; amended July 6, 2006, at 71 FR 38481; amended July 11, 2006, at 71 FR 39153; amended May 16, 2007, at 72 FR 27437; amended June 13, 2007, at 72 FR 32709; amended November 16, 2007, at 72 FR 64859; amended January 18, 2008, at 73 FR 3567; amended June 24, 2008, at 73 FR 35837; amended December 22, 2008, at 73 FR 78199; amended January 28, 2009, at 74 FR 5071; amended October 6, 2009, at 74 FR 51368; are adopted and incorporated by reference except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 60.4, 40 C.F.R. § 60.8(b)(2) and (3), 40 C.F.R. § 60.11(e)(7) and (8), 40 C.F.R. § 60.13(g), (i) and (j)(2), and 40 C.F.R. § 60.16.

(e) No change.

(9) Title 40, Code of Federal Regulations, Part 60, Emission Guidelines and Compliance Times.

(a) through (c) No change.

(d) Hospital/Medical/Infectious Waste Incinerators. 40 C.F.R. part 60, Subpart Ce, Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators, revised as of July 1, 2001, is hereby adopted and incorporated by reference, subject to the following provisions:

1. through 6. No change.

7. Compliance and Performance Testing.

a. Except as provided for under sub-paragraph 62-204.800(9)(d)7.b., F.A.C., the compliance and performance testing requirements applicable to each hospital/medical/infectious waste incinerator subject to paragraph 62-204.800(9)(d), F.A.C., shall be the same as set forth in 40 C.F.R. § 60.56c, excluding the fugitive emissions testing requirements under 40 C.F.R. §§ 60.56c(b)(14)(42) and (c)(3).

b. No change.

8. through 11. No change.

(e) through (f) No change.

(g) ~~Reserved.~~ Hospital/Medical/Infectious Waste Incinerators. 40 C.F.R. Part 60, Subpart Ce, Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators, revised as of July 1, 2009; amended October 6, 2009, at 74 FR 51368; is hereby adopted and incorporated by reference, subject to the following provisions:

1. Applicability. The applicability of paragraph 62-204.800(9)(g), F.A.C., shall be the same as set forth at 40 C.F.R. § 60.32e.

2. Definitions. The terms used but not defined in 40 C.F.R. 60, Subpart Ce, shall have the meaning given them at 40 C.F.R. 60, Subparts A, B and Ec.

3. Emission Limiting Standards.

a. The emission limits applicable to each hospital/medical/infectious waste incinerator subject to paragraph 62-204.800(9)(g), F.A.C., shall be the same as the emission limits set forth at 40 C.F.R. § 60.33e(a)(2) or (3).

b. The opacity limit applicable to each hospital/medical/infectious waste incinerator subject to paragraph 62-204.800(9)(g), F.A.C., shall be the same as the opacity limit set forth at 40 C.F.R. § 60.52c(b)(2).

4. Operator Training and Qualification. The operator training and qualification requirements applicable to each hospital/ medical/infectious waste incinerator subject to paragraph 62-204.800(9)(g), F.A.C., shall be the same as set forth at 40 C.F.R. § 60.53c.

5. Waste Management. The waste management plan requirements applicable to each hospital/medical/infectious waste incinerator subject to paragraph 62-204.800(9)(g), F.A.C., shall be the same as set forth at 40 C.F.R. § 60.55c.

6. Inspection. Each hospital/medical/infectious waste incinerator subject to paragraph 62-204.800(9)(g), F.A.C., shall comply with the inspection requirements as set forth at 40 C.F.R. § 60.36e.

7. Compliance, Performance Testing, and Monitoring Provisions.

a. The compliance and performance testing requirements applicable to each hospital/medical/infectious waste incinerator subject to paragraph 62-204.800(9)(g), F.A.C., shall be the same as set forth at 40 C.F.R. § 60.56c, excluding the annual fugitive emissions testing requirements under § 60.56c(c)(3), the CO CEMS requirements under § 60.56c(c)(4), and the compliance requirements for monitoring listed in §§ 60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), and (g)(6) through (10). Hospital/medical/infectious waste incinerators subject to the emission limits under § 60.33e(a)(2) and (a)(3) may, however, elect to use CO CEMS as specified under § 60.56c(c)(4) or bag leak detection systems as specified under § 60.57c(h).

b. The monitoring requirements applicable to each hospital/medical/infectious waste incinerator subject to paragraph 62-204.800(9)(g), F.A.C., shall be the same as set forth at 40 C.F.R. § 60.57c.

c. The use of previous emissions test results applicable to each hospital/medical/infectious waste incinerator subject to paragraph 62-204.800(9)(g), F.A.C., shall be the same as set forth at 40 CFR § 60.37e(f).

8. Reporting and Recordkeeping.

a. The reporting and recordkeeping requirements applicable to each hospital/medical/infectious waste incinerator subject to paragraph 62-204.800(9)(g), F.A.C., shall be the same as set forth at 40 C.F.R. §§ 60.58c(b) through (g), excluding §§ 60.58c(b)(2)(xviii) (bag leak detection system alarms), (b)(2)(xix) (CO CEMS data), and (b)(7) (siting documentation).

b. In addition, each hospital/medical/infectious waste incinerator subject to paragraph 62-204.800(9)(g), F.A.C., shall comply with the reporting and recordkeeping requirements of 40 C.F.R. § 60.38e(b).

9. Compliance Times.

a. Each hospital/medical infectious waste incinerator subject to paragraph 62-204.800(9)(g), F.A.C., shall comply with the operator training and qualification requirements of subparagraph 62-204.800(9)(g)4., F.A.C., according to the schedule set forth at 40 C.F.R. § 60.39e(e).

b. Each hospital/medical/infectious waste incinerator subject to paragraph 62-204.800(9)(g), F.A.C., shall comply with the inspection requirements of subparagraph 62-204.800(9)(g)6., F.A.C., according to the schedule set forth at 40 C.F.R. § 60.39e(e).

10. Effective Date. The effective date of paragraph 62-204.800(9)(g), F.A.C., shall be April 1, 2012.

(h) No change.

(10) through (27) No change.

**PROPOSED EFFECTIVE DATE: June 11, 2010**

Rulemaking Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.087, 403.8055 FS. History—New 3-13-96, Amended 6-25-96, 10-7-96, 10-17-96, 12-20-96, 4-18-97, 6-18-97, 7-7-97, 10-3-97, 12-10-97, 3-2-98, 4-7-98, 5-20-98, 6-8-98, 10-19-98, 4-1-99, 7-1-99, 9-1-99, 10-1-99, 4-1-00, 10-1-00, 1-1-01, 8-1-01, 10-1-01, 4-1-02, 7-1-02, 10-1-02, 1-1-03, 4-1-03, 10-1-03, 1-1-04, 4-1-04, 7-1-04, 10-1-04, 1-1-05, 4-1-05, 7-1-05, 10-1-05, 1-1-06, 4-1-06, 7-1-06, 9-4-06, 9-6-06, 1-8-07, 1-31-07, 4-2-07, 5-31-07, 7-2-07, 10-1-07, 2-1-08, 7-1-08, 10-1-08, 10-6-08, 12-1-08, 11-18-09, 6-11-10.

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.:

RULE TITLE:

62-304.600

Tampa Bay Basin TMDLs

PURPOSE AND EFFECT: The purpose of the rule is to adopt Total Maximum Daily Loads (TMDLs) and their allocations for waters in the Tampa Bay Basin that are impaired for fecal coliform.

SUMMARY: These TMDLs address fecal coliform impairments in the Tampa Bay Basin. Specifically, the TMDL rules being proposed for adoption are for Allen Creek (tidal), Alligator Creek, Bellows Lake Outlet, Bishop Creek (freshwater and tidal segments), Brushy Creek, Bullfrog Creek (freshwater and tidal segments), Cross Canal (North), Double Branch, Little Bullfrog Creek, Lower Rocky Creek, Moccasin Creek (tidal), Mullet Creek (freshwater and tidal segments), Rocky Creek, and Sweetwater Creek. These waterbodies were verified as impaired using the methodology established in Chapter 62-303, F.A.C., Identification of Impaired Surface Waters. The methodologies used to develop the TMDLs were either the percent reduction or load duration analysis method. These TMDLs were originally published in August 2009; however, because certain other TMDLs also proposed for Rule 62-304.600, F.A.C., are the subject of an administrative challenge, the Department must republish these TMDLs so that they may proceed separately for adoption. This rulemaking has been given OGC case number 10-1477.

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: 403.061, 403.067 FS.  
LAW IMPLEMENTED: 403.061, 403.062, 403.067 FS.  
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: May 27, 2010, 9:30 a.m.

PLACE: Florida Department of Environmental Protection, 2600 Blair Stone Road, Room 609, Bob Martinez Center, 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: Ms. Pat Waters at (850)245-8449. 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: Jan Mandrup-Poulsen, Division of Environmental Assessment and Restoration, Bureau of Watershed Restoration, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8448

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.600 Tampa Bay Basin TMDLs.

(1) Allen Creek (tidal). The fecal coliform TMDL for Allen Creek (tidal) is 400 counts/100mL and is allocated as follows:

(a) The Wasteload Allocation (WLA) for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from 2008, will require a 77 percent reduction of sources contributing to exceedances of the criteria.

(c) The Load Allocation (LA) for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from 2008, will require a 77 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result

in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(2) Alligator Creek. The fecal coliform TMDL for Alligator Creek is  $4.4 \times 10^{10}$  counts/day, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2007 period, will require a 51 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2007 period, will require a 51 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(3) Bellows Lake Outlet (also known as East Lake Outfall). The fecal coliform TMDL for Bellows Lake Outlet is 400 counts/100mL, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations in 2008, will require a 80 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations in 2008, will require a 80 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(4) Bishop Creek (freshwater). The fecal coliform TMDL for Bishop Creek (freshwater) is 400 counts/100mL, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2007 period, will require a 64 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2007 period, will require a 64 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(5) Bishop Creek (tidal). The fecal coliform TMDL for Bishop Creek (tidal) is 400 counts/100mL, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from 2008, will require a 64 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from 2008, will require a 64 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(6) Brushy Creek. The fecal coliform TMDL for Brushy Creek is 400 counts/100mL, and is allocated as follows:

(a) The WLA for the Hillsborough County Dale Mabry Advanced Wastewater Treatment Plant (FL0036820) is that it must meet its NPDES permit limits.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2004 to 2007 period, will require a 36 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2004 to 2007 period, will require a 36 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform has been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(7) Bullfrog Creek (freshwater). The fecal coliform TMDL for Bullfrog Creek (freshwater) is  $1.66 \times 10^{11}$  counts/day, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2007 period, will require a 72 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2007 period, will require a 72 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(8) Bullfrog Creek (tidal). The fecal coliform TMDL for Bullfrog Creek (tidal) is 400 counts/100mL, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2007 period, will require a 46 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2007 period, will require a 46 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(9) Cross Canal (North). The fecal coliform TMDL for Cross Canal (North) is 400 counts/100mL, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2005 to 2007 period, will require a 64 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2005 to 2007 period, will require a 64 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform has been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(10) Double Branch. The fecal coliform TMDL for Double Branch is 400 counts/100mL, and is allocated as follows:

(a) The WLA for the Hillsborough County Northwest Regional Wastewater Reclamation Facility (FL0041670) is that it must meet the its NPDES permit conditions.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2007 period, will require a 41 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2007 period, will require a 41 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(11) Little Bullfrog Creek. The fecal coliform TMDL for Little Bullfrog Creek is 400 counts/100mL, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2004 to 2007 period, will require a 74 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2004 to 2007 period, will require a 74 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform has been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(12) Lower Rocky Creek. The fecal coliform TMDL for Lower Rocky Creek is 400 counts/100mL, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream



concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2007 period, will require a 71 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2007 period, will require a 71 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(13) Moccasin Creek (tidal). The fecal coliform TMDL for Moccasin Creek (tidal) is 400 counts/100mL, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2005 to 2006 period, will require a 60 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2005 to 2006 period, will require a 60 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(14) Mullet Creek (freshwater). The fecal coliform TMDL for Mullet Creek (freshwater) is 400 counts/100mL, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on

the measured concentrations from the 2000 to 2005 period, will require a 57 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2005 period, will require a 57 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(15) Mullet Creek (tidal). The fecal coliform TMDL for Mullet Creek (tidal) is 400 counts/100mL, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from 2006, will require a 49 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from 2006, will require a 49 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(16) Rocky Creek. The fecal coliform TMDL for Rocky Creek is 400 counts/100mL, and is allocated as follows:

(a) WLAs for the Hillsborough County Rivers Oaks Advanced Wastewater Treatment Facility (FL0027821) and the Hillsborough County Northwest Regional Wastewater Reclamation Facility (FL0041670) are that they meet the facilities' permit limits.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on

the measured concentrations from the 2000 to 2007 period, will require a 58 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2007 period, will require a 58 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(17) Sweetwater Creek. The fecal coliform TMDL for Sweetwater Creek is 400 counts/100mL, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2007 period, will require a 44 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2000 to 2007 period, will require a 44 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Drew Bartlett, Deputy Director, Division of Environmental Assessment and Restoration

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael Sole, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 28, 2009

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

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.:

RULE TITLE:

62-304.610

Hillsborough River Basin TMDLs

PURPOSE AND EFFECT: The purpose of the rule is to adopt Total Maximum Daily Loads (TMDLs), and their allocations, for water segments impaired for fecal coliforms in the Hillsborough River Basin.

SUMMARY: These TMDLs address fecal coliform impairments in the Hillsborough River Basin. Specifically, the TMDL rules being proposed for adoption are fecal coliform TMDLs for Mill Creek and Trout Creek. The methodology used to develop the fecal coliform TMDLs was the percent reduction method. These TMDLs were originally published in August 2009; however, because certain other TMDLs also proposed for Rule 62-304.610, F.A.C., are now the subject of an administrative challenge, the Department must republish these TMDLs so that they may proceed separately for adoption. This rulemaking has been given OGC case number 10-1477.

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: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.061, 403.062, 403.067 FS.

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

DATE AND TIME: May 27, 2010, 9:30 a.m.

PLACE: Florida Department of Environmental Protection, 2600 Blair Stone Road, Room 609, Bob Martinez Center, 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: Ms. Pat Waters at (850)245-8449. 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: Jan Mandrup-Poulsen, Division of Environmental Assessment and Restoration, Bureau of Watershed Restoration, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8448

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.610 Hillsborough River Basin TMDLs.

(1) through (9) No change.

(10) Mill Creek. The fecal coliform TMDL for Mill Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2001 to 2007 period, will require a 66 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2001 to 2007 period, will require a 66 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(11) Trout Creek. The fecal coliform TMDL for Trout Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for the Hillsborough County Pebble Creek Village WWTF (FL0039896) must meet its NPDES permit conditions.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2001 to 2007 period, will require a 53 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2001 to 2007 period, will require a 53 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from

both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

Rulemaking Specific Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History--New 12-22-04, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Drew Bartlett, Deputy Director, Division of Environmental Assessment and Restoration

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael Sole, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 28, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 19, 2009

**DEPARTMENT OF JUVENILE JUSTICE**

**Residential Services**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
63E-7.002	Definitions
63E-7.006	Quality of Life and Youth Grievance Process
63E-7.010	Residential Case Management Services
63E-7.011	Delinquency Intervention and Treatment Services
63E-7.013	Safety and Security
63E-7.016	Program Administration

**PURPOSE AND EFFECT:** The amendments are intended to incorporate the Youth Needs Assessment Summary, and to conform portions of the residential rule to state and federal requirements in the areas of gang prevention, treatment services, consent to treatment, health services, and facility safety.

**SUMMARY:** The amendments relate to treatment, assessment, prevention and intervention, and facility operations in residential programs.

**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:** 985.601, 985.64 FS.

**LAW IMPLEMENTED:** 985.601 FS.

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

**DATE AND TIME:** Tuesday, May 25, 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 RULES IS: John Milla, 2737 Centerview Dr., Ste. 3200, Tallahassee, FL 32399-3100, e-mail: john.milla@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

63E-7.002 Definitions.

For the purpose of this rule chapter, the following words shall have the meanings indicated.

(1) through (88) No change.

(89) Youth Needs Assessment Summary – A summary document in JJIS of all completed evaluations and assessments used to identify strengths and needs. This summary is completed by the case manager and is used to create the youth's Performance Plan. The Youth Needs Assessment Summary (RS 13, May 2010) is incorporated into this rule and is accessible at [http://www.djj.state.fl.us/forms/residential\\_rule63E\\_forms.html](http://www.djj.state.fl.us/forms/residential_rule63E_forms.html).

Rulemaking Authority 20.316, 985.64, 985.601(3)(a) FS. Law Implemented 985.601(3)(a), 985.03(44), 985.441(1)(b) FS. History–New 9-30-07, Amended 8-25-08, 7-8-09, 12-21-09, 5-4-10,\_\_\_\_\_.

63E-7.006 Quality of Life and Youth Grievance Process.

(1) through (2) No change.

(3) A residential commitment program shall demonstrate a program model or component that addresses the needs of a targeted gender group. Health and hygiene, the physical environment, life and social skills training, and leisure and recreational activities are key components in providing a gender specific program.

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

Rulemaking Specific Authority 985.64, 985.601(3)(a), 20.316 FS. Law Implemented 985.601(3)(a), 985.03(44), 985.441(1)(b) FS. History–New 12-24-07, Amended\_\_\_\_\_.

63E-7.010 Residential Case Management Services.

(1) through (4) No change.

(5) Assessment. A residential commitment program shall provide assessment services as follows:

(a) Initial Assessment. The program shall ensure that an initial assessment of each youth is conducted within 30 days of admission. The program shall maintain all documentation of the initial assessment process in JJIS on the Youth Needs Assessment Summary in the youth's official youth case record.

1. Criminogenic Risks and Needs. The program shall assess each youth using the RPACT to identify criminogenic risk and protective factors, prioritize the youth's criminogenic needs.

2. Educational and Treatment Needs. Additionally, the program shall ensure that the initial assessment process addresses the youth's educational and treatment needs as specified in the following subsections, and that any resulting information that is applicable to the criminogenic risk and needs assessment is reflected on the criminogenic assessment tool addressed in subparagraph 63E-7.010(5)(a)1., F.A.C.

a. Education. An educational assessment shall be conducted as required in Section 1003.52, F.S.

b. Physical Health. A comprehensive physical assessment conducted by a physician, advanced registered nurse practitioner (ARNP) or physician assistant, as well as a health-related history conducted by a physician, ARNP, physician assistant or nurse licensed pursuant to Chapter 464, F.S., shall be made available to the program by the time of the youth's admission. After the youth is admitted, healthcare professionals with the qualifications referenced above shall review the respective documents within seven calendar days of the youth's admission, resulting in verification or update of the youth's medical status, identification of any medical alert relevant to the youth, and provision of healthcare services as indicated.

c. Mental Health and Substance Abuse. The program shall ensure that a comprehensive mental health or substance abuse evaluation is conducted when the need is identified through screening pursuant to paragraph 63E-7.004(2)(b), F.A.C. However, if a comprehensive evaluation, as defined in Rule 63E-7.002, F.A.C., was conducted within the past twelve months, an update to that evaluation may be completed instead. Only a licensed mental health professional or a mental health clinical staff person working under the direct supervision of a licensed mental health professional shall conduct a mental health evaluation or update. Any substance abuse evaluation or update shall be conducted by a qualified professional who is licensed under Chapter 458, 459, 490 or 491, F.S., or a substance abuse clinical staff person who is an employee of a service provider licensed under Chapter 397, F.S., or an employee in a facility licensed under Chapter 397, F.S.

(b) Reassessment. The program shall determine and document changes in each youth's risks and needs using the RPACT so that updated information is available when the intervention and treatment team prepares a 90-day Performance Summary pursuant to paragraph 63E-7.010(9)(b), F.A.C. Additionally, the program shall ensure that any other updates or reassessments are completed when deemed necessary by the intervention and treatment team to effectively manage the youth's case. The program shall maintain all re-assessment documentation in the youth's official youth case record.

(6) through (12) No change.

Rulemaking Authority 985.64 FS. Law Implemented 985.601(3)(a) FS. History–New 12-9-08, Amended 12-21-09, 5-4-10,\_\_\_\_\_.

63E-7.011 Delinquency Intervention and Treatment Services.

A residential commitment program shall provide delinquency intervention and treatment services that are gender-specific pursuant to Section 985.02, F.S., and that focus on preparing youth to live responsibly in the community upon release from the program. The program shall design its services and service delivery system based on the common characteristics of its primary target population, including age, gender, and special needs, and their impact on youths' responsivity to intervention or treatment. However, in accordance with Rule 63E-7.010, F.A.C., the program shall individualize and coordinate the provision of delinquency intervention and treatment services based on each youth's prioritized risk and needs as identified through the RPACT and document services delivered in the youth's individual management record.

(1) through (2) No change.

(3) Treatment Services. Treatment services shall be provided in accordance with the following provisions:

(a) Authority for Evaluation and Treatment.

1. through 8. No change.

9. The AET does not authorize or provide consent for substance abuse services. The youth's consent for substance abuse services must be obtained as specified in paragraph (b) below.

(b) Youth Consent for Substance Abuse Evaluation and Treatment

1. A youth must consent to substance abuse evaluation and treatment unless such treatment is ordered by the court.

2. Youth consent for substance abuse services must be documented and obtained in accordance with Chapter 397, F.S., and Chapter 65D-30, F.A.C.

3. If a youth refuses to provide consent for necessary substance abuse evaluation and treatment, the department shall determine the need for a court order for the provision of such services.

4. Substance abuse records of service providers pertaining to the identity, diagnosis, and prognosis of and service provision to a youth may not be disclosed without the written consent of the youth to whom they pertain. However, appropriate disclosure may be made without written consent as specified in Section 397.501(7), F.S.

5. Any written consent for disclosure may be given only by the youth. This restriction on disclosure includes any disclosure of youth identifying information to the parent, legal guardian or custodian for the purpose of obtaining financial reimbursement.

6. Youth consent for release of substance abuse information and records must be documented and obtained in accordance with Chapter 397, F.S., Chapter 65D-30, F.A.C. and 42 Code of Federal Regulations, Part 2.

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

Rulemaking Authority 985.64 FS. Law Implemented 985.601(3)(a) FS. History--New 12-9-08, Amended 12-21-09, 5-4-10, \_\_\_\_\_.

63E-7.013 Safety and Security.

(1) through (7) No change.

(8) Gang Prevention and Intervention. A residential commitment program shall implement gang prevention and intervention strategies within the facility. Any indication of formal criminal gang activity, either observed or reported, shall be documented and the names of the youth identified as participating in formal criminal gang activity shall be entered in the alert system in JJIS and forwarded to local law enforcement for review. This information shall be shared with the education provider or local school district providing educational services at the facility, as well as with the youth's JPO and, if identified, his or her post residential services counselor. If local law enforcement certifies the youth as an associate or criminal gang member, the program shall document the information in the alert system in JJIS and shall assess each newly admitted youth to determine if he or she is a criminal street gang member or is affiliated with any criminal street gang. For the purpose of this rule chapter, the definitions of criminal street gang and criminal street gang member are consistent with definitions in Chapter 874, F.S. The program shall share pertinent gang-related information, as appropriate, with the Florida Department of Law Enforcement, local law enforcement, Department of Corrections, school districts, the judiciary, and social service agencies, as well as with a youth's JPO and, if identified, his or her post residential services counselor.

(9) through (17) No change.

(18) Transportation. When transporting a youth, a residential commitment program shall maintain custody and control while ensuring the safety of youth, staff and the community.

(a) The program shall comply with the following provisions whether or not secure transportation is required:

1. The program shall ensure a current drivers license for any staff member operating a program vehicle.

1. through 7. renumbered 2. through 8. No change.

(b) through (c) No change.

(19) through (22) No change.

Rulemaking Specific Authority 985.64 FS. Law Implemented 985.601(3)(a), 985.441(1)(b), 985.03(44) FS. History--New 4-13-08, Amended 8-25-08, \_\_\_\_\_.

63E-7.016 Program Administration.

(1) through (5) No change.

(6) A residential commitment program shall ensure that a system is in place to request payment by parents/legal guardians or private insurance, if available, for youth's necessary medical treatment prior to forwarding medical bills to the department for payment.

(6) through (15) renumbered (7) through (16) No change.

Rulemaking Authority 985.64 FS. Law Implemented 985.601(3)(a) FS. History--New 4-13-08, Amended 8-25-08, 12-21-09, 5-4-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Darryl Olson, Assistant Secretary for Residential Services  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Frank Peterman, Jr., Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 19, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 2010

**DEPARTMENT OF JUVENILE JUSTICE**

**Division of Administration**

RULE NOS.:	RULE TITLES:
63F-11.001	Purpose and Scope
63F-11.002	Definitions
63F-11.003	Reporting Incidents
63F-11.004	Reportable Incident Types
63F-11.005	Operation of the Central Communications Center
63F-11.006	Daily Reporting

PURPOSE AND EFFECT: The rule governs the accurate and timely reporting and dissemination of information regarding incidents that require immediate or urgent response, action or other intervention by the department to protect the safety and security of the public and of youth under its jurisdiction.

SUMMARY: The rule governs the operation of the Central Communications Center, including incident reporting and dissemination of critical information.

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: 985.64 FS.

LAW IMPLEMENTED: 20.055(2), 20.316(1), 985.601 FS.

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

DATE AND TIME: Tuesday, May 25, 2010, 10:00 a.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 RULES IS: John Milla, 2737 Centerview Dr., Ste. 3200, Tallahassee, FL 32399-3100, e-mail: john.milla@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

63F-11.001 Purpose and Scope.

The rule establishes the requirements governing the accurate reporting and dissemination of information regarding occurrences which require the immediate and/or urgent response, action or other intervention by the department to protect and ensure the safety and security of the youth under its jurisdiction, and the public, and significant incidents relating to the care, safety and humane treatment of youths under department supervision and in facilities and programs operated by the department, its providers and grantees.

Rulemaking Authority 985.64 FS. Law Implemented 20.055(2), 20.316(1), 985.601 FS. History--New \_\_\_\_\_.

63F-11.002 Definitions.

For the purpose of this rule chapter, the following terms are defined as follows:

(1) Administrator – The state employee or designee at the Headquarters or Regional level responsible for the overall department operation in a geographic area or program.

(2) Central Communications Center (CCC) – The unit located in department headquarters that is charged with receiving reports regarding incidents and events involving youths in department custody or under supervision, and state and contracted employees from all department and provider facilities, programs funded in whole or in part, offices, or sites operated by the department, a provider or grantee.

(3) CCC Duty Officer – The designated department employee who receives and processes the information coming into the CCC.

(4) Damage to Physical Structure – Damage that would render a building or other significant structure (e.g., a fence, gate, or a considerable portion of the building or structure) severely damaged, temporarily unsafe, or unsecured.

(5) Diligent Search – Is a thorough search made by the Juvenile Probation Officer (JPO) or Case Manager to check with the youth's parents, employer, school, family members, and others likely to have knowledge of his or her whereabouts, in order to document evidence supporting that the youth is hiding in an effort to avoid supervision.

(6) Facility/Program – A contracted or state-operated service or any other program funded in whole or in part by the department.

(7) Facility/Program Staff – Includes state and contracted employees, volunteers, and interns who manage, supervise, or provide direct care or other services to department youths, provider staff of programs funded in whole or in part by the department, and other direct care job positions or positions in direct contact with youths.

(8) Incapacitating Illness or Injury – Any injury which involves substantial risk of death, protracted and obvious disfigurement, protracted loss or impairment of the function or

a bodily member or organ or mental faculty, lacerations that cause severe hemorrhages, nerve, muscle, or tendon damage, second or third degree burns or any burns affecting more than five percent of the body surface, fracture or any bone, or the loss of sight in an eye.

(9) Protective Action Response (PAR) – The department-approved verbal and physical intervention techniques and the application of mechanical restraints used in accordance with Chapter 63H-1, F.A.C.

(10) Reportable Incident – Any incident or event that involves state-run facilities, staff, contracted facilities, contracted programs, contracted staff, youth on community supervision, volunteers or visitors, that disrupts or has the potential to disrupt the normal operation of the facility or program, any illness or medical condition or injury which causes or has the potential to cause grave harm or death to an individual youth or group of youths; or any other occurrence which causes or has the potential to cause grave harm or death to an individual youth or group of youths, or involves allegations of fraud, abuses, and deficiencies relating to programs and operations administered or financed by the department, or may bring public attention to the department, or other occurrences which do not reach this standard but may still be required to be documented or reported to the department under its rules.

(11) Suicide Attempt – Any action deliberately undertaken by the youth with suicide ideation or intent, which, if carried out, would result in death.

(12) Suicide Gesture – Any action deliberately undertaken by the youth with suicide ideation or intent, which, if carried out, would not result in death.

(13) Youth – For the purposes of this Rule a youth is defined as any person placed in the custody, care, or supervision of the department.

Rulemaking Authority 985.64 FS. Law Implemented 20.055(2), 20.316(1), 985.601 FS. History–New \_\_\_\_\_.

#### 63F-11.003 Reporting Incidents.

(1) All designated incident types shall be reported to the CCC within two (2) hours of the affected facility, office, or program learning of the incident, with the exception of those specified in paragraph 63F-11.004(3)(d), F.A.C.

(a) The reporting facility/program staff shall provide all of the basic information currently known at the time the report is made, including the names of the youth and staff involved, the nature of the incident, the time and location and, when available, any incident number generated by other agencies.

(b) If the CCC is not staffed at the time the call is required, the reporting staff must leave a voice message with his or her name, program affiliation and a telephone number where a person can be reached for additional information.

1. In the case of a serious incident where safety or security is compromised, or a youth or on-duty staff at a state or provider-operated facility or program has an incapacitating illness or injury, or has died, the program must contact its Regional Director and report available details within the required two-hour reporting time, in addition to the voicemail reporting described above. The Regional Director receiving a report of incapacitating illness, injury or death must notify the Assistant Secretary of the pertinent program area, who will ensure that all appropriate notifications are made and CCC reporting is initiated.

2. Upon opening the CCC for operations, following any scheduled or unscheduled period in which the CCC is not staffed, it is the responsibility of the CCC duty officers to return all messages received on the voicemail system, beginning with the calls described in subparagraph 1, above. Other calls will be returned in the order in which they were received.

(c) If all operators are busy when the report is initiated, the call will be transferred to a voice-mail system where the reporting staff or administrator must leave his or her name, program affiliation and a local telephone number with area code where a person can be reached for additional information.

(d) CCC duty officers are required to return all voice messages.

1. If the reporting person or other facility/program staff person with information about the incident or event is not available when the call is returned, the duty officer will leave a message on voice-mail or with another person that the call has been returned. The obligation will then pass to the reporting person to contact the CCC.

2. If there is no answer by a person or voice-mail at the number left by the reporting person, the duty officer will make a maximum of two additional return calls within a 24-hour period. After 24 hours, the obligation will pass to the reporting person to again contact the CCC.

(2) Facility/Program staff shall provide an update of any pertinent information missing from the initial incident report by 10:00 a.m. the day after the incident was reported to the CCC. The update can be made electronically or by calling the CCC.

Rulemaking Authority 985.64 FS. Law Implemented 20.055(2), 20.316(1), 985.601 FS. History–New \_\_\_\_\_.

#### 63F-11.004 Reportable Incident Types.

(1) Program Disruption Incidents, including but not limited to:

(a) Accident, Building Emergency, and/or System Malfunction: Any accident on the grounds of the facility or program, or any complete failure of an electronic or manual system that directly impacts the safety, security and welfare of department youths at a residential facility or program, juvenile assessment center, or detention center where maintenance staff

cannot affect repairs within twenty-four (24) hours, and facility operations will be disrupted, and/or any emergency situation that requires evacuation or results in the evacuation of youths and staff from a department or provider building. This includes, but is not limited to, fire, bomb threat, or the discovery of a suspect device. Excluded are scheduled exercises, drills, and false alarms.

(b) Discovery of Illegal or Controlled Drugs, Alcohol, Firearms, or Other Weapons: Any incident where the discovery occurred at any facility, program, office, vehicle or site operated by the department, a provider or grantee. The following are exceptions to the reporting requirement:

1. Controlled drugs properly stored and secured in a medical unit, in a staff housing unit located on the grounds of the facility/program, or in a department, provider or grant site.

2. Possession of a weapon or firearm by a certified law enforcement officer.

(c) Contraband: Any incident or event where the discovery of unauthorized items such as cigarette lighters, tobacco products, money, cellular telephones, or other items when the possession of said items presents a potential danger to youth or staff or otherwise disrupts or threatens program safety or security at any facility, program office, or site operated by the department, a provider or grantee.

(d) Food Boycott: Any incident where 50 percent or more of the youth population refuses to eat a scheduled meal.

(e) Disturbance: Any situation resulting in the loss of control at a facility or program that necessitates calling in law enforcement, or other outside sources to assist in the quelling of the disturbance, and in getting the facility back under control.

(f) Hostage Situation: Any incident where a person is held by force against his or her will to enforce the demands of the hostage-taker.

(g) Incidents Involving Visitors: Any incident involving visitors resulting in a report to law enforcement, in an investigation or in an arrest for a felony offense.

(h) Natural or Environmental Disaster: Any incident or event in which a state or contracted facility or program is exposed to adverse elements of nature including, but not limited to, high winds, lightning, flooding, as caused by hurricanes, or earthquake that causes damage to the physical structure interrupting the operation of the program, results in the evacuation of youths and staff, or results in injury to youths or staff. Any incident or event under this subsection involving the evacuation of a facility or program requires an update once the youth and staff return.

(i) Serious Incidents / Media Attention: Any incident that has resulted in media attention or will likely be subject to public interest. This may include, but is not limited to, incidents where media representatives were at the scene of the incident or have called with questions, and/or where public

officials have expressed concern. Regardless of the situation, sound judgment should always be used when assessing these types of incidents.

(j) Loss or Theft of Department Vehicles, Equipment, or Youth Property: Any incident where the listed categories of property are lost or stolen regardless of incident location:

1. Any state-owned vehicle utilized by the department, a provider or a grantee.

2. Firearms or other weapons.

3. Keys to a facility, program, or office building, including mechanical keys, electronic keys or access cards, if they cannot be located within 2 hours.

4. Any state-owned property, including property in the custody of a provider, with a value exceeding \$300.

5. Computer, computer storage media, or other digital mobile device, such as cellular telephones and personal digital assistant devices, where there is a reasonable belief that the device may contain statutorily protected confidential information.

6. A department-issued seven-point star badge.

7. Any property of a youth with a value of \$50.00 or more that is alleged to have been lost or stolen from the facility.

8. Any U.S. currency belonging to a youth that is alleged to have been lost or stolen from the facility.

(k) Threatened Use or Discovery of an Explosive Device: Any incident where there is a threatened use of an explosive device or an explosive device is discovered at any facility, program, office, or site operated by the department, a provider or grantee.

(l) Vehicle Traffic Crash: Any traffic crash involving a department vehicle or other vehicle used by on-duty staff in the performance of their duties and/or occupied by department youths must be reported to the CCC regardless of injuries.

(m) Detention Placement Alert: Any incident where a youth in any of the following categories is admitted to a secure detention facility:

1. The admitted youth is 10 years of age or younger;

2. The admitted youth has a formal IQ of 70 or below;

3. The admitted youth exhibits behavior suggestive of intellectual disability or developmental disability, including significant deficits in comprehension/reasoning, language expression, or maturity level;

4. The admitted youth is in special education classes for students with "Intellectual Disabilities" or "Autism Spectrum Disorder";

5. The admitted youth is blind, deaf, mute, or unable to walk without the use of a mechanical aid.

(2) Escape / Abscond Incidents:

(a) Absconder:

1. Any incident in which the whereabouts become unknown for a youth who is pending an administrative transfer, committed to minimum-risk and on pre-placement



status, is on an authorized home visit from a residential facility, or is on a temporary release status that was approved by the court. The incident should only be reported after a diligent search has been completed and an Affidavit for Pick Up Order has been submitted to the court.

2. Any incident in which a pre-placement youth is reported by the parent or legal guardian to have run away, the family of such a youth leaves the area with the youth without notifying the department or the court of their whereabouts, or a youth fails to arrive for transport to his or her program, and when an Affidavit for Pick Up Order has been submitted to the court as a result of the youth's whereabouts being unknown.

3. When, through a diligent search, it is determined that a youth committed to minimum risk has absconded and an Affidavit for Pick Up Order has been submitted to the court. Mere absenteeism from the assigned program does not constitute absconding.

(b) Escape Attempts: Any incident involving a youth who leaves the grounds or boundaries of a secure residential facility, or is committed to a secure residential facility and leaves the custody of facility staff when outside the facility, must be reported as an attempted escape if the youth is apprehended immediately and facility staff maintained constant sight supervision throughout the incident.

(c) Escapes:

1. Any incident involving a youth who leaves the grounds or fenced boundaries of a secure residential facility, detention facility or juvenile assessment center, or who is committed or detained in such a place and leaves the custody of facility staff when outside the facility, must be reported as an escape regardless of the length or duration of the departure.

2. Any incident involving a youth who leaves the grounds or boundaries of a non-secure residential facility, or is committed to a non-secure residential facility and leaves the custody and sight supervision of facility staff when outside the facility, must be reported as an escape.

(3) Medical Incidents:

(a) Contagious Diseases: Any incident involving contagious disease requiring the quarantining or hospitalization of ten percent (10%) of the total population of youths or staff or six (6) individuals, whichever number is less, within a facility or program.

(b) Employee Death: Any death of an employee while he or she is on or duty.

(c) PAR Restraint, Youth or Staff Injury: Any incident involving a PAR restraint where a youth or staff member receives a serious injury from any restraint that requires medical treatment beyond standard first aid.

(d) Youth Injury: Incidents or events involving a serious injury to a youth under department supervision occurring in a department facility, at a facility-based day treatment program, contracted facility, shelter, or contract site or program must be reported to the CCC when the nature of the injury requires

immediate and emergency medical care. An incident under this category is not required to be reported until staff have verified that a serious injury has occurred with the following:

1. Broken or dislocated bones;

2. Head Injury, excluding superficial cuts, bruises, or minor swelling unaccompanied by changes in mental acuity;

3. Eye injury involving a penetrating wound or an injury that alters vision;

4. Acute dental injury or broken teeth.

(e) Medical Illness: Incidents or events involving medical illness to a staff or youth under department supervision or occurring in a department facility, at a facility-based day treatment program, contracted facility, shelter, or contract site or program must be reported to the CCC when the nature of the life threatening injury or illness requires treatment on or off site, and falls within one of the following:

1. Heart or breathing has stopped or the person is turning blue;

2. Unconsciousness or unresponsiveness to voice;

3. CPR is initiated;

4. Severe, prolonged or uncontrollable bleeding;

5. Acute paralysis;

6. Overdose;

7. Acute or prolonged abdominal pain;

8. Acute or prolonged chest pain;

9. Fever of 103 degrees or higher;

10. Inability to urinate for eight (8) hours.

11. Ingestion of a poisonous or potentially poisonous substance.

12. Seizure due to an undiagnosed medical condition, i.e. Epilepsy;

13. Complications of pregnancy;

14. Unscheduled hospital or other healthcare facility admission requiring an overnight stay. This does not include scheduled medical procedures, treatment, or surgeries;

15. Any illness, disease, or other medical condition, or life endangering safety code violation, which requires reporting to the County Health Department, Board of Health, or other healthcare agency.

(f) Youth Death: Any death of a youth occurring while under department supervision.

(g) Youth Dependent Medical: Any biological child of a youth who receives off-site, non-scheduled emergency medical attention while in direct custody of the department.

(4) Mental Health and Substance Abuse Incidents:

(a) Self-Inflicted Injury: Any incident of self-inflicted injury that occurs at a department facility, juvenile assessment center, day treatment program, contracted facility, shelter, contracted site or program resulting in physical injuries, marks or bruises requiring immediate, emergency treatment.

Self-inflicted injury means any deliberate action taken by the youth to harm himself or herself, but is not necessarily associated with suicide ideation or suicide intent.

(b) Suicide Attempts: Any incident of a suicide attempt that occurs in a department facility, juvenile assessment center, day treatment program, contracted facility, shelter, contracted site or program requiring emergency medical services. Suicide attempts that do not require outside medical attention or emergency medical services, but which are believed to be potentially serious or life-threatening must also be reported to the CCC. When in doubt if the attempt or gesture was potentially serious or life-threatening, it shall be reported to the CCC.

(5) Complaints Against Staff Incidents:

(a) Force: Any alleged use of force including Protective Action Response (PAR) that results in an allegation of abuse. For STAR Programs, any PAR incident where a youth is alleged to have been subjected to harmful psychological intimidation techniques or to violations of Chapter 63H-1, F.A.C., must be reported to the CCC.

(b) Accessing, Downloading or Introducing Sexually Explicit Material: Any incident of accessing, downloading or introducing sexually explicit material by a department provider, grant employee, volunteer or intern while on duty or on the premises of a department or provider facility, program, office, or site operated by the department, a provider, or grantee that is unrelated to their official duties.

(c) Sexual Misconduct: Any allegation involving the staff of a department facility, facility-based day treatment program, contracted facility, shelter, contracted site, or program, initiating and/or engaging in sexual misconduct or contact with a youth or youth's family while the youth is under department supervision.

(d) Improper Relationship: Any allegation involving the staff of a department facility, facility-based day treatment program, contracted facility, or program receiving department funding initiating and/or engaging in a relationship outside their scope of employment with a youth or youth's family while the youth is under department supervision.

(e) Employment Prior to Background Screening: Any incident occurring in a department facility, juvenile assessment center, day treatment program, contracted facility, shelter, contracted site or program where an applicant is utilized as an employee, volunteer, mentor, or intern prior to receiving an eligible rating on a department background screening.

(f) Employee Arrest: Any arrest of a department or contract employee, including grant employees, volunteers and interns.

(g) Falsification of Records or Documents: Any incident of falsification of records or documents with the intent to deceive or mislead related to any youth or to services provided to any youth where the youth is in custody of the department, under the supervision of the department, with a case pending

before the court, or receiving services funded in whole or in part by the department. This includes youth served by prevention contracts and grants.

(h) Criminal Activity: Any incident or event of suspected or actual criminal activity occurring in a department facility, juvenile assessment center, day treatment program, contracted facility, shelter, contracted site, or program involving department or provider staff, volunteer, intern, or grant staff.

(i) Improper Release: Any incident or event where a youth is improperly released from any state operated or contracted residential facility, secure detention center or juvenile assessment center. This includes the release of a youth from a shelter when the placement is pursuant to a court order.

(j) Health or Mental Health / Substance Abuse Services Complaint: Any alleged improper action or omission of medical, mental health or substance abuse services by any administrative or direct-care staff, regardless of licensure, at a department facility, facility-based day treatment program, contracted facility, shelter, contracted site or program. This includes, but is not limited to:

1. Denial of care, services or treatment;
2. Narcotic inventory discrepancy; and
3. Missing medications.

(k) Other Agency Investigations: The CCC must be notified when an agency other than the department is present at a department facility, at a facility-based day treatment program, contracted facility, shelter, contracted site, or program to conduct an investigation of physical abuse, sexual abuse, neglect, or medical neglect.

(l) Use of Intoxicating Substances: Any incident of use of alcohol or illegal drugs by a department employee, provider employee, or grant employee while on duty or on the premises of a department or provider facility, program office, or site operated by department, provider or grantee.

(m) Threats by Staff: Any allegation where there are threats of violence between staff at a department or provider facility, program, office, or site operated by the department, provider or grantee.

(6) Youth Behavior Incidents:

(a) Battery: Any battery occurring in a department facility, facility-based day treatment program, contracted facility, shelter, contracted site, or program that results in a law enforcement arrest.

(b) Felony Activity or Incidents Involving Youths on Community Supervision:

1. Any arrest of a youth for a capital offense or life felony, when as a result of the youth's actions a victim died or sustained serious injury.
2. Any other situations where the activities of the youth or the department are likely to be the subject of public interest.

(c) Felony Arrests of Youth for Violations Committed While in Custody: Any incident involving felonious acts committed while in a department facility or program, including juvenile assessment centers and facility-based day treatment, minimum-risk programs, or shelters, resulting in an arrest.

(d) Youth on Youth Sexual Contact: Any alleged incident or event occurring in a department facility, juvenile assessment center, day treatment program, contracted facility, shelter, contracted site or program where youths engage in sexual contact with one another. Additionally, any alleged sex act which may constitute a form of sexual battery as defined in Section 794.011, Florida Statutes, occurring in a department facility, juvenile assessment center, day treatment program, contracted facility, shelter, contracted site, or program in which there is obvious injury or physical evidence to support the allegations will be reported regardless of the elapsed time.

Rulemaking Authority 985.64 FS. Law Implemented 20.055(2), 20.316(1), 985.601 FS. History—New \_\_\_\_\_.

63F-11.005 Operation of the Central Communications Center.

(1) The CCC will operate seven (7) days per week, including holidays.

(2) The CCC will maintain a primary toll-free number for the receipt of incident and event information.

(3) The CCC duty officer shall accurately record pertinent information and contact data.

Rulemaking Authority 985.64 FS. Law Implemented 20.055(2), 20.316(1), 985.601 FS. History—New \_\_\_\_\_.

63F-11.006 Daily Reporting.

(1) A CCC Daily Report will be created and reviewed by the duty officer or CCC supervisor. The report will reflect all incoming information for the prior twenty-four (24) hour period (6:01 a.m. to 6:00 a.m.) and will be distributed each administrative workday to the Secretary, Executive Leadership Team (ELT), and other authorized recipients.

(2) Each CCC Daily Report is confidential to the extent provided for in Florida Statutes.

(a) Recipients of the CCC Daily Report are not authorized to forward or disseminate it to any other person except as provided for by this rule or by Florida law.

(b) Medical information accepted by the CCC will be limited to that which is relevant and critical to dissemination of incident or event information.

1. Prescription medications will not be identified in the CCC Report unless relevant to the nature of the incident.

2. Sexually transmissible disease (STD) information is statutorily protected under Section 384.30, F.S., and the CCC Report will not record information pertaining to a youth's STD diagnosis. STD information for staff is similarly protected under Section 119.071(4)(b), F.S., and will not be recorded.

Rulemaking Authority 985.64 FS. Law Implemented 20.055(2), 20.316(1), 985.601 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Eubanks, Inspector General

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Frank Peterman, Jr., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 16, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 12, 2010

**DEPARTMENT OF HEALTH**

**Board of Hearing Aid Specialists**

RULE NO.: 64B6-7.002  
 RULE TITLE: Guidelines for Disposition of Disciplinary Cases

PURPOSE AND EFFECT: The Board proposes the rule amendment to update the guidelines to accommodate new disciplinary violations contained in Section 456.072, F.S.

SUMMARY: The guidelines will be updated to accommodate new disciplinary violations contained in Section 456.072, F.S.

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

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

RULEMAKING AUTHORITY: 456.079 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: Sue Foster, Executive Director, Board of Hearing Aid Specialists, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-7.002 Guidelines for Disposition of Disciplinary Cases.

(1) No change.

(2) Violations and Range of Penalties. For applicants, all violations are sufficient for refusal to certify an application for licensure. For licensees or trainees, the imposition of probation as a penalty shall ordinarily require compliance with conditions such as restitution, continuing education and/or training, indirect or direct supervision by a Board-approved monitor, restrictions on practice, submission of reports, appearances before the Board, and/or hours of community

service. As appropriate, such conditions of probation also shall be required following any period of suspension. In addition to any other discipline imposed, the Board shall assess the actual costs related to the investigation and prosecution of a case. In imposing discipline pursuant to Sections 120.57(1) and 120.57(2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty as authorized by Section 456.072(2), F.S., 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:

(a) through (cc) No change.

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

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

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

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

(3) through (6) No change.

Rulemaking Specific Authority 456.079 FS. Law Implemented 456.079 FS. History—New 2-11-87, Amended 2-16-89, Formerly 21JJ-7.005, Amended 8-18-93, 9-22-94, Formerly 61G9-7.005, Amended 11-11-02,\_\_\_\_\_.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 13, 2009

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

## DEPARTMENT OF HEALTH

### Board of Medicine

RULE NO.: 64B8-8.0011  
RULE TITLE: Standard Terms Applicable to Orders  
PURPOSE AND EFFECT: The proposed rule amendments are intended to set forth changes with regard to compliance with Board orders and to clarify criteria with regard to community service requirements and lecture requirements in disciplinary cases.

SUMMARY: The proposed rule amendments sets forth a new address for compliance with terms in the Board's orders; requires documentation of community service to be submitted from the community service organization; and requires lectures to address specific events arising from the Respondent's disciplinary matter.

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

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

RULEMAKING AUTHORITY: 458.309(1), 458.331(5) FS.

LAW IMPLEMENTED: 458.331(5) 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:

64B8-8.0011 Standard Terms Applicable to Orders.

Unless otherwise approved by the Board or its designee, or addressed by the Final Order, the following are the terms applicable to all Final Orders rendered by the Board in disciplinary proceedings.

(1) PAYMENT OF FINES AND COSTS. All fines and costs shall be paid by check or money order made payable to the Board and sent to DOH/Compliance Management Unit, Bin #C76 Client Services, P. O. Box 6320, Tallahassee, Florida 32314-6320, within 30 days of the filing of the Order.

(2) No change.

(3) COMPLIANCE ADDRESS. All reports, correspondence and inquiries shall be sent to: DOH, Compliance Management Unit, Bin #C76 Client Services Unit, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3251, Attn: Medical Compliance Officer.

(4) No change.

(5) COMMUNITY SERVICE AND CONTINUING EDUCATION UNITS. All community service requirements, continuing education units/courses must be completed, and documentation of such completion submitted to DOH/Client Services, at the address set forth in subsection (3) above. Documentation of completion of community service hours must be confirmed by an official from the organization at which the community service was performed. Documentation of completion of community service hours solely from the Respondent will not be accepted.

(a) through (b) No change.

(6) LECTURES. In the event the Respondent is required by Board Order to present a lecture on a specific topic, one component of the lecture must address the specific events arising from the Respondent's disciplinary matter.

(6) through (10) renumbered (7) through (11) No change.

Rulemaking Specific Authority 458.309(1), 458.331(5) FS. Law Implemented 458.331(5) FS. History--New 8-1-06, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 19, 2010

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE NO.: 64B8-44.007  
RULE TITLE: Standards of Practice

PURPOSE AND EFFECT: To consider the rule in light of technological developments and national changes in the practice field which may be impacting Florida practitioners negatively.

SUMMARY: The proposed rule amendment would allow a video conference for the initial assessment of a patient, providing the patient and practitioner is provided the same audio and video equipment.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared. The Board determined that the amendments to the rule would not have an impact on small businesses.

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: 456.072(1)(t), 468.503(4), 468.507, 468.516(1)(a) FS.

LAW IMPLEMENTED: 456.072(1)(t), 468.503(4), 468.516, 468.517, 468.518 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, Dietetics and Nutrition Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-44.007 Standards of Practice.

Licensees, under Chapter 468, Part X, F.S., shall comply with the following standards in their professional practice and conduct, which reflect the ethical principles of the dietetic/nutrition professional and outline obligations of the licensee to self, client, society and the profession.

(1) through (20) No change.

(21) ~~Except as excepted herein, The licensee's initial nutritional assessment of a patient must be done in a face-to-face setting, and may not be done by telephone, fax, or internet, except through use of a two point or multiple point video-conference system to provide each participant with a video camera, microphone and speakers which allow video and audio communication between all participants as if they were virtually seated in the same room or by any other means in which the patient is not physically present with the licensee.~~ Communication between the patient and the licensee subsequent to the initial nutritional assessment may be accomplished either face-to-face or by other means, in the reasonable clinical judgment of the licensee. Federal programs that are federally funded are exempt from this subsection, so long as the administration of the program follows the dictates of the federal statutes and rules applicable to the program.

Rulemaking Specific Authority 456.072(1)(t), 468.503(4), 468.507, 468.516(1)(a), (2)(a) FS. Law Implemented 456.072(1)(t), 468.503(4), 468.516, 468.517, 468.518 FS. History--New 6-22-94, Formerly 61F6-50.007, Amended 2-20-96, Formerly 59R-44.007, Amended 7-14-03, 4-26-04, 1-8-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dietetics and Nutrition Council  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 31, 2009

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE NO.: 64B8-51.006  
 RULE TITLE: Rule Governing Licensure and Inspection of Electrology Facilities

PURPOSE AND EFFECT: To update the Application Form reference and address for obtain an Electrolysis facility form.

SUMMARY: The proposed change brings the rule into compliance with the new legislative requirements.

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: 456.037, 478.43(1), (4), 478.51(3) FS.

LAW IMPLEMENTED: 456.037(2), (3), (5), 478.49, 478.51 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, Electrolysis Council, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-51.006 Rule Governing Licensure and Inspection of Electrology Facilities.

(1) No change.

(2)(a) No change.

(b) To obtain the license, the applicant shall provide information to the Department as required by this rule on a form provided by the Department and approved and incorporated herein by reference by the Board as Form DH-MQA 1213, 11/09, ~~DOH/MQA/EP APP/REV 7/97~~, entitled "Application for Electrolysis Facility Licensure," effective 11/09, which can be obtained from the Council at The Florida Department of Health, Electrolysis Council, Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3256 ~~address set forth in paragraph 64B8-50.002(3)(b), F.A.C.~~. The applicant must pay a \$100 application fee, which is nonrefundable, \$100 inspection fee, \$100 licensure fee and a \$5.00 unlicensed activity fee ~~and a~~.

(3) through (7) No change.

Rulemaking Specific Authority 456.037, 478.43(1), (4), 478.51(3) FS. Law Implemented 456.037(2), (3), (5), 478.49, 478.51 FS. History—New 11-16-93, Formerly 61F6-76.006, Amended 5-11-95, 6-26-96, Formerly 59R-51.006, Amended 12-23-97, 12-22-98, 2-17-00, 3-25-01, 4-8-02, 6-16-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrolysis Council

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 13, 2009

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

**DEPARTMENT OF HEALTH**

**Board of Nursing**

RULE NO.: 64B9-2.016  
 RULE TITLE: Forms

PURPOSE AND EFFECT: The purpose of this amendment is to adopt forms necessary to implement the 2009 amendments to Section 464.019, F.S. by adopting a form that prescribes the format for approval of nursing programs.

SUMMARY: The purpose of this amendment is to adopt forms necessary to implement the 2009 amendments to Section 464.019, F.S. by adopting a form that prescribes the format for approval of nursing programs.

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 FS.

LAW IMPLEMENTED: 456.013, 464.008, 464.009 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe R. Baker, Jr., Executive Director, Board of Nursing, 4052 Bald Cypress Way, Bin #C02, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-2.016 Forms.

The following forms are incorporated by reference, and may be obtained from the Board office or on the Board's website: [www.doh.state.fl.us/mqa/nursing](http://www.doh.state.fl.us/mqa/nursing):

(1) through (8) No change.

(9) Application for New Nursing Program DH-MQA 1211, 06/09, 03/10 (rev.).

Rulemaking Authority 464.006 FS. Law Implemented 456.013, 464.008, 464.009 FS. History--New 6-22-09, Amended.

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: March 12, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 7, 2009

**DEPARTMENT OF HEALTH**

**Board of Nursing Home Administrators**

RULE NO.: 64B10-12.002 RULE TITLE: Application for Licensure

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete reference to the provisional application fee as it is no longer necessary.

SUMMARY: The rule amendment will delete reference to the provisional application fee as it is no longer necessary.

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: 468.1685(1), 468.1695(2) FS. LAW IMPLEMENTED: 456.013(2), 468.1685(4), 468.1705(1), 468.1735 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: Sharon Guilford., Acting 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:

- 64B10-12.002 Application for Licensure.
- ~~(1) The application fee for provisional licensure shall be \$250.00.~~
- ~~(2) The application fee for preceptor is \$50.00.~~

Rulemaking Specific Authority 468.1685(1), 468.1695(2) FS. Law Implemented 456.013(2), 468.1685(4), 468.1705(1), 468.1735 FS. History--New 12-26-79, Formerly 21Z-12.02, Amended 1-22-90, Formerly 21Z-12.002, 61G12-12.002, 59T-12.002, Amended 11-4-02, 2-15-06, 10-15-07, 3-17-08, \_\_\_\_\_.

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: February 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 2010

**DEPARTMENT OF HEALTH**

**Board of Occupational Therapy**

RULE NO.: 64B11-4.003 RULE TITLE: Standards of Practice; Discipline

PURPOSE AND EFFECT: The purpose of this rule amendment is to bring the rule into compliance with new requirements of Florida law.

SUMMARY: The rule amendments will update the disciplinary guidelines pursuant to new statutory language in Section 456.072, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared. Licensees found to have violated any of the new sections will experience the cost of associated penalties. Any occupational therapists in private practice (many of which are small businesses) will be unable to continue practicing if they violate certain sections. Similarly, some applicants will be denied licensure and thereby lose the opportunity to acquire any income.

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, 468.204 FS. LAW IMPLEMENTED: 456.072, 456.079, 468.217 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 Occupational Therapy/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

- 64B11-4.003 Standards of Practice; Discipline.
- (1) through (3) No change.
- (4) Violations and Range of Penalties. In imposing discipline upon 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. For applicants, any and all offenses listed herein are sufficient for refusal to certify an application for licensure.

or self-gain related to the violation, then the Board shall require refund of fees billed and collected from the patient or a third party on behalf of the patient.

In addition to the penalty imposed, the Board shall recover the costs of investigation and prosecution of the case. Additionally, if the Board makes a finding of pecuniary benefit

VIOLATION	PENALTY RANGE	
	MINIMUM	MAXIMUM
(a) through (z) No change. (aa) through (ii) No change.		
<u>(jj) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program. 456.072(1)(ii), F.S.</u> <u>First Offense</u>	<u>Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.</u>	
<u>(kk) Failing to remit the sum owed to the State for an overpayment from the Medicaid Program pursuant to a final order, judgment, or Stipulation or settlement.</u> <u>456.072(1)(jj), F.S.</u> <u>First Offense</u> <u>Second Offense</u>  <u>Third Offense</u>	<u>Letter of concern and a fine of \$500</u> <u>Reprimand and a fine of \$2,500</u>  <u>Suspension and a fine of \$5,000</u>	<u>Probation and a fine of \$2,500</u> <u>Reprimand, probation and a fine of \$5,000</u> <u>Revocation and a fine of \$5,000</u>
<u>(ll) Being terminated from the state Medicaid Program pursuant to s. 409.913, any other state Medicaid program, or the federal Medicare program, unless eligibility to participate in the program from which the practitioner was terminated has been restored.</u> <u>456.072(1)(kk), F.S.</u> <u>First Offense</u> <u>Second Offense</u> <u>Third Offense</u>	<u>Letter of concern and a fine of \$1,000</u> <u>Probation and a fine of \$1,000</u> <u>Suspension and a fine of \$5,000</u>	<u>Probation and a fine of \$1,000</u> <u>Suspension and a fine of \$5,000</u> <u>Revocation and a fine of \$10,000</u>
<u>(mm) Being convicted of, or entering a plea of guilty Or nolo contendere to, any misdemeanor or felony, Regardless of adjudication, a crime in any jurisdiction Which related to health care fraud.</u> <u>456.072(1)(ll), F.S.</u> <u>First Offense</u>	<u>Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.</u>	
(5) through (7) No change.		



Rulemaking Specific Authority 456.079, 468.204 FS. Law Implemented 456.072, 456.079, 468.217 FS. History--New 9-12-88, Amended 11-9-92, Formerly 21M-15.002, 61F6-15.002, 59R-63.002, Amended 1-27-00, 12-27-01, 12-27-05, 4-10-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Occupational Therapy  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 2, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE NO.: 64B15-12.005  
RULE TITLE: Limited Licensure

PURPOSE AND EFFECT: The proposed rule amendment is intended to incorporate the revised limited license application in the rule and to clarify the criteria for physicians who have been out of practice for more than 3 years.

SUMMARY: The proposed rule amendment incorporates the revised form into the rule and clarifies the requirement regarding supervision for those physicians who have been out of practice for more than 3 years.

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

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

RULEMAKING AUTHORITY: 459.005, 459.0075 FS.  
LAW IMPLEMENTED: 459.0075 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:

64B15-12.005 Limited Licensure.

(1) Each applicant for limited licensure pursuant to Section 459.0075, F.S., shall file board approved application form, DH-MQA 1171 (Revised 2/10 ~~4/09~~), Application for Limited License, which is hereby incorporated by reference, and may be obtained from the Board of Osteopathic Medicine, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida

32399-3256, or by web at [www.doh.state.fl.us/mqa/osteopath/index.html](http://www.doh.state.fl.us/mqa/osteopath/index.html), ~~and submit an affidavit to the Board.~~ For purposes of this rule, retired means previously separated or withdrawn from the practice of Osteopathic Medicine, as distinguished from a relocation of the applicant's practice to a different geographic area.

(2) Any applicant for limited licensure who has been out of active practice of Osteopathic Medicine for more than 3 years prior to application for limited license must, as a condition of said licensure, function under the supervision of the full-time director of a local health unit for ~~at least~~ six months unless the Board determines that a shorter period of supervision will be sufficient to ensure that the applicant is qualified for licensure. Supervision under this subsection shall be consistent with the following criteria:

- (a) through (d) No change.
- (3) through (4) No change.

Rulemaking Authority 459.005, 459.0075 FS. Law Implemented 459.0075 FS. History--New 10-28-93, Formerly 61F9-12.005, Amended 10-15-95, Formerly 59W-12.005, Amended 11-27-97, 6-28-09, 3-25-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Osteopathic Medicine  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 26, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 2, 2010

**DEPARTMENT OF HEALTH**

**Board of Athletic Training**

RULE NO.: 64B33-5.001  
RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The Board proposes the rule amendment to address changes and additions to the disciplinary guidelines.

SUMMARY: The rule amendment will address changes and additions to the disciplinary guidelines.

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: 456.072, 468.705, 468.719 FS.

LAW IMPLEMENTED: 456.072, 456.079, 468.719 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B33-5.001 Disciplinary Guidelines.

(1) through (4) No change.

(5) When the Board finds an applicant or licensee whom it regulates under Chapter 468, Part XIII, F.S., has violated Section 456.072, F.S., by violating any of the following provisions, it shall issue a final order imposing appropriate penalties within the ranges recommended in the following disciplinary guidelines:

(a) through (k) No change.

VIOLATIONS

RECOMMENDED PENALTIES

	First Offense	Second Offense	Third Offense
<p><u>(l) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 USC s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 USC ss. 1320a-7b, relating to the Medicaid program.</u> <u>(456.072(1)(ii), F.S.)</u></p> <p><u>(m) Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgment, or settlement.</u> <u>(456.072(1)(jj), F.S.)</u></p> <p><u>(n) Being terminated for cause from the State Medicaid program or any other state Medicaid program, or the federal Medicare program.</u> <u>(456.072(1)(kk), F.S.)</u></p> <p><u>(o) 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.</u> <u>(456.072(1)(ll), F.S.)</u></p>	<p><u>Revocation or denial of application for licensure unless the completion of the sentence and any probation ended more than 15 years prior to the date of the application.</u></p> <p><u>Revocation unless the applicant or licensee has been in good standing for the most recent five years and if the action was taken by another state of the federal program, the termination occurred at least 20 years prior to the date of the application.</u></p>		

Rulemaking Specific Authority 456.079, 468.705, 468.719 FS. Law Implemented 456.072, 456.717, 456.079, 468.719 FS. History—New 10-22-02, Amended 1-16-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Athletic Training  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Athletic Training  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 16, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 11, 2009

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

#### DEPARTMENT OF EDUCATION

#### State Board of Education

RULE NO.: 6A-10.044                      RULE TITLE: Residency for Tuition Purposes  
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. 6, February 12, 2010 issue of the Florida Administrative Weekly.

#### 6A-10.044 Residency for Tuition Purposes.

The purpose of this rule is to establish consistent policies for the classification of students as residents for tuition purposes in accordance with criteria set forth in Section 1009.21, Florida Statutes.

~~(1) For Initial Determination of Residency: A dependent person will be one for whom fifty (50) percent or more of his or her support has been provided by another as defined by the Internal Revenue Service. An independent person will be one who provides more than fifty (50) percent of his or her own support as evidenced by the student's most recent tax return or other documentation, including, but not limited to, pay stubs or bank account statements.~~

(a) A dependent student who attended a Florida high school for a minimum of two (2) academic years immediately preceding his or her initial enrollment in an institution of higher education and graduated from a Florida high school or earned a Florida GED within the last twelve (12) months may use their high school transcript or the GED transcript as evidence of Florida residency. At least one (1) additional document identified in Section 1009.21(3)(c)1. or 1009.21(3)(c)2., Florida Statutes, must be presented evidencing parental legal residence.

(b) If a declaration of domicile, pursuant to Section 222.17, Florida Statutes, is being used as one of the documents to establish residency for tuition purposes, the date that an applicant shall be deemed as establishing residency for tuition purposes shall be twelve (12) months hence from the date that the Clerk of Circuit Court notes the declaration was sworn and subscribed to them. Nothing in this subsection shall prevent the use of additional documentation as evidence that legal residency was established by other means pursuant to Section 1009.21(1)(c), Florida Statutes, as of a date earlier than that established by the Declaration of Domicile.

(2) For Residency Reclassification Determination. A student who is classified as a nonresident for tuition purposes may become eligible for reclassification as a resident for tuition purposes by presenting a minimum of three (3) documents identified in Section 1009.21(3)(c)1. or 1009.21(3)(c)2., Florida Statutes, that convincingly demonstrate the establishment of permanent legal residence in Florida other than for the sole purpose of pursuing a postsecondary education. Documentation must demonstrate that the student or, if the student is a dependent, his or her parent, has maintained legal residence in Florida for at least twelve (12) consecutive months prior to his or her request for reclassification. For Initial Determination of Residency:

~~(a) A person or, if that person is a dependent, his or her parent or parents must have established legal residence in Florida for at least twelve (12) consecutive months prior to his or her initial enrollment in an institution of higher education.~~

~~(b) A dependent student who attended a Florida high school for a minimum of two (2) academic years immediately preceding his or her initial enrollment in an institution of higher education and graduated from a Florida high school or earned a Florida GED within the last twelve (12) months may use their high school transcript or the GED transcript as evidence of Florida residency. At least one (1) additional document identified in Section 1009.21(3)(c)1. or 2., Florida Statutes, must be presented evidencing parental legal residence.~~

~~(c) If a declaration of domicile, pursuant to Section 222.17, Florida Statutes, is being used as one (1) of the documents to establish residency for tuition purposes, the date that an applicant shall be deemed as establishing residency for tuition purposes shall be twelve (12) months hence from the date that the Clerk of Circuit Court notes the declaration was sworn and subscribed to them.~~

(3) The burden of providing clear and convincing documentation that justifies the institution's classification of a student as a resident for tuition purposes rests with the student or, if the student is a dependent, his or her parent. For documentation to be "clear and convincing," it must be credible, trustworthy, and sufficient to persuade the institution that the student or, if that student is a dependent, his or her