

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

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

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

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

(3) through (4) No change.

Rulemaking Specific Authority 456.079, 459.005, 459.015(5), 459.023 FS. Law Implemented 456.072, 456.079, 459.015(5), 459.023 FS. History—New 11-13-05, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:
Anesthesiologist Assistant Committee

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

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

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

Section III Notices of Changes, Corrections and Withdrawals

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:
33-601.602 Community Release Programs

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. 34, August 27, 2010 issue of the Florida Administrative Weekly.

33-601.602 Community Release Programs.

(1) Definitions.

(a) No change.

(b) Community Release Program – Any program that allows inmates to work at paid employment or a center work assignment or to participate in education, training, substance abuse treatment programs, or any other transitional program to

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

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

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

facilitate re-entry into the community while in a work release center, contract community work release facility, or other contract community facility.

(c) through (g) No change.

(h) Non-advanceable date refers to an inmate's release date that is restricted from continuous, monthly gain time awards over the entire length of the sentence, including:

1. through 2. No change.

3. 100% minimum service requirements, such as the Prison Releasee Re-Offender Act located in Section 775.082, F.S., or Three-Time Violent Offender cases under Section 775.084, F.S.

(i) through (k) No change.

(l) Work Release Inmate Monitoring System (WRIMS) – A web site application used by ~~contract community work release~~ facility staff to record information related to an inmate's participation in a community release program CWR.

(2) Eligibility and Ineligibility Criteria.

(a) An inmate is ineligible for community release programs if he has:

1. through 3. No change.

4. Been terminated from CWR, ~~a community-based residential substance abuse program~~, a CWA, or a transition program for disciplinary reasons during the inmate's current commitment;

5. Been committed to or incarcerated in a state or federal correctional facility four or more times ~~in any state or federal correctional facility;~~

6. through 9. No change.

(b) In order to be eligible for a community release program, an inmate must:

1. Be community custody in accordance with Rule 33-601.210, F.A.C., or have a recommendation for community custody currently under review;

2. Be in Department custody for 60 days prior to placement in paid employment;

3. For inmates with non-advanceable dates, the inmate must be within:

i. 28 months of his earliest ~~tentative~~ release date for the transition program, or

ii. 19 months of his earliest tentative release date ~~or presumptive parole release date for CWA or a community-based residential substance abuse program~~, or

iii. 14 months of his earliest tentative release date for CWR.

4. For inmates who do not have non-advanceable dates, the inmate must be within:

i. 36 months of his earliest tentative release date for the transition program, or

ii. 28 months of his earliest tentative release date for CWA ~~or a community-based residential substance abuse program~~, or

iii. 19 months of his earliest tentative release date for CWR.

5. through (3) No change.

(4) Inmate Conduct While on Community Release.

(a) through (c) No change.

(d) The ~~work release center~~ classification officer or designated contract facility staff shall complete Form DC6-118A, Personalized Program Plan for Work Release Centers, on all inmates assigned to the work release center within 14 days of receipt of the inmate at the center. Form DC6-118A is incorporated by reference in subsection (19) of this rule. The completed personalized program plan shall be signed by the inmate, the inmate's classification officer, and the correctional officer major or the designated contract facility staff and facility director at contract facilities. Once the personalized program plan is signed, it shall be given to the staff member assigned to work with the inmate. Any changes in the personalized program plan shall be discussed with the inmate and shall be documented on Form DC6-118B, Personalized Program Plan – Modification Plan. Form DC6-118B is incorporated by reference in subsection (19) of this rule. The inmate's progress towards achieving the goals of the personalized program plan shall be reviewed monthly with the inmate. The outcome of each review shall be documented on Form DC6-118C, Personalized Program Plan – Monthly Progress Review, or shall be entered into WRIMS at those facilities at which the system is operational. A copy of the Personalized Program Plan shall be printed and given to the inmate. Form DC6-118C is incorporated by reference in subsection (19) of this rule. Staff are authorized to schedule subsequent progress reviews upon request of the inmate.

(e) No change.

(5) Community Study Release.

(a) In order to be considered for community study release, an inmate shall submit a request on Form DC6-126, Inmate Request, to his classification officer, who shall forward the request to the SCO. After submitting the request, an inmate shall be considered for participation in the community study release program providing:

1. No change.

2. The conditions regarding financial assistance, placement, time constraints, and aptitude are satisfied; and

~~3. If there are detainers filed against the inmate, he is ineligible for community study release if the detaining authority has objected to the inmate's participation in the community study release program in writing; and~~

~~3.4.~~ The inmate has not been convicted of any murder, manslaughter, sexual battery, robbery, burglary, arson, aggravated assault, aggravated battery, kidnapping, escape, breaking and entering with attempt to commit a felony, aircraft piracy, or any attempt to commit the listed crimes if the program requires attendance at any state university or community college.

(b) through (d) No change.

(e) Community study release programs shall not interfere with the inmate's employment schedule, CWA duties, or participation in a transition program ~~drug treatment programs~~. The inmate's attendance at classes and transportation time must be scheduled to occur during non-working hours only, unless class attendance is required as part of the inmate's employment.

(f) through (g) No change.

(6) Upon identification by the department, ~~request of an inmate, the inmate~~ shall be considered for placement in a CWA, ~~a community residential substance abuse program~~, a transition program, or CWR, providing that the inmate meets all criteria outlined in subsection (2) of this rule. ~~The inmate shall make the request on Form DC6-236, Inmate Request, to his classification officer.~~

(a) ~~If~~ Providing the inmate meets all criteria in subsection (2) of this rule, the classification officer will enter a community release recommendation.

(b) through (c) No change.

(d) The SCO staff member reviewing the ICT recommendation will utilize the criteria in subsection (2) of this rule to determine the appropriateness for the inmate's placement into CWA, CWR, or a transition program, ~~or a community-based residential substance abuse program~~. The SCO staff member shall approve, ~~or disapprove, or modify~~ the ICT recommendation.

(e) through (7) No change.

(8) Employment.

(a) Employment sought must be full time employment for at least ~~32~~ 40 hours per week. If full time employment is not available, part time employment may be authorized until full time employment can be secured.

(b) The Department will not authorize an inmate to work at paid employment if:

1. The inmate will not receive wages commensurate with those received from the employer by comparable workers or the wages do not meet applicable minimum wage requirements;

2. The employer does not provide the inmate with workers' compensation, or, if workers' compensation insurance is not required by law, other medical and disability insurance to cover the inmate if he is injured while on the job;

3. through 5. No change.

(c) No change.

~~(d) The types of employment that the Department will approve for an inmate are those which are related to the inmate's institutional training, previous experience, and skills.~~

~~(d)(e)~~ Employment of an inmate with a relative is not precluded if:

1. through 3. No change.

(f) through (j) renumbered (e) through (i) No change.

~~(j)(k)~~ There shall be a minimum of three employment contacts per inmate per month by facility personnel to substantiate attendance and discuss any problems that may have arisen. If the inmate has multiple part time jobs, the required contacts must be made at each place of employment. Two of the contacts shall be accomplished either through telephone calls or site visits to the inmate's place(s) of employment, and documentation of the contacts shall be made on Form DC6-125, Employment Contacts, or shall be entered into WRIMS at those facilities at which the system is operational for future reference.

~~(k)(l)~~ Facility personnel shall establish a primary and secondary job contact person at all employment sites. The primary and secondary contact person shall be named on Form DC6-125, Employment Contacts, or shall be entered into WRIMS at those facilities at which the system is operational.

~~(l)(m)~~ The employer shall provide a current work schedule for the inmate to the work release center each week prior to the inmate being allowed to depart for work. The inmate's work schedule shall be entered into WRIMS at those facilities at which the system is operational.

~~(m)(n)~~ All inmates employed in the community shall be in staff custody return to the facility no later than 12 midnight Eastern Standard Time (EST). Inmates will not be authorized to leave the facility to work in the community between 12 midnight and 5 a.m. EST unless an exception is made. Any exceptions must be reviewed and approved on a case by case basis by the warden over the work release center. No exceptions will be approved unless it is determined that the risk to the community is minimal, and the earning potential and rehabilitative benefits which the job offers the inmate are substantial.

(9) Clothing and Equipment.

(a) No change.

(b) Inmates working at paid employment are authorized to obtain tools, clothing, and equipment normally required for their employment. An inmate working at paid employment shall be permitted to receive one drop-off of necessary clothing, tools, or equipment, including one bicycle, from an individual approved by the major or contract facility director

on the inmate's approved visitor list. In order to receive a drop-off, the inmate must submit Form DC6-236, Inmate Request, to the ~~work release~~ classification officer or designated contract facility staff listing the requested items, the name of the individual approved visitor who will bring the items, and the date the inmate would like the items to be brought. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C. The request shall be forwarded to the correctional officer major or contract facility director, who may approve some or all of the requested items based on the inmate's need as dictated by his work assignment and the security or safety risk posed by the items. The major/facility director may approve the proposed individual or require the inmate to submit the name of another individual for consideration. An inmate may not receive a drop-off without the approval of the correctional officer major or contract facility director.

(c) through (g) No change.

(h) Advancement of Funds. The facility director at a contract work release center, if authorized by contract, shall advance up to \$75.00 to an inmate who needs money for clothing, equipment, tools, transportation or incidental expenses in order to begin working at paid employment. The financial plan for the disbursement of the inmate's earnings, as provided in subsection (11), shall provide for the repayment of any such advancement of monies from the inmate's earnings. If the inmate's employment is terminated or if for any other reason the advancement of monies is not repaid from the inmate's earnings, the advancement of monies remains a personal obligation of the inmate. Disciplinary action pursuant to Rule 33-601.314, F.A.C., shall be initiated to ensure due process for the collection of any unpaid portion of the advancement. All or part of the discharge gratuity as provided in Rule 33-601.502, F.A.C., shall be taken, but only if the Department of Corrections finds that such action will not jeopardize the inmate's ability to transition himself into the community.

(10) Transportation.

(a) Transportation for inmate engaged in community release programs shall be ~~secured~~ by the following means and be approved by the major or contract facility director:

1. Employer furnished transportation, the driver of which must be approved by the major or contract facility director;

2. Public transportation, including taxi service;

3. Transportation provided by a family member or an approved sponsor as defined in Rule 33-601.303, F.A.C.;

4. through 6. No change.

(b) through (c) No change.

(11) Disbursement of Earnings.

(a) through (b) No change.

(c) The inmate's plan for the disbursement of earnings shall include a provision that no less than 10% of his net income will be placed in savings for disbursement upon his release. While an inmate is assigned to a community release

program, such savings may not be used for any inmate expenditure including but not limited to subsistence payments, transportation fees, or weekly draws. The plan shall also include a provision that no less than 10% of net income will go toward the support of any dependents the inmate may have.

(d) All inmates participating in community work release programs shall be required to pay 55% subsistence, which shall be computed by factoring .55 (55%) times the inmate's net earnings.

(e) No change.

(f) Subsistence deductions against individual inmate's earnings will commence with the first labor compensation payment received by the inmate during his incarceration and will terminate with the last day of incarceration earnings deposited to the Inmate Trust Fund, regardless of the frequency of the employer's payroll cycle. Inmates released from Department custody in the middle of an employer's pay cycle will be responsible for subsistence for each day in the pay cycle that the inmate was in Department custody. Center staff will manually deduct final subsistence payments for this period from the inmate's trust fund account. However, if an inmate fails to deposit his final earnings into his Inmate Trust Fund account, a 55% subsistence deduction will be made from the Inmate Trust Fund Account for the days owed by the inmate, based on the inmate's release date, for which the State or the contract facility has not already been compensated. The assessment will be made based on the inmate's last earnings deposited.

(g) An inmate who has been gainfully employed and becomes unemployed for any reason fired from employment for misconduct, or who voluntarily terminates employment shall continue to be assessed for subsistence to the limit of funds available. Absent earnings to compute the subsistence deduction, the assessment will be made at the same per diem level as was deducted from the inmate's last regular wages.

(h) through (j) No change.

(k) Subsequently, the inmate may request within seven (7) days of the expiration of his sentence to establish an outside bank or credit union account. The major or contract facility director shall evaluate and approve or disapprove such requests based on the following criteria: No inmate shall be allowed to open any outside bank or credit union account in his or her name utilizing monies which were earned while on community release.

1. Whether the inmate has followed applicable Department rules regarding deposit and handling of his income (e.g., whether the inmate deposited all paychecks in a timely fashion); and

2. Whether the account offers, or the opening of the account is contingent upon, initiating an additional contract beyond the establishment of a bank or credit union account (e.g., a credit card offer or requirement).

(l) An inmate is permitted to draw up to \$100.00 from his account each week, provided the inmate has sufficient funds and the draw is not taken from the savings required by paragraph (11)(c) above.

(m)(4) Any requests for special withdrawal shall be made in accordance with paragraph (3)(a) of completed on Form DC2-304, Special Withdrawal. Form DC2-304 is incorporated by reference in Rule 33-203.201, F.A.C. The amount of such requests will be limited to no more than 10% of funds available in the inmate's trust fund account. Special withdrawal requests are limited to one per month unless an emergency arises, such as a sudden change of employment requiring the purchase of appropriate tools, clothing, or equipment. Emergency special withdrawal requests will be evaluated and approved or disapproved by the major or contract facility director to ensure that the withdrawal is emergent in nature.

(12) Restitution.

(a) through (b) No change.

(c) In the event that the committing court fails to order restitution or orders restitution but fails to state a specific amount, the Department shall require the inmate, as a condition of working in a paid employment program, to pay restitution to the aggrieved party in an amount to be determined by the ~~Department Bureau Chief of Classification and Central Records~~ pursuant to Section 945.091, F.S. Restitution which is imposed by the Department under this provision shall not be less than 10% of the inmate's net earnings.

(d) through (e) No change.

(13) Reasons for Removal from a Community Release Program. An inmate may be removed from a CWA, a community-based residential substance abuse program, a transition program, or from CWR for any of the following reasons:

(a) No change.

(b) Information is received concerning the inmate that is determined will adversely impact on the safety and security of the inmate, Department, or the community; or

(c) There is reason to believe that the inmate will not honor the trust bestowed upon him; or

(d) Failure to obtain lawful employment within 60 days of placement will be cause for review by department staff for determination of continued participation in a community release program.

(14) Process for Removal from a Community Release Program.

(a) When an inmate is removed from a CWA, a community-based residential substance abuse program, a transition program, or from CWR for negative behavior or unsuccessful participation in the program and placed in a secure facility, the inmate shall be recommended for termination from the program by his classification officer.

(b) through (d) No change.

(15) Escape from a Community Release Program.

(a) through (b) No change.

(c) If, following investigation, it is determined that the inmate did not escape, as defined in Section 945.091(4), F.S., the procedures outlined in subsection ~~(14)(15)~~ of this rule shall be followed in order to review for reinstatement ~~reinstate the inmate~~ to a community release program.

(16) Citizen Committees. The correctional officer major of a work release center or facility director of a contract facility shall establish committees of volunteer citizens in the various communities of the state to assist the Department by:

(a) through (b) No change.

(c) Aiding in the re-entry and transition programs of the facility.

(d) through (e) No change.

(17) No change.

(18) Records Required. The Department shall keep a record of the following:

(a) No change.

(b) Number of community release and furlough programs completed and the number of inmates terminated from the program and reasons therefore.

(c) through (d) No change.

(19) Forms. The following forms are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) through (d) No change.

(e) DC6-118A, Personalized Program Plan for Work Release Centers, effective ~~9-2-01~~.

(f) DC6-118B, Personalized Program Plan – Modification Plan, effective ~~9-2-01~~.

(g) DC6-118C, Personalized Program Plan Progress Review, effective ~~9-30-08~~.

(h) DC6-118D, Transition Release Plan, effective ~~3-14-01~~.

(i) DC6-102, Letter of Notice, effective ~~9-2-01~~.

Rulemaking Authority 945.091, 946.002 FS. Law Implemented 945.091, 946.002 FS. History—New 12-7-97, Amended 4-13-98, 10-20-98, Formerly 33-9.023, Amended 3-14-01, 9-2-01, 10-27-03, 3-2-04, 10-28-04, 2-7-05, 2-22-07, 7-17-07, 4-10-08, 9-30-08, _____.

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 JUVENILE JUSTICE

Division of Administration

RULE NOS.:	RULE TITLES:
63F-10.001	Purpose and Scope
63F-10.002	Definitions
63F-10.003	Requests for Youth Information
63F-10.004	Release of Records by Department
63F-10.005	Record Sharing Agreements with Other Government Agencies
63F-10.006	Confidentiality of Records Released by the Department

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 45, November 12, 2010 issue of the Florida Administrative Weekly.

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

DATE AND TIME: Friday, December 10, 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

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.:	RULE TITLE:
64B16-28.140	Record Maintenance Systems for Community, Special-Limited Community, Special-Closed Systems, Special-Parenteral/Enteral, and Nuclear Permits

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 35, September 4, 2009 issue of the Florida Administrative Weekly has been withdrawn.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.:	RULE TITLE:
68A-27.002	Provision for Harassment of Endangered, Threatened and Species of Special Concern on Airport Property

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 2, January 15, 2010 issue of the Florida Administrative Weekly has been withdrawn.