

(k)(m) No change.

(4) Each firefighter employer shall assure that training and education are conducted frequently enough to assure that each firefighter is able to perform the firefighter's assigned duties and functions satisfactorily and safely, in a safe manner so as not to endanger such firefighter or any other firefighter. Training shall be provided on as needed basis and must be provided at least annually. In addition, firefighters who are expected to perform interior structural firefighting shall be provided with an education session or training at least quarterly. All such training shall be documented and a permanent record of attendance shall be kept.

(5) through (7) No change.

Rulemaking Specific Authority 633.803, 633.804, 633.805, 633.808, 633.821 FS. Law Implemented ~~633.804~~, 633.805, 633.807, 633.808, 633.809, 633.821 FS. History-New 9-6-04, Amended 6-6-07, 1-1-09, \_\_\_\_\_.

69A-62.022 Firefighter Employer ~~Comprehensive~~ Safety and Health ~~Remediation~~ Compliance Plan.

(1) Firefighter All firefighter employers identified through Rule 69A-62.023, F.A.C., by an investigative recommendation or by a substantiated complaint, shall be inspected for compliance with the requirements of Rule Chapter 69A-62, F.A.C. Deficiencies and recommendations, if any, will be noted in an inspection report delivered to the firefighter employer electronically. No later than and notified by the division as having a high frequency or severity of work related injuries and illnesses shall submit their Firefighter Employer Comprehensive Safety and Health Remediation Program to the division for approval within one hundred twenty (120) days after receipt of the inspection report the firefighter employer shall submit a Firefighter Employer Safety and Health Compliance Plan (Plan) to the Division notice.

(2) The Firefighter Employer Comprehensive Safety and Health Remediation Compliance Plan shall specify the action to be taken and the time needed for the firefighter employer to correct each deficiency identified and address each recommendation made in the inspection report. Any individual deficiency specifying a completion time greater than one year from the date of submission is not acceptable unless necessary to achieve the correction and justified in the Plan contain or address the specific components listed under the "General Guidelines for Firefighter Employer Comprehensive Safety and Health Programs" set forth in Rule 69A-62.021, F.A.C. The Plan shall be:

(a) Approved if it includes the correction of all deficiencies and addresses all recommendations noted with a completion date that is either less than one year from the date of submission, or a later date which is justified in the Plan;

(b) Deemed approved if not disapproved electronically within 60 days of receipt, and

(c) Disapproved if all deficiencies and recommendations are not addressed or a completion date greater than one year from the date of Plan submission is not justified.

(3) If a firefighter employer fails to submit a timely Firefighter Employer Comprehensive Safety and Health Remediation Plan to the Division, if the Plan is not approved after one re-submission, or if deficiencies are not timely corrected in accordance with the approved Plan, division the firefighter employer shall be subject to a penalty as prescribed in Section 633.811, F.S. (~~2003~~), or as otherwise provided by law.

(4) The Division shall conduct a re-inspection at a mutually agreeable time but in no case longer than 1 year from the date of Plan approval, continuous evaluation of each approved plan to determine its overall effectiveness.

Rulemaking Specific Authority 633.803, 633.809, 633.813 FS. Law Implemented 633.809, 633.817 FS. History-New 9-6-04, Amended 6-6-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Charlie Brush  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 10, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

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

#### DEPARTMENT OF COMMUNITY AFFAIRS

##### Division of Community Planning

RULE NOS.:	RULE TITLES:
9J-5.003	Definitions
9J-5.006	Future Land Use Element
9J-5.013	Conservation Element
9J-5.019	Transportation Element

#### NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 39, October 1, 2010 issue of the Florida Administrative Weekly has been withdrawn.

#### DEPARTMENT OF REVENUE

##### Sales and Use Tax

RULE NO.:	RULE TITLE:
12A-1.094	Public Works Contracts

**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. 40, October 8, 2010 issue of the Florida Administrative Weekly.

In response to comments received from the public the following changes have been made to subsection (4). In subparagraph 4. of paragraph (c), the first paragraph of the format of the Certificate of Entitlement has been changed, so that, when adopted, that paragraph will read:

4. The following is the format of the Certificate of Entitlement to be issued by the governmental entity:

**CERTIFICATE OF ENTITLEMENT**

The undersigned authorized representative of \_\_\_\_\_ (hereinafter "Governmental Entity"), Florida Consumer's Certificate of Exemption Number \_\_\_\_\_, affirms that the tangible personal property purchased pursuant to Purchase Order Number \_\_\_\_\_ from \_\_\_\_\_ (Vendor) on or after \_\_\_\_\_ (date) will be incorporated into or become a part of a public facility as part of a public works contract pursuant to contract # \_\_\_\_\_ with \_\_\_\_\_ (Name of Contractor) for the construction of \_\_\_\_\_.

Paragraph (d) has been changed, so that, when adopted, that paragraph will read:

(d)(e) Sales are taxable sales to contractors, including subcontractors, are subject to tax the contractor unless it can be demonstrated to the satisfaction of the Executive Director or the Executive Director's designee in the responsible program that such sales are, in substance, tax exempt direct sales to the government.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE NO.:                      RULE TITLE:  
12B-8.003                    Tax Statement; Overpayments  
  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. 40, October 8, 2010 issue of the Florida Administrative Weekly.

In response to comments received from the public, the instructions for Electronic Filing on page 1 of Form DR- 907N (Instructions for Filing Insurance Premium Installment Payment (Form DR-907)), and on page 1 of Form DR-908N (Instructions for Preparing Form DR-908 Florida Insurance Premium Taxes and Fees Return), have been changed so that, when adopted, those paragraphs will read:

**Electronic Filing**

You are able to file and pay insurance premium tax electronically using the Department's secure Internet site. In January 2011, online electronic filing will offer the uploading of Schedule XII, Firefighters' Pension Trust Fund, and Schedule XIII, Municipal Police Officers' Retirement Trust

Fund, automatic calculations, and automatic entry for data appearing in more than one schedule. If you paid \$20,000 or more in tax during the State of Florida's prior fiscal year (July 1, 2009 – June 30, 2010), you are required to file and pay electronically. Insurers are encouraged to file electronically and take advantage of the opportunity to save resources. Insurers can obtain a waiver by calling 800-352-3671. Please visit our Internet site at [www.myflorida.com/dor](http://www.myflorida.com/dor) for more information.

**DEPARTMENT OF TRANSPORTATION**

RULE NO.:                      RULE TITLE:  
14-46.001                    Utilities Installation or Adjustment  
  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. 36, September 10, 2010 issue of the Florida Administrative Weekly.

In response to a hearing held on November 9, 2010, proposed subsections (3) and (4) are being deleted.

~~(3) The FDOT Chief Engineer shall review all permit applications for electric transmission lines designed to operate at 69 or more kilovolts within FDOT limited access right of way for compliance with the UAM and this rule.~~

~~(a) FDOT will permit a utility agency/owner (UAO) to place electric transmission lines (above or below ground) longitudinally on FDOT limited access right of way provided the UAO documents in the permit application that the electric transmission lines comply with the following conditions:~~

~~1. The transmission lines are designed to operate at 69 kilovolts or greater.~~

~~2. The transmission lines are needed to accommodate the additional electrical transfer capacity on the transmission grid resulting from a new base-load generating facility.~~

~~3. The installation, operation, and maintenance will be limited to areas outside the minimum clear zone for that facility.~~

~~4. The placement will be along a highway within FDOT limited access right of way.~~

~~5. The installation, operation, or maintenance of the transmission lines will not interfere with the operational requirements or future expansion of the transportation facility. The UAO shall provide a schedule of all anticipated maintenance, activities, upgrades, expansions, and periodic inspections.~~

~~6. The use of FDOT limited access right of way is the only practical alternative. In order to demonstrate the use of the right of way is the only practical alternative, the UAO shall provide an analysis of other possible alternatives and shall compare the use of such alternatives to the use of FDOT limited access right of way. These alternatives shall include, at a minimum, using existing utility corridors, easements,~~

property contiguous to FDOT right of way, and other routes. For each alternative, including the use of FDOT limited access right of way, the UAO shall address all of the following:

- a. Impacts to adjacent property owners;
- b. Cost of acquiring land to accommodate the transmission lands;
- e. Economic impact to the UAO, the community, and FDOT;
- d. Environmental impact to the community and FDOT;
- e. All safety impacts.

(b) Prior to the issuance of the permit, the UAO shall pay a fee to FDOT based upon the area of land needed to accommodate the installation, operation, maintenance of the transmission lines, and geographic region. When the utility facility is to be located in an urban area, as defined by Section 334.03(32), F.S., the fee shall be \$609,840.00 per acre. For all other locations, the fee shall be \$87,120.00 per acre. If the utility is relocated or removed in the future for expansion or improvement of the transportation facility, the UAO will relocate or remove the utility from the facility at its sole expense, and is not eligible for any state or federal reimbursement.

(c) The Utility Permit Form FDOT 710-010-85 shall be conformed to the requirements of this subsection.

(4) Electric transmission lines designed to operate at 69 or more kilovolts within FDOT non-limited access right of way, and electric transmission lines designed to operate at 69 or less kilovolts within FDOT right of way, shall comply with the provisions of the UAM.

**DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

**Division of Driver Licenses**

RULE NOS.:	RULE TITLES:
15A-12.003	Exemptions
15A-12.004	Application to Become a Sponsor
15A-12.005	Additional Program Requirements
15A-12.006	Regulation of Authorized Program

**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. 33, August 20, 2010 issue of the Florida Administrative Weekly.

**15A-12.003 Exemptions.**

Persons holding a valid driver license that includes a motorcycle endorsement or equivalent certificate from those states, countries or organizations that require successful completion of the Basic Rider Course, including a similar examination of the knowledge and skill of the applicant in the operation of a motorcycle, are exempt from taking courses

required for licensure listed below are not required to undergo additional motorcycle training in this state in order to obtain a motorcycle endorsement.

- (1) Any state, except Alabama, unless the customer presents a valid Motorcycle Safety Foundation course completion card that is not more than one year old.
- (2) United States Territories, Possessions (including Panama Canal Zone if issued prior to January 1, 2000)
- (3) Canada
- (4) France
- (5) Germany
- (6) Taiwan
- (7) United States Military

Rulemaking Authority 322.02(6), 322.0255(6) FS. Law Implemented 322.0255, 322.12(5) FS. History--New \_\_\_\_\_.

**15A-12.004 Application to Become a Sponsor.**

(3) Persons or entities desiring to act as Sponsors must first qualify with the Department MSF as an entity affiliated with the FRTP that is responsible for motorcycle safety and education in which the Sponsor agrees to teach current MSF RiderCourse curricula and does so through RiderCoaches certified according to MSF and FRTP standards. Department MSF qualifications require completion and use of the forms listed below, which include the student course waiver and indemnification agreement, reporting and insurance requirements and driving range layout, all of which are conditions of the Department MSF for utilizing the MSF their course and instructor certifications. Copies are available from the MSF website, www.msf-usa.org, Training Site Support, Rider Education Recognition Program (RERP) Forms or by contacting the FRTP, 2900 Apalachee Parkway, Neil Kirkman Building, MS 88, Room A226, Tallahassee, Florida 32399-0571:

(4) The Regional Coordinator will verify the range area and all forms will be sent to the FRTP Program Manager for approval, signature and forwarding who will sign and forward them to MSF for approval.

(5) MSF will send a letter of approval to the applicant with a copy to the FRTP Program Manager.

(5)(6) Once FRTP receives acknowledgment clearance from MSF, FRTP will initiate the letter of authorization process.

(6)(7) The Letter of Authorization will be signed by the Director of the Division of Driver Licenses or her designee and provided to the Sponsor.

(7)(8) Only when the applicant receives both official documents, will they be able to start classes.

(8)(9) Any change in the information provided by the applicant must be approved by FRTP. A letter of authorization shall not be transferable. The program shall notify FRTP at least 90 days prior to the effective date of a proposed change in

the program’s corporate structure. FRTP shall review the proposed changes and may request additional information from the program.

~~(9)(10)~~ The Sponsor shall be given Primary and Secondary signatory templates designed to designate approval authority for the motorcycle safety course classes. The Sponsor shall keep a record of Online Data Exchange System signatories, signatory ID’s and clerical additions.

Rulemaking Authority 322.02(6), 322.0255(6) FS. Law Implemented 322.0255, 322.12(5)(a) FS. History–New\_\_\_\_\_.

15A-12.005 Additional Program Requirements.

(1) An organization authorized to conduct the Program shall adhere to the following:

~~(f)~~ Sponsors must provide proper insurance coverage as required by MSF.

~~(f)(g)~~ Sponsors and RiderCoaches will cooperate with FRTP staff or representatives during program regulation visits.

~~(g)(h)~~ Sponsors shall produce and maintain specific records as identified below:

~~(h)(i)~~ The Sponsor, upon request, shall permit FRTP and its representatives to inspect the program, its public facilities, equipment and records that are required by these administrative rules to be maintained in the operation of the program.-

~~(i)(j)~~ Sponsors must maintain training materials and equipment. All cosmetic damage to state loaned motorcycles must be repaired at least annually. Any motorcycle that has been involved in a crash will be immediately removed from service. The Sponsor must ensure that it is inspected and ridden by a RiderCoach or Certified Range Aide to ensure proper repair prior to student use.

~~(j)(k)~~ Sponsors must maintain all ranges in safe operating condition, as provided in HSMV Form 77091 and meet applicable local ordinances and zoning requirements.

~~(k)(l)~~ The Sponsor is solely responsible for the performance of all aspects of these administrative rules. The Sponsor may subcontract aspects of these requirements but assumes full responsibility for the performance of that subcontractor.

(9) The Sponsor shall issue each student a current edition of the BRC Student Handbook or S/TEP Student Handbook, which shall be an original and not photocopied. ~~For the BRC 2, the Sponsor shall provide a set of Rider Classroom Cards to the students for use during the program.~~

Rulemaking Authority 322.02(6), 322.0255(6) FS. Law Implemented 322.0255, 322.12(5)(a) FS. History–New\_\_\_\_\_.

15A-12.006 Regulation of Authorized Program.

(2) The FRTP representative visiting the Sponsors will produce a report on the Quality Assurance Audit Form, HSMV Form 92786 (10/2010), incorporated by reference, copies of which may be obtained from the FRTP website

(<http://motorcycles.flhsmv.gov>) under “Forms”, or by contacting the Florida Rider Training Program, 2900 Apalachee Parkway, Neil Kirkman Building, MS 88, Room A226, Tallahassee, Florida 32399-0571. A copy of the report shall be provided to the Sponsor.

~~(b)~~ The Quality Assurance Audit Form, copies of which can be obtained by contacting the Motorcycle Safety Foundation, 2 Jennifer Street, Suite 150, Irvine, CA 92618, (949)727 3227, or from its website, [www.msfa.org](http://www.msfa.org). This Form outlines the steps that will be taken by the FRTP, when the Code of Conduct or the Department “Letter of Authorization”, are not adhered to.

~~(b)(e)~~ On the first observation the FRTP representative documents in a comprehensive report what they saw and why it was viewed as a problem. This report is submitted to FRTP for review. A notice will be provided to the RiderCoach and Sponsor by either the Program Manager or Regional Coordinator. The RiderCoach and Sponsor will be allowed to provide explanations and reasoning as to their actions. If the explanation and/or reasoning is/are acceptable, then no further action will be deemed necessary. If the explanations and reasoning so warrant, either the Regional Coordinator or Program Manager will advise the RiderCoach and Sponsor of the necessary corrective measure(s) to be implemented by them to correct it.

Rulemaking Authority 322.02(6), 322.0255(6) FS. Law Implemented 322.0255, 322.12(5)(a) FS. History–New\_\_\_\_\_.

**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.”

**EXECUTIVE OFFICE OF THE GOVERNOR  
Office of Tourism, Trade and Economic Development**

RULE NOS.:	RULE TITLES:
27M-5.001	Definitions and Forms
27M-5.002	Application Process
27M-5.003	Qualification Process
27M-5.004	Certification Decision Process
27M-5.005	Verification of Actual Qualified Expenditures
27M-5.006	Withdrawal of Tax Credit Eligibility
27M-5.007	Award of Tax Credit
27M-5.008	Election of Tax Credits
27M-5.009	Transfer of Tax Credits

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 44, November 5, 2010 issue of the Florida Administrative Weekly.

The agency head listed should read Chris Hart, IV, Interim Director of the Office of Tourism, Trade, and Economic Development.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Health Facility and Agency Licensing**

RULE NO.: 59A-1.004                      RULE TITLE: Certification Procedure  
 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. 21, May 28, 2010 issue of the Florida Administrative Weekly.

59A-1.004 Certification Procedure.

(1) through (4) No change.

~~(5) Out of state OPOs, tissue banks and eye banks. No out of state OPO, tissue bank or eye bank may conduct procurement activities in Florida as defined in Chapter 381, F.S., without first obtaining certification. Existing out of state OPOs, tissue banks and eye banks conducting procurement activities in Florida shall submit an application for certification by October 1, 1996. Until October 1, 1996, out of state agencies currently engaged in procurement activities in Florida requesting certification shall be deemed to meet certification requirements until the AHCA acts to deny or grant the initial certification application. After October 1, 1996, upon receipt of an initial application from an out of state agency, the AHCA shall act to approve or deny the application request within 90 days, during which time deemed certification status does not exist.~~

(6) through (8) renumbered (5) through (7) No change.

~~(9) Permissive certification exclusions.~~

~~(a) Circumstance for exclusion. The AHCA shall exclude an individual or entity convicted under federal or state law of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.~~

~~1. In connection with the delivery of any health care item or service, including the performance of management or administrative services relating to the delivery of such items or services; or~~

~~2. With respect to any act or omission in a program operated by, or financed in whole or in part by, any federal state or local government agency.~~

~~(10) Conviction relating to controlled substances.~~

~~(a) Circumstance for exclusion. The AHCA shall not issue a certificate to an individual or entity convicted under federal or state law of a criminal offense relating to the unlawful manufacture, distribution, prescription or dispensing of a controlled substance, as defined under federal or state law.~~

~~(b) For purposes of this section, the definition of controlled substance will be the definition that applies to the law forming the basis for the conviction.~~

~~(11) Certification revocation or suspension.~~

~~(a) The AHCA shall exclude an individual or entity that has:~~

~~1. Had a license or certificate to provide health care revoked or suspended by any state licensing or certification authority, or has otherwise lost such a license or certificate (including the right to apply for or renew such a license or certificate), for reasons bearing on the individual's or entity's professional competence, professional performance or financial integrity; or~~

~~2. Has surrendered such a license or certificate while a formal disciplinary proceeding concerning the individual's or entity's professional competence, professional performance or financial integrity was pending before a state licensing or certifying authority.~~

~~(12) Exclusion of entities owned or controlled by sanctioned person.~~

~~(a) A person with a relationship with such entity has been convicted of a criminal offense as described in Sections 1128(a) and 1128(b)(1), (2) or (3) of Title XIX of the Social Security Act;~~

~~(b) Has had civil money penalties or assessments imposed under Section 1128A of Title XIX of the Social Security Act;~~

~~(c) Has been excluded from participation in Medicare or any of the state health care programs and such person or entity has:~~

~~1. A direct or indirect ownership interest (or any combination thereof) of 5 percent or more in the entity;~~

~~2. Is the owner of a whole or part interest in any mortgage, deed of trust, note or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof, in which whole or part interest is equal to or exceeds 5 percent of the total property and assets of the entity;~~

~~3. Is an officer or director of the entity, if the entity is organized as a corporation;~~

~~4. Is a partner in the entity, if the entity is organized as a partnership;~~

~~5. Is an agent of the entity; or~~

~~6. Is a managing employee, i.e., an individual (including a general manager, business manager, administrator or director) who exercises operational or managerial control over the entity or part thereof, or directly or indirectly conducts the day-to-day operations of the entity or part thereof.~~

~~(d) For the purposes of this section, the term:~~

~~1. Indirect ownership interest includes an ownership interest through any other entities that ultimately have an ownership interest in the entity in issue. (For example, an individual has a 10 percent ownership interest in the entity at issue if he or she has a 20 percent ownership interest in a corporation that wholly owns a subsidiary that is a 50 percent owner of the entity in issue.)~~

~~2. Ownership interest means an interest in:~~

~~a. The capital, the stock or the profits of the entity; or~~

~~b. Any mortgage, deed, trust or note, or other obligation secured in whole or in part by the property or assets of the entity.~~

~~(8)(13) A limited certificate may be issued to a tissue bank or eye bank certifying only those components of procurement which the bank has chosen to perform. A limited certificate shall be requested at the time that application is made as specified in paragraph 59A-35.060(1)(cc), F.A.C. on AHCA Form 3140-2001-OCT-95, which is incorporated herein by reference.~~

~~(9)(14) Renewal of Certification. ~~Expiration.~~ A certificate, unless sooner suspended or revoked, is valid for ~~shall automatically expire~~ two years from date of issuance, and shall be renewable ~~biennially~~ upon application for renewal and payment of the annual assessment fees specified in Section 765.544, F.S. ~~fee prescribed by these rules~~; provided that the applicant and agency meet the requirements established under this rule as determined by an on-site inspection in accordance with subsection 59A-1.004(5) 59A-1.004(6), F.A.C. Application for renewal of a certificate shall be made as specified in subsection 59A-35.060(1), F.A.C. ~~not less than 60 days prior to the expiration of a certificate on AHCA Form 3140-2001-OCT-95.~~~~

~~(10)(15) Revocation of certification. An OPO, tissue bank or eye bank that submits or causes to be submitted an enrollment application that contains materially false or incorrect information shall have its certificate revoked.~~

~~(11)(16) Each agency for which a certificate is requested shall be designated by a distinctive name, and the name shall not be changed without first notifying the AHCA in writing and receiving approval in writing. Duplication of existing agency names is prohibited.~~

~~(12)(17) Each certificate shall be valid only for the person to whom it is issued and shall not be subject to sale, assignment, or other transfer, voluntary or involuntary, nor shall a certificate be valid for any premises other than that for which it was originally issued.~~

~~(13)(18) A certified OPO, tissue bank or eye bank that proposes a change in procurement services (i.e., retrieval, processing, storage or distribution) shall notify the AHCA 30 days prior to that change in service. This notification shall include an explanation in the change of any aspect of the procurement process and how this change affects the agency's operations. Prior to the addition of services, the AHCA shall conduct an on-site visit to determine if the standards of this rule are met.~~

~~(14)(19) An application for a certificate is required when the ownership of a certified agency has been transferred or assigned or when a lessee agrees to undertake or provide services to the extent that legal liability for operation of the agency rests with the lessee. The application for a certificate reflecting such change shall be made at least 60 days prior to the date of the sale, transfer, assignment, or lease.~~

~~(15)(20) Each certificate shall be returned to the AHCA by the agency immediately upon change in ownership or classification, suspension, revocation or voluntary cessation of operations.~~

~~(16)(21) A certificate holder shall notify the AHCA of impending closure of an agency 90 days prior to such closure. The agency shall be responsible for advising the AHCA as to the placement of inventory and disposition of records.~~

~~Rulemaking Specific Authority 765.541(2), 408.819 FS. Law Implemented 765.541, 765.542, 765.544, 408.806, 873.01 FS. History--New 11-26-92, Amended 8-20-96, 6-19-08, \_\_\_\_\_.~~

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Health Facility and Agency Licensing**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
59A-8.003	Licensure Requirements
59A-8.004	Licensure Procedure
59A-8.008	Scope of Services
59A-8.0095	Personnel
59A-8.022	Clinical Records and Service Records

**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. 28, July 16, 2010 issue of the Florida Administrative Weekly.

The changes are in response to written comments received from the staff of the Joint Administrative Procedures Committee.

59A-8.003 Licensure Requirements.

~~(5) In addition to any other penalties imposed pursuant to this rule, AHCA may assess costs related to an investigation that results in a successful prosecution, pursuant to Section 400.484, F.S. The prosecution can be resolved by stipulation settlement or final hearing. The following costs may apply: travel costs related to the investigation; investigative time by AHCA's surveyor or surveyors including travel time; processing time by AHCA's professional staff and administrative support staff of Field Operations, and processing time for administrative support staff and professional staff of the AHCA Home Care Unit in Tallahassee. The costs related to AHCA's professional staff and support staff will be determined according to the hourly rate of pay for those positions.~~

59A-8.004 Licensure Procedure.

~~(6) For initial applications, including changes of ownership, the applicant must submit proof of financial ability to operate, pursuant to Section 400.471, 408.810, and 408.8065, F.S., and Rule 59A-35.062, F.A.C.~~

~~(9) Background screening for the administrator and the financial officer shall be in accordance with level 2 standards for screening set forth in Section 408.809, F.S. and Rule~~

59A-35.090, F.A.C. The fingerprint card for level 2 screening for the administrator and the financial officer can be obtained from the Agency for Health Care Administration, Home Care Unit, by calling (850)412-4403 or sending a request by fax to (850)922-5374. The completed fingerprint card should be submitted with a check or money order to cover the cost of the screening to the Agency for Health Care Administration, Home Care Unit, 2727 Mahan Drive, Mail Stop 34, Tallahassee, Florida 32308.

#### 59A-8.008 Scope of Services.

Rulemaking Authority, 400.497 FS. Law Implemented 400.471, 400.462, 400.497 FS. History—New 4-19-76, Formerly 10D-68.08, Amended 4-30-86, 8-10-88, 5-30-90, Formerly 10D-68.008, Amended 10-27-94, 1-17-00, 7-18-01, 9-22-05, \_\_\_\_\_.

#### 59A-8.0095 Personnel.

##### (1) Administrator.

##### (a) The administrator of the agency shall:

1. Meet the criteria as defined in Section 400.462(1), F.S.
2. The administrator shall be responsible for the overall operation of the home health agency to include all provisions of Chapter 400, Part III, F.S. and Chapter 59A-8, F.A.C.

3. Designate, in writing a direct employee or an individual covered under a management company contract to manage the home health agency or an employee leasing contract that provides the agency with full control over all operational duties and responsibilities to serve as an on-site alternate administrator during absences of the administrator. This person will be available during designated business hours, when the administrator is not available. Available during designated business hours means being readily available on the premises or by telecommunications. During the absence of the administrator, the on-site alternate administrator will have the responsibility and authority for the daily operation of the agency. The alternate administrator must meet qualifications as stated in Section 400.462(1), F.S.

4. When the home health agency provides physical therapy and does not provide nursing, the administrator shall establish procedures for handling biomedical waste when physical therapists provide wound care. The procedures shall also include informing wound care patients of the method for handling biomedical waste at home. If the physical therapists do not provide wound care, no procedures are required. The Department of Health website has information on biomedical waste handling and the requirements at [www.doh.state.fl.us/Environment/Community/biomedical](http://www.doh.state.fl.us/Environment/Community/biomedical).

##### (2) Director of Nursing.

(b) If the administrator is not a physician or registered nurse, the director of nursing shall:

1. Establish ~~service~~ policies and procedures on biomedical waste for home health agencies providing nursing and physical therapy services. The procedures shall also include informing wound care patients of the method for handling biomedical

waste at home. The Department of Health website has information on biomedical waste handling and the requirements at [www.doh.state.fl.us/Environment/Community/biomedical](http://www.doh.state.fl.us/Environment/Community/biomedical);

2. Establish policies and procedures that are consistent with recommended Centers for Disease Control (CDC) and Occupational Safety and Health Agency (OSHA) guidelines for safety, universal precautions and infection control procedures. The CDC website has information at [www.cdc.gov/ncidod/dhqp](http://www.cdc.gov/ncidod/dhqp) in compliance with Chapter 64E-16, F.A.C., and state health statutes and administrative rules pursuant to Section 381.0011(4), F.S., which generally conform to;

~~3.2.~~ Employ and evaluate nursing personnel;

~~4.3.~~ Coordinate patient care services; and

5.4. Set or adopt policies for, and keep records of criteria for admission to service, case assignments and case management.

(c) No change.

(d) The director of nursing shall establish, and conduct, and document an ongoing quality assurance program. The program shall include at least quarterly, the review of the care and services of a sample of both active and closed clinical records by the director of nursing. The director of nursing may delegate some of the record review to registered nurses. The quality assurance program is to assure that:

1. The home health agency accepts patients whose home health service needs can be met by the home health agency;

2. Case assignment and management is appropriate, adequate, and consistent with the plan of care, medical regimen and patient needs.

3. Nursing and other services provided to the patient are coordinated, appropriate, adequate, and consistent with plans of care. ~~Services provided are consistent with professional practice standards in Chapter 464, F.S., and Chapter 64B-9, F.A.C.~~ Notes of case conferences for information sharing, and coordination are included in the patient record;

4. Patients are helped to attain and maintain their highest practicable functional capacity. Goals in the plan of care for anticipated patient outcomes are appropriate to the diagnosis, plan of care, services provided and patient potential. All services and outcomes are completely and legibly documented, dated and signed in the clinical service record;

5. Home health agency policies and procedures are followed;

6. Confidentiality of patient data is maintained; and

7. Findings of the quality assurance program are used to improve services. The findings are documented and an action plan is prepared to follow up on the findings. A record is kept to show that the action plan is carried out.

(3) Registered Nurse.

(a) A registered nurse shall be currently licensed in the state, pursuant to Chapter 464, F.S., and:

1. Be the case manager in all cases involving nursing or both nursing and therapy care.

2. Be responsible for the clinical record for each patient receiving nursing care; and

3. Assure that progress reports are made to the physician, physicians assistant or advanced registered nurse practitioner that established the treatment orders for patients receiving nursing services when the patient's condition changes or there are deviations from the plan of care.

4. Provide nursing services within the scope of practice authorized by the license issued by the State of Florida for the practice of a registered nurse in compliance with standards of nursing practice in Chapter 464, F.S., and Chapter 64B-9, Florida Administrative Code.

(4) Licensed Practical Nurse.

(b) A licensed practical nurse shall:

1. Prepare and record clinical notes for the clinical record;

2. Report any changes in the patient's condition to the registered nurse with the reports documented in the clinical record;

3. Provide care to the patient including the administration of treatments and medications within the scope of practice authorized by the license issued by the State of Florida for the practice of a licensed practical nurse in compliance with standards of nursing practice for licensed practical nurses in Chapter 464, F.S., and Chapter 64B-9, Florida Administrative Code; and

4. Perform other nursing Other duties assigned by the registered nurse, pursuant to Chapter 464, F.S.

(6) Physical Therapist and Physical Therapist Assistant.

(a) The physical therapist shall be currently licensed in the state, pursuant to Chapter 486, F.S. The physical therapist assistant shall be currently licensed in the state, pursuant to Chapter 486, F.S.

1. Services provided by the physical therapist ~~and physical therapy assistant~~ shall be performed within the scope of practice authorized by the license issued by the State of Florida for the practice of physical therapist in compliance with the standards of physical therapy practice in Chapter 486, F.S., and Chapter 64B17-6, Florida Administrative Code.

2. Services provided by the physical therapist assistant will be provided under the general supervision of a licensed physical therapist and shall not exceed any of the duties authorized by the license issued by the State of Florida for the practice of physical therapist assistant in the state rules for physical therapy assistants in Chapter 64B17-6, Florida Administrative Code.

(8) Occupational Therapist and Occupational Therapist Assistant.

(a) The occupational therapist shall be currently licensed in the state, pursuant to Chapter 468, F.S., with one year of experience in occupational therapy and the occupational therapist assistant shall be currently licensed in the state, pursuant to Chapter 468, F.S., with one year of experience under the supervision of a licensed occupational therapist. Duties of the occupational therapist assistant shall be directed by the licensed occupational therapist and shall be within the scope of practice authorized by the license issued by the State of Florida for the practice of occupational therapist assistant not exceed those in the state rules for occupational therapy assistants in Chapter 64B11, Florida Administrative Code.

(c) Services provided by the occupational therapist ~~and occupational therapy assistant~~ shall be within the scope of practice authorized by the license issued by the State of Florida for the practice of occupational therapist in compliance with the standards of occupational therapy practice in Chapter 64B11, Florida Administrative Code.

(d) Supervision of the occupational therapy assistant by the occupational therapist is defined ~~shall be provided as required~~ in Section 468.203(8), F.S.

Rulemaking Authority 400.497 FS. Law Implemented ~~400.462, 400.476, 400.487, 400.488, 400.497 FS.~~ History-New 1-20-97, Amended 1-17-00, 7-18-01, 9-22-05, 8-15-06,\_\_\_\_\_.

59A-8.022 Clinical Records and Service Records.

(2) No information may be disclosed from the patient's ~~or client's~~ file without the written consent of the patient ~~or client~~ or the patient's ~~or client's~~ guardian. All information received by any employee, contractor, or AHCA employee regarding a patient ~~or client~~ of the home health agency is confidential and exempt from Chapter 119, F.S.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Condominiums, Timeshares and Mobile Homes**

RULE NOS.:	RULE TITLES:
61B-20.004	Definitions and Purpose
61B-20.005	Educational Resolution
61B-20.006	Enforcement Resolution and Civil Penalties

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 26, July 2, 2010 issue of the Florida Administrative Weekly has been withdrawn.



**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Condominiums, Timeshares and Mobile Homes**

RULE NOS.:	RULE TITLES:
61B-21.001	Definitions and Purpose
61B-21.002	Educational Resolution
61B-21.003	Enforcement Resolution and Civil Penalties

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 26, July 2, 2010 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE NO.:	RULE TITLE:
61G15-31.003	Design of Structures Utilizing Prefabricated Wood Trusses

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 33, August 20, 2010 issue of the Florida Administrative Weekly.

The contact information is corrected to read as: 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 32303-5268

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 32303-5268

**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**

**Beaches and Coastal Systems**

RULE NOS.:	RULE TITLES:
62B-41.002	Definitions
62B-41.003	General Prohibitions
62B-41.005	Policy and Eligibility Criteria for Coastal Construction Permits

**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. 35, September 3, 2010 issue of the Florida Administrative Weekly.

62B-41.002 Definitions.

(1) through (9) No change.

(10) "Comparable alternative access" is public access provided by the applicant that is similar in size and functionality to the public access being replaced. Such access proposed by the applicant shall be within walking distance from the public access that was permanently lost due to the coastal construction project. Comparable alternative access must not expose the user to unsafe conditions, must be clearly identified, and must include authorization from the upland property owner.

(10) through (47) renumbered (11) through (48) No change.

Rulemaking Authority No change Law Implemented No change.

62B-41.003 General Prohibitions.

(1) No change.

(2) The Department shall deny any application for a coastal construction project ~~No coastal construction shall be allowed~~ if, after considering any proposed mitigation plan, the proposed project as a whole will result in a significant adverse impact.

(3) No change.

(4) The Department shall deny any application for a coastal construction project that would ~~No coastal construction shall be allowed~~ to result in a take of marine turtles, as defined in subsection 62B-41.002(47)(46), F.A.C., unless, as provided for by the provisions of paragraph 379.2431(1)(h), F.S.

Rulemaking Authority No change Law Implemented No change.

62B-41.005 Policy and Eligibility Criteria for Coastal Construction Permits.

(1) through (2) No change.

(3) The Department will determine whether to authorize coastal construction at any coastal location upon receipt of DEP Form 73-500 (effective 12-06), entitled "Joint Application for a Joint Coastal Permit and Authorization to Use Sovereignty Submerged Lands," which is hereby incorporated by reference, ~~an application~~ from a property or riparian owner and upon consideration of the facts or circumstances, including:

(a) through (c) No change.

Copies of DEP Form 73-500 may be obtained by writing to Department of Environmental Protection, Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000 or by downloading from the Bureau's web page [www.dep.state.fl.us/beaches/](http://www.dep.state.fl.us/beaches/).

(4) through (10) No change.

(11)(a) through (b) No change.

(c) For the purposes of subsection 62B-41.005(11), F.A.C., previously existing inlets that have been recently closed due to human activity are areas of the coastal system that continue to

exhibit geomorphic features of an inlet, such as an ebb or tidal shoal, at the time an application for permit is submitted to the Department.

(12) through (16) No change.

(17) If the proposed coastal construction is reasonably likely to have adverse impacts to the coastal system, then the applicant shall revise the project design to avoid or minimize those impacts to the greatest extent practicable. After all practicable revisions have been made to avoid and minimize impacts; any remaining adverse impacts shall be offset ~~by a mitigation plan that has been proposed~~ by the applicant.

(18) No change.

Rulemaking Authority No change Law Implemented No change.

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.:                      RULE TITLE:  
64B5-2.013                    Dental Examination Requirements  
  and Grading

**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. 13, April 2, 2010 issue of the Florida Administrative Weekly.

The change is in response to concerns by the Joint Administrative Procedures Committee in a letter dated April 20, 2010. The change is as follows:

64B5-2.013(3)(b) shall read as:

(b) Every candidate who is scheduled to take the entire practical or clinical examination or who is scheduled to retake any part of the practical or clinical examination which involves the use of a live patient must secure liability insurance coverage in amounts determined by the board. This protection is for injuries or harm which may be sustained or may be claimed to have been sustained by a dental patient in the course of the examination. Each candidate must present proof of such coverage to the credentials committee before he or she will be allowed to perform any procedures on a live patient.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Foster, Executive Director, Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32314-3258

**DEPARTMENT OF HEALTH**

**Board of Podiatric Medicine**

RULE NO.:                      RULE TITLE:  
64B18-14.002                 Disciplinary Guidelines

**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. 42, October 22, 2010 issue of the Florida Administrative Weekly.

64B18-14.002 shall read as:

(yy) 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 relates to health care fraud, the Board shall impose a penalty ranging from suspension to revocation and a fine of ~~\$1,000 to~~ \$10,000, per count.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Podiatric Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32314-3256

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Worker’s Compensation**

RULE NO.:                      RULE TITLE:  
69L-6.007                      Compensation Notice

**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. 36, September 10, 2010 issue of the Florida Administrative Weekly.

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. 36, September 10, 2010 issue of the Florida Administrative Weekly. These changes are based upon comments made at the public hearing and timely submitted written materials.

(2) The following information shall, in addition to subsection (1) above, be included on the compensation notice if the employer is insured through a commercial insurer;:

(a) The name and address of the employer; and

(b) The name and address of the insurer, ~~and the agent of record of~~ the employer's current workers' compensation insurance policy ~~and the policy number, the~~ and effective date of coverage of that policy ~~and the expiration date of the policy~~. The remainder of the rule remains as published on September 10, 2010.

**Section IV  
Emergency Rules**

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

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