

(c) Disposition of the mortgage loan application. The journal shall indicate the result of the lending transaction. The disposition of the transaction shall be categorized as one of the following: loan funded, loan denied, or application withdrawn.

(d) Name of lender, if applicable.

(2) The journal shall be maintained on Form OFR-494-10, Mortgage Brokerage and Lending Transaction Journal, or a form substantially similar.

(3) In lieu of maintaining Form OFR-494-10, ~~a each~~ mortgage lender or mortgage broker may maintain the Home Mortgage Disclosure Act loan/application register, Form FR HMDA-LAR, found at 12 C.F.R., part 203, Appendix A (2010) if all lending transactions are recorded on this form. The form is hereby incorporated by reference and may be accessed through the Government Printing Office website <http://www.gpoaccess.gov/cfr/>.

(4) The Mortgage Brokerage and Lending Transaction Journal shall be maintained in the principal office or in each branch office where ~~the mortgage lender~~ transactions are originated. The Mortgage Brokerage and Lending Journal shall be kept current. The failure to initiate an entry to the Mortgage Brokerage and Lending Transaction Journal within 7 business days from the date the transaction was entered into, shall be deemed to be a failure to keep the Mortgage Brokerage and Lending Transaction Journal current.

(5) through (6) No change.

Rulemaking Authority 494.0016(4) FS. Law Implemented 120.695, 494.0016, 494.00255 FS. History—New 1-10-93, Amended 7-25-96, 12-12-99, Formerly 3D-40.265, Amended 3-23-08, 10-1-10,_____.

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for SERC was triggered under Section 120.541(1), F.S., and; 2) based on past experiences with charter school rules and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would be expected to exceed any one of the economic analysis criteria set forth in Section 120.541(2)(a), F.S.

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: 1002.33(27) FS.

LAW IMPLEMENTED: 1002.33(6) FS.

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

DATE AND TIME: March 27, 2012, 9:00 a.m.

PLACE: Terra Environmental Research Institute, 11005 S.W. 84 Street, Miami, FL 33173

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mike Kooi, Executive Director, Office of Independent Education and Parental Choice, Department of Education, (850)245-0878, mike.kooi@fldoe.org

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.0781 Procedures for Appealing a District School Board Decision Denying Application for Charter School or High-Performing Charter School.

The procedures for filing and reviewing all appeals to the State Board of Education under provisions of Section 1002.33(6), Florida Statutes, Chapter 96-186, Laws of Florida, shall be as follows:

(1) Appealing a Charter School Application Denial. The district school board letter of denial required by Section 1002.33(6)(b)3.a., Florida Statutes, shall be provided to the charter applicant by the district school board via certified mail. Within thirty (30) days after receipt by certified mail the date of a decision of a district school board denying which denies an application for a Charter School, the charter applicant may file a written notice of appeal the decision by submitting ten (10) hard copies of the appeal to with the Agency Clerk for the Department of Education, 325 West Gaines Street, Room 1520, in Room 1702, The Capitol, Tallahassee, Florida 32399-0400. A copy Copy of the notice of appeal shall be sent via regular mail or hand delivery to the district school board, via the

Section II Proposed Rules

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-6.0781	Procedures for Appealing a District School Board Decision Denying Application for Charter School or High-Performing Charter School

PURPOSE AND EFFECT: The purpose of this amendment is to revise the current rule to reflect changes in statute and to provide clarification of charter school appeal requirements.

SUMMARY: The amendment provides details regarding the timelines for charter school application denial appeals and the process for high performing charter replication application denial appeals.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

Superintendent, and to each member of the State Board of Education by the appealing party by the applicant on date of filing with the Agency Clerk. The appealing party shall certify that it has provided the district school board a copy of the appeal as provided herein. The State Board of Education does not have jurisdiction to hear late-filed appeals.

(a) ~~The notice of appeal must include: name and address of appealing party applicant; name and address of the district school board; date of the district school board decision; name and address of appealing party's applicant's attorney, if any; precise identification of alleged errors of the district school board in rejecting the Charter School application; and written argument limited to the reasons for denial identified in the district school board's notice of denial specific alleged errors of the school board.~~

(b) The Charter School application, Form IEPC-M2 Florida Charter School Application Evaluation Instrument as incorporated by reference in Rule 6A-6.0786, F.A.C., together with available transcripts of all meetings before the district school board in which the decision application was considered, and all documents considered by the district school board in making its decision shall constitute the record on appeal and shall be filed as exhibits to each party's written argument the notice of appeal.

(c) ~~Within thirty (30) ten (10) days after receipt of the filing notice of appeal the district school board shall file twelve (12) hard copies of its written arguments with the Agency Clerk for the Department of Education, and submit to each member of the State Board of Education it The written arguments are limited to the reasons for denial identified in the district school board's notice of denial specific alleged errors of the school board as identified in the notice of appeal.~~

(d) ~~Such written arguments required from both parties shall not exceed twenty (20) pages exclusive of any exhibit addendum. Information provided beyond the twenty (20) page maximum will not be discussed nor considered by the Charter School Appeal Commission in an addendum shall be limited to the actual Charter School application presented to the local board and the transcripts of meetings of the local boards' actions. Written arguments may be produced by any duplicating or copying process which produces a clear black image on white paper. All written arguments shall be on 8 1/2 x 11 inch paper, double spaced, except quoted material and footnotes, and bound at the top left corner. Typewritten text, including footnotes must be no smaller than ten (10) pitch spacing, and there must be no more than twenty-six (26) lines of text per paper. Margins shall be no less than one inch at the top, bottom, left and right. All written arguments and exhibits must be bound with tabs for each exhibit with a table of contents detailing each section.~~

~~(e)(4) Failure to meet the requirements herein specified may cause rejection of the submission by the Chair of the Charter School Appeal Commission State Board.~~

~~(e) The Charter School application, transcripts of meetings before the district school board, and written arguments of the parties shall constitute the record on appeal.~~

(2) Procedures for Charter School Appeals. Upon receipt of a timely filed notice of appeal by a Charter School applicant, in accordance with accelerated appeal time constraints as set forth in Chapter 96-186, Laws of Florida, the Commissioner of Education or designee, Agency Clerk shall convene a immediately schedule the matter on the next public meeting agenda of the Charter School Appeal Commission State Board of Education to be considered within thirty (30) days after filing notice of the appeal, with notice to the appealing party applicant and the district school board of that hearing date.

(a) At the hearing before the Charter School Appeal Commission, State Board of Education, each party will be given a maximum of ten (10) thirty (30) minutes to allow representative(s) to summarize the written arguments previously submitted to the State Board. Each party will also be given additional time, as determined by the Chair of the Charter School Appeal Commission, to individually address each of the reasons for denial. No evidence or testimony, only oral argument, will be heard by the Charter School Appeal Commission State Board at this time.

(b) The Charter School Appeal Commission may question the parties. During these questions, the Charter School Appeal Commission may, in its discretion, gather other applicable information regarding the appeal and request information to clarify the documentation presented it.

~~(c)(3) Upon reviewing the record on appeal and hearing oral summaries of written arguments, if presented, and consideration of the answers to questions, if asked, the Charter School Appeal Commission the State Board shall then proceed by majority vote to either accept or reject the decision of the district school board and shall then remand the application to the district school board with its written recommendation that the district board approve or deny the application consistent with the State Board's decision.~~

(d) The Charter School Appeal Commission's recommendation, record on appeal, written arguments of the parties, and a copy of the Charter School Appeal Commission transcripts will be forwarded to the State Board of Education.

(e) The State Board of Education shall consider the appeal and the Charter School Appeal Commission's recommendation at the next scheduled State Board of Education meeting and no later than ninety (90) calendar days after an appeal is filed. Each party shall have five (5) minutes to summarize their arguments. The State Board of Education shall approve or deny the appeal.

(3) Appealing a High-Performing Charter School Application Denial.

(a) The district school board letter of denial required by Section 1002.33(6)(b)3.a., Florida Statutes, shall be provided to the charter applicant by the district school board via certified

mail. Within thirty (30) days after the date of a decision of a district school board denying an application for a replication of a High-Performing Charter School pursuant to Section 1002.331, Florida Statutes, the charter applicant may file a written appeal by submitting ten (10) hard copies of the appeal to the Agency Clerk in the same manner and format described in paragraphs (1)(a)-(d) of this rule. A copy of the appeal shall be sent via regular mail or hand delivery to the district school board, via the Superintendent, by the appealing party by the date of filing with the Agency Clerk. High-performing charter school appeal submissions shall be considered directly by the State Board of Education pursuant to Section 1002.33(6)(c)3.b., Florida Statutes. The appealing party shall certify that it has provided the district school board a copy of the appeal as provided herein. The State Board of Education does not have jurisdiction to hear late-filed appeals.

(b) Within thirty (30) days after receipt of the appeal, the district school board shall file ten (10) hard copies of its written arguments to the Agency Clerk for the Department of Education in the same manner and format described in paragraphs (1)(a)-(d) of this rule. The written arguments are limited to the reasons for denial identified in the district school board's notice of denial.

(c) Failure to meet the requirements herein specified may cause rejection of the submission by the Agency Clerk for the Department of Education.

(d) The State Board of Education shall consider the high-performing charter school appeal at a State Board of Education meeting no later than ninety (90) calendar days after an appeal is filed. Each party shall have fifteen (15) minutes to summarize their arguments. The State Board of Education shall approve or deny the appeal.

(4) Motions.

(a) Motions before the Charter School Appeal Commission or State Board of Education shall be filed with the Agency Clerk in the same format as required in paragraph (1)(d) of this rule, except that they are limited to three (3) pages. Motions shall include a statement that the movant has conferred with the other party, shall state whether such party has any objection to the motion, and shall certify that the other party has been served with a copy of the motion. If there is an objection, the other party may file a response, subject to the same filing requirements as the motion, within three (3) business days of receipt of the motion, or the day before the hearing, whichever occurs first. Oral arguments shall not be requested, but may be scheduled at the discretion of the ruling entity.

(b) The Chair of the Charter School Appeal Commission shall rule upon motions for a continuance of the hearing, motions to relinquish jurisdiction on the grounds of an untimely filed appeal by the appealing party or on the grounds of settlement/voluntary dismissal of the appeal filed prior to the hearing date.

(c) The Commissioner of Education shall rule upon motions for a continuance of the appeal before the State Board of Education and motions to relinquish jurisdiction on the grounds of an untimely filed appeal by the appealing party or on the grounds of settlement/voluntary dismissal of the appeal.

Rulemaking Specific Authority 1002.33(27) 229-053(1) FS., Chapter 96-186, Laws of Florida; Law Implemented 1002.33(6) FS., Chapter 96-186, Laws of Florida; History--New 2-2-97, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Kooi, Executive Director, Office of Independent Education and Parental Choice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Gerard Robinson, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 7, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 22, 2011

DEPARTMENT OF CORRECTIONS

RULE NOS.:	RULE TITLES:
33-103.001	Inmate Grievances – General Policy
33-103.002	Inmate Grievances – Terminology and Definitions
33-103.003	Inmate Grievances – Training Requirements
33-103.004	Inmate Grievances – Staff and Inmate Participation
33-103.005	Informal Grievance
33-103.006	Formal Grievance – Institution or Facility Level
33-103.007	Appeals and Direct Grievances to the Office of the Secretary
33-103.008	Grievances of Medical Nature
33-103.011	Time Frames for Inmate Grievances
33-103.014	Reasons for Return of Grievance or Appeal Without Processing
33-103.015	Inmate Grievances – Miscellaneous Provisions
33-103.016	Follow Through on Approved Grievances
33-103.018	Evaluation of the Grievance Procedure
33-103.019	Inmate Grievances – Forms

PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking is to update titles, bureau names and address issues in the grievance process that will enhance efficiency.

SUMMARY: The proposed rule is amended to update titles and bureau names, amend the types of grievances and timeframes, and specify grievance procedures.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

Based on analysis from the Bureau of Classification and Central Records indicating that the rule change only affects internal operations of the Department by permitting more flexibility in where a youthful offender program will be located and would not have an impact on small business or the private sector, the rule is not expected to require legislative ratification.

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

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Laura Gallagher, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULES IS:

33-103.001 Inmate Grievances – General Policy.

(1) through (4) No change.

(5) Staff in the Bureau of Policy Management and Inmate Grievance Appeals shall have unlimited access to information required to respond to inmate grievances and appeals. All department employees are required to cooperate with staff in the inmate grievance office by providing accurate and timely information.

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.001, Amended 10-11-00, 10-28-07.

33-103.002 Inmate Grievances – Terminology and Definitions.

The following terms, as defined, shall be standard usage throughout the department:

(1) Amendment: Where used herein, refers to an addition or change to a previously filed grievance.

(2) Bureau of Policy Management and Inmate Grievance Appeals: The bureau authorized by the Secretary to receive, review, investigate, evaluate, and respond to grievance appeals and direct grievances as defined in subsection (7)(8). The Bureau of Policy Management and Inmate Grievance Appeals

is located in the Office of the General Counsel Research, Planning and Support Services and is managed by the Chief of Policy Management and Inmate Grievance Appeals.

(3) No change.

(4) Emergency Grievance: A grievance ~~Grievance~~ of those matters which, if disposed of according to the regular time frames, would subject the inmate to substantial risk of personal injury or cause other serious and irreparable harm to the inmate.

(5) Formal Grievance: A This is a statement of complaint filed at the institutional or facility level with the warden, assistant warden, or deputy warden, through the use of Form DC1-303, the Request for Administrative Remedy or Appeal; Form DC1-303. Form DC1-303 is incorporated by reference in Rule 33-103.019, F.A.C. Formal grievances are addressed in Rule 33-103.006, F.A.C. The effective date of the form is 2-9-05.

~~(6) General Procedure and Practice: Subject matter of a grievance which has a substantial impact on the general inmate population.~~

~~(6)(7) Grievance: A written complaint or petition, either informal or formal, by an inmate concerning an incident, procedure, or condition within an institution, facility, or the Department which affects the inmate complainant personally.~~

~~(7)(8) Grievance Appeal or Direct Grievance Grievances, or Central Office Review: A This is a statement of complaint~~ filed with the Secretary of the Department of Corrections through the use of Form DC1-303, the Request for Administrative Remedy or Appeal, Form DC1-303. Appeals and direct grievances are addressed in Rule 33-103.007, F.A.C.

~~(8)(9) Grievance Coordinator: The Refers to the~~ institutional staff member designated by the warden or the Chief bureau chief of the Bureau of Policy Management and Inmate Grievance Appeals to receive, review, investigate, evaluate, and respond to inmate grievances at an institution or facility.

~~(9)(10) Grievance of Reprisal: A Refers to a grievance~~ submitted by an inmate alleging that staff have taken or are threatening to take retaliatory action against the inmate for good faith participation in the inmate grievance procedure.

~~(10)(11) HIPAA: The Refers to the~~ Health Insurance Portability and Accountability Act of 1996.

~~(11)(12) Informal Grievance: This is an initial statement of complaint filed on Form DC6-236, an Inmate Request; DC6-236,~~ with the staff member who is responsible in the particular area of the problem. Form DC6-236 is incorporated by reference in Rule 33-103.005, F.A.C. The effective date of the form is _____.

~~(12)(13) Literature Review Committee: The final reviewing authority for appeals regarding rejected reading material. The committee is composed of the Bureau Chief of Security Operations or his or her representative, the Bureau Chief of Policy Management and Inmate Grievance Appeals or~~

his or her representative, the Bureau Chief of Classification or his or her representative, and the Library Services Administrator or his or her representative.

~~(13)~~(14) Recipient: A person or office receiving an inmate grievance for processing.

~~(14)~~(15) Reviewing Authority: A staff member ~~Staff who are~~ authorized to sign grievances or appeals as the final authority for review, e.g., warden, assistant warden, deputy warden, or the Secretary's representative.

(a) No change.

(b) Formal Grievance:

1. No change.

2. Private Correctional Facilities – warden or deputy warden, ~~or, when determined by staff in the Bureau of Inmate Grievance Appeals that further review is required, the warden, deputy warden, or the Executive Director of the Privatization Commission;~~

3. No change.

(c) Grievance Appeals: Chief of Policy Management and Inmate Appeals ~~Bureau chief~~ inmate grievance administrator, or correctional services administrator designated by the Secretary to serve as his representative.

(d) Direct grievances:

1. A direct grievance which is to be reviewed by the warden: The warden is authorized to designate the assistant warden or deputy warden (deputy warden applicable to private facilities only) to grant and implement relief as approved by the warden, except as to grievances involving discipline, grievances alleging violation of the Americans with Disabilities Act, grievances challenging placement in close management and subsequent reviews, grievances of an emergency nature, or grievances of reprisal ~~or grievances of a sensitive nature.~~

2. A direct grievance which is to be reviewed by the Bureau of Policy Management and Inmate Grievance Appeals: The Bureau Chief, or other designated these staff may serve as designated by the Secretary's representative in responding to these issues to serve as his representative.

~~(15)~~(16) Response: The information provided to the inmate relative to the decision to approve, deny, or return the grievance and the reasons for the approval, denial, or return.

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.002, Amended 10-11-00, 1-2-03, 9-16-03, 2-9-05, 3-25-08, _____.

33-103.003 Inmate Grievances – Training Requirements.

(1) Staff Training. The Bureau of Policy Management and Inmate Grievance Appeals shall develop a standardized plan to be implemented by the Bureau of Staff Development in order to train staff in the use of the inmate grievance procedure. The

training shall be designed to familiarize staff with the provisions of Chapter 33-103, F.A.C., and the standardized forms utilized in the grievance procedure.

(a) through (b) No change.

(c) The provision of training shall be documented on Form DC2-901, Training Attendance Report. Form DC2-901 is hereby incorporated by reference ~~in Rule 33-103.019, F.A.C.~~ Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of the form is 6-18-07.

(2) Inmate Orientation. Through the use of a standardized lesson plan, inmates will receive training in the use of the inmate grievance procedure by institution or facility staff. Inmates shall sign a statement acknowledging receipt of training on the inmate grievance procedure. A copy of this statement shall be placed in the inmate file. Form DC1-307, Acknowledgement of Receipt of Grievance Orientation, shall be used for this purpose. Form DC1-307 is hereby incorporated by reference ~~in Rule 33-103.019, F.A.C.~~ Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of the form is 10-11-00.

(a) through (b) No change.

(c) The orientation program shall include the following:

1. No change.

2. Availability of the ~~The~~ written procedure ~~shall be available~~ in any language spoken by a significant proportion of the institution's population, and appropriate provisions ~~shall be made~~ for those speaking other languages and, as well as for the impaired and disabled;

3. No change.

4. Provisions ~~shall be made~~ for the impaired and disabled to participate in an orientation program.

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–New 10-12-89, Amended 1-15-92, 4-10-95, 12-7-97, Formerly 33-29.003, Amended 8-1-00, 10-11-00, 2-13-03, 10-9-05, _____.

33-103.004 Inmate Grievances – Staff and Inmate Participation.

(1) Inmate and employee participation in the grievance process will take the form of solicitation of written comments by inmates and employees on selected formal inmate grievances that staff determine will significantly impact the inmate population and which challenge general procedures and practices prior to the initial adjudication of the grievance. Each institution shall within 5 calendar days of receipt, post copies of this type of formal grievance on inmate and employee bulletin boards, circulate among all inmates in all disciplinary, administrative, and close management areas, including all inmates under sentence of death. These grievances shall be posted and circulated without identification of individual names or identifying facts. Written comments must be received

in the office of the reviewing authority as defined in Rule 33-103.002 paragraph 33-103.002(15)(b), F.A.C., within 5 calendar days from the date of posting in order to receive consideration. With the exception of submitting written comments, no inmate or employee who appears to be involved in the matter shall participate in any capacity in the final resolution of a grievance.

(2) Inmates and employees have the opportunity to review the effectiveness and credibility of the department's grievance procedure through the submission of written comments to the reviewing authority as defined in Rule 33-103.002 paragraphs 33-103.002(15)(a) through (e), F.A.C. The reviewing authority shall review and respond to written comments received and institute procedural changes as appropriate. Comments received relating to this rule that are outside the decision making authority of the reviewing authority as defined in Rule 33-103.002 paragraphs 33-103.002(15)(a) through (e), F.A.C., shall be forwarded to the Office of the General Counsel for review and appropriate action. If the comments or complaint focuses on the implementation of the rule at a particular institution, the reviewing authority as defined in Rule 33-103.002 paragraphs 33-103.002(15)(b) through (e), F.A.C., has the authority to make necessary changes in this implementation consistent with the rule. If the comments or complaint deal with the content of the rule itself and the only way a change could be effected would be to change the rule, then it needs to be forwarded to the Office of the General Counsel. The Office of the General Counsel shall review the complaint to see if there appears to be a problem with the rule itself. If changes are necessary, the Office of the General Counsel coordinates the rule promulgation process. The warden shall receive a response and in turn advise the employee or inmate.

(3) through (4) No change.

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 4-10-95, 12-7-97, Formerly 33-29.004, Amended 10-11-00, 2-9-05, 3-25-08,

33-103.005 Informal Grievance.

(1) Inmates shall utilize the informal grievance process prior to initiating a formal grievance. In the case of an emergency grievance, a grievance of reprisal, ~~a grievance of a sensitive nature~~, a grievance alleging violation of the Americans with Disabilities Act, a medical grievance, a grievance involving admissible reading material, a grievance involving gain time governed by Rule 33-601.101, F.A.C., Incentive Gain Time, a grievance challenging placement in close management and subsequent reviews, grievances regarding the return of incoming mail governed by subsection 33-210.101(14), F.A.C., or a grievance involving disciplinary action (does not include corrective consultations) governed by Rules 33-601.301-314, F.A.C., an inmate may utilize the formal grievance process governed by Rule 33-103.006,

F.A.C., directly, bypassing the informal grievance process. An inmate shall utilize the direct grievance process governed by subsection 33-103.007(6), F.A.C., for grievances alleging a violation of the Health Insurance Portability and Accountability Act (HIPAA) rather than initiating an informal or formal grievance.

(a) No change.

(b) After being logged, informal grievances shall be forwarded to the staff member who is responsible in the particular area of the problem, the classification team, the appropriate section head, or other institutional staff. When an informal grievance is received by the reviewing authority as defined in Rule 33-103.002 paragraph 33-103.002(15)(a), F.A.C., the reviewing authority shall respond to the grievance, refer the grievance to a staff member for response, or shall advise the inmate to re-file with a specific staff member.

(c) No change.

(2) When submitting an informal grievance, the inmate shall use Form DC6-236, Inmate Request, and shall:

(a) Check the appropriate box indicating to whom he is submitting the informal grievance. If the inmate checks the box designated "other," he or she shall print the name or title of the person the form is going to in the space underneath the box; and complete the other sections of the heading;

(b) On the line reading "Request," the inmate shall check the box to indicate that Form DC6-236 is being used as an "Informal Grievance." Failure to do this will cause the request to be handled routinely and it will not be considered an informal grievance. This will also cause the form to be unacceptable as documentation of having met the informal step if it is attached to a formal grievance submitted at the next step.

1. The act of asking questions or seeking information, guidance, or assistance is not considered to be a grievance. Answers to inmate requests of this nature shall not be considered as documentation of having met the informal step if they are not attached to a formal grievance submitted at the next step. Inmate requests improperly submitted as informal grievances shall be treated as inmate requests and the inmate shall be advised that he cannot appeal the response.

2. When completing the inmate request form for submission as an informal grievance, the inmate shall ensure that the form is legible, that included facts are accurately stated, and that only one issue or complaint is addressed. The inmate must limit all grievance narrative to Form DC6-236, and only two additional pages of narrative will be allowed. If additional space is needed, the inmate shall use attachments and not multiple copies of Form DC6-236. The inmate shall sign and date the form and write in his Department of Corrections number and forward the informal grievance to the designated staff person. If an inmate fails to sign his grievance, it shall result in a delay in addressing the grievance until it can be verified that it is that inmate's grievance. Form DC6-236 is hereby incorporated by reference. Copies of this form are

available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of the form is 5-6-11.

(3) Upon receipt of the informal grievance, the recipient shall note the date on the form.

(4) The informal grievance shall be responded to within 10 days of the initial receipt date as noted on the informal grievance log. The recipient shall respond to the inmate following investigation and evaluation of the complaint within 10 days as required by paragraph 33-103.011(3)(a), F.A.C.

(a) through (c) No change.

(d) The response to the informal grievance shall include the following statement, or one similar in content and intent if the grievance is denied: You may obtain further administrative review of your complaint by obtaining form DC1-303, Request for Administrative Remedy or Appeal, completing the form as required by Rule 33-103.006, F.A.C., attaching a copy of your informal grievance and response, and forwarding your complaint to the warden or assistant warden no later than 15 days after the grievance is responded to. If the 15th day falls on a weekend or holiday, the due date shall be the next regular work day. Form DC1-303 is incorporated by reference in Rule 33-103.006, F.A.C.

(5) No change.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 3-30-94, 4-17-94, 4-10-95, 8-10-97, 12-7-97, 2-17-99, Formerly 33-29.005, Amended 8-1-00, 2-9-05, 3-25-08, 1-31-10, _____.

33-103.006 Formal Grievance – Institution or Facility Level.

(1) When an inmate decides to file a formal grievance, he or she shall do so by completing Form DC1-303, Request for Administrative Remedy or Appeal, and filing within the time limits set forth in Rule 33-103.011, F.A.C. Form DC1-303 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

(a) In institutions and private correctional facilities, inmates shall direct this form to the warden or assistant warden or deputy warden as defined in paragraph 33-103.002(17)(b) 33-103.002(15)(b), F.A.C.

(b) In road prisons, vocational centers, work camps, community correctional centers, and contract facilities the form shall be sent to the warden or assistant warden of the supervising institution.

(2) Procedural Requirements.

(a) The inmate shall fill out the identifying data at the top of the form, printing his committed name, Department of Corrections number, and institution or facility name and checking the appropriate box.

(b) No change.

(c) The inmate shall state his grievance in Part A. Only 2 additional pages of narrative will be allowed. If additional space is needed, the inmate shall use only 2 additional attachment pages and not multiple copies of Form DC1-303. If the inmate writes his complaint anywhere other than within the boundaries of Part A or on the 2 allowable attachment pages, his grievance shall be returned for non-compliance.

(d) through (f) No change.

(g) The inmate shall attach a copy of the informal grievance and the response to the informal grievance to Form DC1-303 form, unless the grievance is a direct formal grievance of the following: an emergency grievance; a grievance of reprisal; ~~a grievance of a sensitive nature~~; a medical grievance; a grievance alleging violation of the Americans with Disabilities Act; a grievance involving gain time governed by Rule 33-601.101, F.A.C., Incentive Gain Time; a grievance challenging placement in close management and subsequent reviews; a grievance regarding the return of incoming mail governed by subsection 33-210.101(14), F.A.C.; or a grievance of disciplinary action (excluding corrective consultations). Any other pertinent documentation shall be attached also. Informal grievances as described in subparagraph 33-103.005(2)(b)1., F.A.C., shall not be accepted as documentation of having met the requirements of the informal grievance step.

(h) The inmate shall submit the grievance or appeal to designated staff by ~~personally~~ placing the grievance or appeal in a locked grievance box. Locked boxes shall be available to inmates in open population and special housing units. A staff person from classification, the grievance coordinator's office, or the assistant warden's office shall be responsible for the key. If the staff member collecting the grievances is from classification or the assistant warden's office, he or she shall retrieve the grievances and appeals and deliver them to the institutional grievance coordinator. The institutional grievance coordinator shall log all formal grievances and provide the inmates with receipts. The appeals will be forwarded to the Bureau of Policy Management and Inmate Grievance Appeals after being processed for mailing in accordance with paragraphs 33-103.006(8)(b) and (c), F.A.C. The Bureau of Policy Management and Inmate Grievance Appeals shall log all appeals and forward receipts to the inmates. Grievances and appeals shall be picked up and forwarded by the institutions daily Monday through Friday.

(i) If the inmate is filing an amendment to a previously filed grievance or appeal, the inmate shall clearly state this at the beginning of PART A of Form DC1-303, the Request for Administrative Remedy or Appeal, Form DC1-303. Amendments are to be filed only regarding issues unknown or unavailable to the inmate at the time of filing the original grievance and must be submitted within a reasonable time frame of knowledge of the new information.

(3) The following types of grievances may be filed directly with the reviewing authority as defined in paragraph ~~33-103.002(14)(b) 33-103.002(15)(b)~~, F.A.C., by-passing the informal grievance step, and may be sent in a sealed envelope through routine institutional mail channels:

(a) Emergency Grievance – Upon receipt, the reviewing authority as defined in paragraph ~~33-103.002(14)(b) 33-103.002(15)(b)~~, F.A.C., shall take the following action as soon as possible, but no later than two calendar days following receipt:

1. Review complaint and contact staff for additional information if necessary;
2. If an emergency is found to exist, initiate action to alleviate condition giving rise to the emergency;
3. Provide formal response to the inmate within 15 calendar days as required by paragraph 33-103.011(3)(d), F.A.C.; and
4. If an emergency is not found to exist, a response will be provided to the inmate indicating that the complaint is “not an emergency” with instructions to resubmit at the proper level, signed and dated by the responding employee, and returned to the inmate within 72 hours of receipt.

(b) Grievance of Disciplinary Action – If additional mitigating factors not presented during the disciplinary hearing are provided, a review shall be conducted and applicable modifications made, if necessary.

(c) Grievance of Reprisal.

~~(d) Grievances involving inmate bank issues. Grievance of a Sensitive Nature.~~

(e) Medical Grievance.

(f) Grievance involving gain time governed by Rule 33-601.101, F.A.C., Incentive Gain Time.

(g) Grievance involving sentence structure.

~~(h)(g)~~ Grievance challenging placement in close management or subsequent review.

~~(i)(h)~~ Grievance alleging violation of the Americans with Disabilities Act.

~~(j)(i)~~ Grievance regarding the return of incoming mail governed by subsection 33-210.101(14), F.A.C.

(4) Inmates filing the types of grievances identified in paragraphs (3)(a), (c), and (d) above shall clearly state their reasons for by-passing the informal grievance step and shall state at the beginning of Part A of Form DC1-303, Request for Administrative Remedy or Appeal, the subject of the grievance. Failure to do so and failure to justify filing directly shall result in the formal grievance being returned without action to the inmate with the reasons for the return specified.

(5) Upon receipt of the formal grievance, the recipient [reviewing authority as defined in paragraph ~~33-103.002(14)(b) 33-103.002(15)(b)~~, F.A.C.] shall cause the following to occur:

(a) The grievance and related attachments shall be examined for compliance with Chapter 33-103, F.A.C.;

(b) through (d) No change.

(6) Following investigation and evaluation by the reviewing authority as defined in paragraph ~~33-103.002(14)(b) 33-103.002(15)(b)~~, F.A.C., a response shall be provided to the inmate within 20 calendar days of receipt of the grievance as required by paragraph 33-103.011(3)(b), F.A.C. The degree of investigation is determined by the complexity of the issue and the content of the grievance. The response shall state whether the grievance is approved, denied, or being returned and shall also state the reasons for the approval, denial or return.

(a) The original grievance and one copy shall be returned to the inmate, with the request for interview form (informal grievance) attached. The date the grievance is returned to the inmate (the date the grievance leaves the recipient's recipients office) shall be noted on the form. This is the date that will be used to determine whether or not the inmate has met the fifteen day time limitation in filing his or her appeal to the Office of the Secretary.

(b) The second copy shall be forwarded to the correctional sentence specialist for placement in the inmate's file.

(c) The reviewing authority as defined in paragraph ~~33-103.002(14)(b) 33-103.002(15)(b)~~, F.A.C., shall retain a complete copy of the grievance on file.

(d) No change.

(7) The response to the formal grievance shall include the following statement, or one similar in content and intent if the grievance is denied: You may obtain further administrative review of your complaint by obtaining form DC1-303, Request for Administrative Remedy or Appeal, completing the form, providing attachments as required by paragraphs 33-103.007(3)(a) and (b), F.A.C., and forwarding your complaint to the Bureau of Policy Management and Inmate Grievance Appeals, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

(8) Mailing Procedures. The warden or person designated in Rule 33-103.002 ~~paragraph 33-103.002(15)(b)~~, F.A.C., shall establish a procedure in the institution or facility under his supervision for processing those grievances that which require mailing. Inmates who are filing grievances that require mailing shall be required to utilize the procedure set forth in this rule when processing their grievances or appeals to the reviewing authority of community facilities or the Bureau of Policy Management and Inmate Grievance Appeals in the central office. The institution or facility shall provide postage for grievances submitted through this process. Procedures implemented shall include, at a minimum, the following:

(a) through (b) No change.

(c) A requirement that the staff person designated to accept the grievance to be mailed shall:

1. Complete the receipt portion of ~~Form the~~ DC1-303 ~~form~~ for appeals being forwarded to central office by entering a log/tracking number ~~and~~; date of receipt; and sign as the recipient.

2. through 3. No change.

(d) through (e) No change.

(f) Upon receipt of a mailed grievance by the reviewing authority as defined in paragraph 33-103.002(14)(b) ~~33-103.002(15)(d)~~, F.A.C., the following shall occur:

1. No change.

a. In the case of a formal grievance being filed, by comparing the receipt date on ~~Form the~~ DC1-303 ~~form~~ to the response date of the informal grievance.

b. In the case of a grievance being filed directly at the institutional level, by comparing the receipt date on ~~Form the~~ DC1-303 ~~form~~ to the date of the incident or situation giving rise to the complaint.

2. through 3. No change.

(9) If an inmate is in a special housing unit and wants to file a grievance, he shall submit the grievance to designated staff by placing the grievance in a locked box. The designated staff person shall deliver the box to the institutional grievance coordinator who will unlock the box, remove the grievances, log the grievances, and provide the inmates with receipts.

(10) No change.

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 8-10-97, 12-7-97, 5-10-98, 2-17-99, Formerly 33-29.006, Amended 8-1-00, 10-11-00, 2-9-05, 10-28-07, 3-25-08, _____.

33-103.007 Appeals and Direct Grievances to the Office of the Secretary.

(1) In the event that an inmate feels that the grievance has not been satisfactorily resolved during the formal grievance procedure, an appeal may be submitted according to the time limits set forth in Rule 33-103.011, F.A.C., using Form DC1-303, the Request for Administrative Remedy or Appeal; ~~Form DC1-303,~~ to the Office of the Secretary without interference from staff. Form DC1-303 is incorporated by reference in Rule 33-103.006, F.A.C.

(2) Procedural Requirements.

(a) The inmate shall fill out the identifying data at the top of the form by printing his committed name, Department of Corrections number, and institution or facility name and shall check the appropriate box;

(b) The inmate shall state his grievance in Part A. If additional space is needed, the inmate may use no more than 2 attachment pages rather than multiple copies of Form DC1-303. If the inmate writes his complaint anywhere other than within the boundaries of ~~the~~ Part A Box or on attachments, the ~~his~~ grievance shall be returned for non-compliance;

(c) through (f) No change.

(3) The Office of the Secretary has designated the Bureau of Policy Management and ~~Inmate Grievance~~ Appeals to receive, review, investigate, evaluate and respond to appeals and direct grievances filed with the Office of the Secretary. Appeals and direct grievances to the Office of the Secretary shall be turned over that same date to the Bureau of Policy Management and ~~Inmate Grievance~~ Appeals which shall ensure that the grievance is date-stamped in on the date of receipt. Upon receipt of the appeal or direct grievance by the Bureau of Policy Management and ~~Inmate Grievance~~ Appeals, the following shall occur:

The decision of whether or not the grievance has been timely filed by the inmate shall be made based upon the following comparisons:

(a) through (b) No change.

(4) Upon receipt of the grievance appeal or direct grievance, the Chief of Policy Management and ~~Inmate Grievance~~ Appeals shall cause the following to occur:

(a) through (d) No change.

(e) Following appropriate investigation and evaluation by staff of the Bureau of Policy Management and ~~Inmate Grievance~~ Appeals, a response shall be provided to the inmate. The degree of investigation is determined by the complexity of the issue and the content of the grievance.

(f) The response shall state whether the appeal or direct grievance is approved, denied, or being returned and shall also state the reasons for the approval, denial, or return. The criteria considered in approving, denying, or returning an appeal or direct grievance will vary with the facts of the grievance.

(5) Grievance appeals – If the grievance appeal is not a direct grievance to the Office of the Secretary, the inmate shall:

(a) Attach a copy of his formal grievance and response;

(b) Attach a copy of his informal grievance and response, except when appealing grievances on disciplinary action (excluding corrective consultations), medical issues, admissible reading material, placement in close management and subsequent reviews, violation of the Americans with Disabilities Act, grievances regarding the return of incoming mail governed by subsection 33-210.101(14), F.A.C., or grievances involving gain time governed by Rule 33-601.101, F.A.C., Incentive Gain Time;

(c) Attach any other documentation that the inmate has that is pertinent to the review and that the inmate wants reviewed. Attachments as required by the rule that do not meet the requirements of this rule may result in the grievance being returned to the inmate;

(d) No change.

(e) If the inmate is filing an amendment to a previously filed grievance or appeal, the inmate shall clearly state this at the beginning of PART A of Form DC1-303, the Request for Administrative Remedy or Appeal; ~~Form DC1-303.~~

(6) Direct Grievances.

(a) Emergency grievances ~~and~~; grievances of reprisals, ~~or~~ ~~grievances of a sensitive nature~~ may be filed directly with the Office of the Secretary using the Request for Administrative Remedy or Appeal, Form DC1-303. Grievances alleging a violation of the Health Insurance Portability and Accountability Act (HIPAA) must be filed directly with the Office of the Secretary using Form DC1-303, ~~the~~ Request for Administrative Remedy or Appeal, ~~Form DC1-303~~. The following shall apply:

1. The inmate shall state at the beginning of Part A of Form DC1-303 that the grievance concerns either an emergency; or is a grievance of a reprisal, ~~or a grievance of a sensitive nature~~. When alleging HIPAA violations, the inmate shall state that the grievance concerns HIPAA at the beginning of Part A of Form DC1-303.

2. The inmate must clearly state the reason for not initially bringing the complaint to the attention of institutional staff and by-passing the informal and formal grievance steps of the institution or facility, except in the case of a HIPAA violation grievance, which must be filed directly with the Office of the Secretary.

3. The inmate may forward grievances of these four types to the Office of the Secretary in a sealed envelope by following the procedure set out in paragraph 33-103.006(8)(d), F.A.C. When a direct grievance alleging violation of HIPAA is received at the Office of the Secretary, the Bureau of Policy Management and Inmate Grievance Appeals shall forward the grievance to the Office of the Assistant Secretary for Health Services for investigation and response. The disclosure of medical information in a grievance authorizes staff to review the information and to use and disclose the medical information necessary to investigate in order to respond. Following preparation of a response and signature of the responding employee, the grievance shall be returned to the Bureau of Policy Management and Inmate Grievance Appeals to ensure appropriate filing and routing.

(b) Emergency Grievances. An emergency grievance may be filed directly with the Secretary. Upon receipt, staff of the Bureau of Policy Management and Inmate Grievance Appeals shall take the following actions as soon as possible, but no later than two calendar days following receipt:

1. through 2. No change.

3. Provide a formal response to the inmate within 15 calendar days; and

4. If an emergency is not found to exist, the grievance will be stamped “not an emergency,” signed and dated by the responding employee, and returned to the inmate within three working days of receipt as his reasons for by-passing the previous level of review will not be valid.

(c) Grievances filed directly with the Office of the Secretary that are grievances of reprisal, ~~grievances of a sensitive nature~~, or a grievance alleging a violation of HIPAA shall be responded to according to established time frames.

(d) Upon receipt of the direct grievance and following review of the same, if it is determined that the grievance is not an emergency grievance, a grievance of reprisal, ~~or a grievance of a sensitive nature~~, or a grievance alleging a violation of HIPAA, the grievance shall be returned to the inmate with the reasons for return specified advising the inmate to resubmit his or her grievance at the appropriate level. The other applicable procedures in Rule 33-103.007, F.A.C., governing the processing of appeals to the Office of the Secretary shall apply to these four types of grievances.

(7) No change.

(8) Copies.

(a) The original copy of the grievance shall be returned to the inmate. The response shall be stamped “MAILED/FILED WITH AGENCY CLERK” along with the date mailed; the response shall be mailed on the same date that it is stamped. The response is deemed filed with the agency clerk on the date that it is stamped and mailed. The time period for appeal begins to run on the date that the response is stamped and mailed. If the inmate is transferred, it is his or her responsibility to notify the Bureau of Policy Management and Inmate Grievance Appeals.

(b) One copy of the grievance shall be sent to the warden of the institution or facility the inmate is assigned to for review and forwarding for inclusion in the inmate file.

(c) The second copy shall be forwarded to the Bureau of Classification and Central Records for inclusion in the inmate’s central office file.

(d) Attachments are considered a part of the grievance and shall not be returned to the inmate, except in those cases where the inmate submits sufficient copies of attachments at the time the grievance appeal is filed.

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS., 45 C.F.R. Part 160, 164. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 8-10-97, 12-7-97, 10-7-98, 2-17-99, Formerly 33-29.007, Amended 8-1-00, 6-29-03, 2-9-05, 8-21-06, 3-25-08, _____.

33-103.008 Grievances of Medical Nature.

(1)(a) If a formal grievance of a medical nature is filed at the institutional level, it shall be forwarded to the institution’s chief health officer for investigation and response. Following preparation of a response and signature of the responding employee, the grievance shall be returned to the warden or assistant warden or deputy warden to ensure appropriate filing and routing. If the chief health officer is not the responding employee, the chief health officer shall review and initial the response prior to returning the grievance. ~~In the absence of the chief health officer, the review and initialing of the grievance will be made by the Director of Regional Health Care or the acting chief health officer who is designated in writing by the Director of Regional Health Care.~~

~~(b) If a formal grievance of a medical nature is received by the reviewing authority of community facilities as defined in paragraph 33-103.002(15)(b), F.A.C., it shall be forwarded to the Office of the Director for Regional Health Services for investigation and response. However, if the medical grievance originates out of one of the drug treatment centers which have a chief health officer, it shall be forwarded to that chief health officer for investigation and response. Following preparation of a response and signature of the responding employee, the grievance shall be returned to the reviewing authority of community facilities to ensure appropriate filing and routing.~~

~~(b)(e)~~ Other procedures applicable to the processing of a formal grievance of a medical nature are as stated in Rule 33-103.006, F.A.C.

(2) If a grievance appeal of a medical nature is received by the Office of the Secretary, the Bureau of Policy Management and Inmate Grievance Appeals shall forward the grievance to the Office of the Assistant Secretary for Health Services for investigation and response. The disclosure of medical information in a grievance authorizes staff to review the information and to use and disclose the medical information necessary to investigate in order to respond. Following preparation of a response and signature of the responding employee, the grievance shall be returned to the Bureau of Policy Management and Inmate Grievance Appeals to ensure appropriate filing and routing. Other procedures applicable to the processing of a grievance appeal of a medical nature are as stated in Rule 33-103.007, F.A.C.

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS., 45 C.F.R. Part 160, 164. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.008, Amended 6-29-03, 2-9-05, 3-25-08, _____.

33-103.011 Time Frames for Inmate Grievances.

When determining the time frames for grievances in all cases, the specified time frame shall commence on the day following the date of the incident or response to the grievance at the previous level. For example, if an incident occurred on December 1, fifteen days from that date would be December 16.

(1) Filing of Grievances.

(a) Informal Grievances – Must be received within 20 days ~~a reasonable time~~ of when the incident or action being grieved occurred. ~~Reasonableness shall be determined on a case by case basis. Availability of witnesses and relevant documentary evidence are factors, among others, which should be looked at in determining reasonableness.~~

(b) through (d) No change.

(2) An extension of the above-stated time periods shall be granted when it is clearly demonstrated by the inmate to the satisfaction of the reviewing authority as defined in paragraphs 33-103.002(14)(b) ~~33-103.002(15)(b)~~ and (c), F.A.C., or the Secretary that it was not feasible to file the grievance within

the relevant time periods and that the inmate made a good faith effort to file in a timely manner. The granting of such an extension shall apply to the filing of an original grievance or when re-filing a grievance after correcting one or more deficiencies cited in Rule 33-103.014, F.A.C.

(3) Responding to Grievances.

(a) No change.

(b) Formal Grievances – The reviewing authority as defined in paragraph 33-103.002(14)(b) ~~33-103.002(15)(b)~~, F.A.C., shall have up to 20 calendar days from the date of receipt of the grievance to take action and respond. See Rule 33-103.006, F.A.C.

(c) through (d) No change.

(4) The time limit for responding to grievances and appeals may be extended for a reasonable period agreeable to both parties if the extension is agreed to in writing by the inmate. Unless the grievant has agreed in writing to an extension, expiration of a time limit at any step in the process shall entitle the complainant to proceed to the next step of the grievance process. If this occurs, the complainant must clearly indicate this fact when filing at the next step. If the inmate does not agree to an extension of time at the central office level of review, he shall be entitled to proceed with judicial remedies as he would have exhausted his administrative remedies. The Bureau of Policy Management and Inmate Grievance Appeals will nevertheless ensure that the grievance is investigated and responded to even though an extension has not been agreed to by the inmate.

(5) If the 15th day referenced in paragraphs 33-103.011(1)(b), (c) and (d), F.A.C., falls on a weekend or holiday, the due date shall be the next regular work day.

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.011, Amended 2-9-05, 3-25-08, _____.

33-103.014 Reasons for Return of Grievance or Appeal Without Processing.

(1) The informal grievance, formal grievance, direct ~~grievance filed direct~~, or grievance appeal, hereafter referred to as “grievance,” ~~in this section of the rule~~ may be returned to the inmate without further processing if, following a review of the grievance, one or more of the following conditions are found to exist. The reasons listed below are the only reasons for returning a grievance without a response on the merits.

(a) The grievance addresses more than one issue or complaint;

(b) The grievance is so broad, general or vague in nature that it cannot be clearly investigated, evaluated, and responded to;

(c) The grievance is not written legibly and cannot be clearly understood;

(d) The formal grievance was not received within 15 calendar days of the date of the response to the informal grievance;

(e) The formal grievance was not received within 15 calendar days of the date on which the incident or action being complained about occurred, if an informal grievance was not filed pursuant to subsection 33-103.006(3), F.A.C.;

(f) through (l) No change.

(m) The inmate has used multiple copies of grievance forms rather than attachments as continuation sheets.

(n) through (o) No change.

(p) The inmate is raising allegations and charges in a grievance appeal that have not been raised below at the previous level. (Since this is an appellate review process and not a fact-finding process, it is not appropriate to raise new allegations, charges, and facts that the previous decision maker has not had an opportunity to investigate and respond to.)

(q) No change.

(r) The inmate has filed a supplement to a grievance or appeal ~~that which~~ has already been accepted. An exception will be made when the supplement contains relevant and determinative information ~~that which~~ was not accessible to or known by the inmate at the time the original grievance or appeal was filed.

(s) Complaints are raised by an inmate regarding incidents, ~~procedures, policies or rules~~ that do not affect the inmate personally.

(t) The inmate ~~had~~ filed a grievance at the institutional level that should have been filed directly with the Office of the Secretary.

(2) An inmate who has a grievance returned to him for reasons stated in subsection (1) above [excluding paragraph (1)(d), (e), (h), (i), (n), (o), (q), (r) or (s)] may refile utilizing the proper procedure or correct the stated deficiency and refile if upon receipt of this notification the filing is within time frames allowable. When a grievance is returned to an inmate for being improperly filed, the inmate shall be told why the grievance was returned and told that in order ~~for him~~ to receive administrative review of his complaint he must correct the defects and re-submit the grievance within the time frames set forth in Rule 33-103.011, F.A.C., unless instructed otherwise in the grievance response. Instructions to resubmit are not necessary if a grievance is returned for reasons stated in paragraph (1)(d), (e), (h), (i), (n), (o), (q), (r), (m) or (s).

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS., ~~45 C.F.R. Part 160, 164.~~ History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, 5-10-98, Formerly 33-29.014, Amended 6-29-03, 2-9-05, _____.

33-103.015 Inmate Grievances – Miscellaneous Provisions.

(1) Inmates shall be allowed to seek assistance from other inmates or staff members in completing the grievance forms as long as the assistance requested does not interfere with the security and order of the institution.

(2) Form DC6-236, Inmate Request, and Form DC1-303, Request for Administrative Remedy or Appeal, shall be available as a minimum from the institutional library, classification department, classification staff, and the housing officer of any living unit or confinement unit. Form DC6-236 is incorporated by reference in Rule 33-103.005, F.A.C. Form DC1-303 is incorporated by reference in Rule 33-103.006, F.A.C.

(3) The warden, assistant warden, or deputy warden (deputy warden applicable to private facilities only) is authorized to designate other staff to receive, review, and investigate any grievance of an institutional nature. The warden is authorized to designate the assistant warden or deputy warden (deputy warden applicable to private facilities only) to grant and implement relief as approved by the warden, except as to grievances involving discipline, grievances alleging violation of the Americans with Disabilities Act, grievances challenging placement in close management and subsequent reviews, grievances of an emergency nature, or grievances of reprisal ~~or grievances of a sensitive nature~~ that are filed directly with the warden. For grievances filed directly with the warden, the decision to approve, return, or deny the grievance shall be made by the warden; the assistant warden or deputy warden shall only be authorized to sign as acting warden in the warden's absence, and must indicate "Acting Warden" beside his or her signature.

(4) No change.

(5) The response to an informal grievance and a formal grievance shall include the following statement, or one similar in content and intent if the grievance is denied: You may obtain further administrative review of your complaint by obtaining Form DC1-303, Request for Administrative Remedy or Appeal, completing the form, providing attachments as required, and forwarding your complaint to the warden, assistant warden, deputy warden or the Bureau of Policy Management and Inmate Grievance Appeals.

(6) At no time will an inmate who is alleging that he was physically abused as described in Section 944.35(3), F.S., or alleging reprisal by staff, as defined in Rule 33-103.002 ~~subsection 33-103.002(10)~~, F.A.C., be directed to submit his or her grievance to the staff person who is the subject of the complaint, nor will the grievance be referred to a staff person who is the subject of the complaint.

(7) Writing paper and writing utensils shall be provided to those inmates who have insufficient funds in their accounts at the time the materials are requested if such are needed to prepare the grievance or grievance appeal. These supplies shall

be available from the institution library, classification department, classification staff, and the housing officer of any living unit or confinement unit.

(8) Copying services for documents to be included as attachments to a grievance or grievance appeal shall be handled according to Rule 33-501.302, F.A.C., except that copying services shall not be provided to make copies of Form DC6-236 or Form DC1-303, attachments, not to exceed two, that are a continuation of the request portion of Form DC6-236, or attachments that are a continuation of Part A of Form DC1-303.

(9) No change.

(10) A copy of these rules shall be available for access by inmates at a minimum in the inmate library and from the housing officer of any confinement unit.

(11) Provisions shall be made to ensure that grievances submitted by confinement inmates are collected on a daily basis, and that those grievances which require mailing are processed in accordance with Rule 33-103.006 subsection 33-103.006(8), F.A.C.

(12) Staff shall respond to inquiries made by the Bureau of Inmate Grievance Appeals by the close of business on the seventh day after the request.

Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-29-92, 9-3-92, 12-22-92, 7-11-93, 5-3-94, 4-10-95, 9-23-96, 8-10-97, 12-7-97, 5-10-98, 2-17-99, Formerly 33-29.015, Amended 8-1-00, 10-11-00, 2-7-01, 5-27-02, 1-2-03, 2-9-05, 9-4-05, 10-28-07, _____.

33-103.016 Follow Through on Approved Grievances.

(1) Formal Grievance – Institution or Facility Level. All formal grievances ~~that which~~ are approved at the institution or facility level shall be handled as follows:

(a) The employee approving the grievance shall complete Section I of Form form DC1-306, Grievance Approval Action Form. Form DC1-306 is hereby incorporated by reference ~~in~~ Rule 33-103.019, F.A.C. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of the form is 08-01-00.

(b) The approving employee shall then send Form form DC1-306 and a copy of the approved formal grievance to the grievance coordinator in the event they are not one and the same.

(c) The grievance coordinator shall complete Sections II, III, and IV of Form form DC1-306. The grievance coordinator shall then provide the form ~~DC1-306~~ and a copy of the approved grievance to the staff member(s) assigned responsibility for implementing the approved action. The grievance coordinator shall monitor this process.

(d) The assigned staff member(s) shall complete Section V of Form form DC1-306, stating what steps were taken to implement the approved action. This shall not be done until

after the steps have been taken. The assigned staff member(s) shall have 30 calendar days from the date the grievance was approved within which to implement the approved action. In the event that actual implementation cannot be completed within the 30 day period due to circumstances beyond the control of department staff, the assigned staff member(s) shall indicate this and the reasons therefor in Section V within the 30 day period. The form shall be held by the assigned staff member until the corrective action has been taken.

(e) No change.

(f) The grievance coordinator shall complete Section VII of Form form DC1-306, place a copy of the form in the grievance record log, and attach a copy of the form ~~DC1-306~~ to the copy of the approved grievance in the inmate's file. A copy of the form shall not be sent to central office.

(2) Appeals and direct grievances to the Office of the Secretary. All grievances ~~that which~~ are approved by the ~~Office of the Secretary~~ Bureau of Policy Management and Inmate Grievance Appeals shall be handled as follows:

(a) The employee approving the grievance shall complete Section I of Form form DC1-306.

(b) The approving employee shall then mail Form form DC1-306; along with a copy of the approved grievance or appeal; to the appropriate warden's office.

(c) The warden shall forward Form the DC1-306 to the institutional grievance coordinator who shall complete Sections II, III, and IV of the form DC1-306. The grievance coordinator shall then provide the form ~~DC1-306~~ and a copy of the approved grievance to the staff member(s) assigned responsibility for implementing the approved action. The grievance coordinator shall monitor this process.

(d) The assigned staff member(s) shall complete Section V of Form form DC1-306 stating what action was taken to carry out the approval. This shall not be done until after the action has actually been taken. The assigned staff member(s) shall have 35 calendar days from the date the grievance or appeal was approved within which to implement the approved action. In the event that actual implementation cannot be completed within the 35 day period due to circumstances beyond the control of department staff, the assigned staff member(s) shall indicate this and the reasons therefor in Section V. The form shall be held by the assigned staff member until the corrective action has been taken.

(e) No change.

(f) The grievance coordinator shall place a copy of the completed form in the inmate's institutional file, retain a copy for his record, and forward the original and canary copy of the form ~~DC1-306~~ to the Chief of Policy Management and Inmate Grievance Appeals within 45 calendar days from the grievance approval date. The Chief shall ensure that the inmate grievance log in the Bureau of Policy Management and Inmate Grievance Appeals is updated and that a copy of Form form DC1-306 is sent to the central office inmate file.

~~Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 4-10-95, Amended 12-7-97, Formerly 33-29.0155, Amended 8-1-00, 1-1-01, 8-21-06, 3-25-08, _____.~~

33-103.018 Evaluation of the Grievance Procedure.

The grievance procedure shall be reviewed at each institution through operational reviews conducted by the Office of Internal Audit. This evaluation shall include information obtained from a survey of staff and inmates, review of employees' and inmates' comments on the effectiveness and credibility of the procedure ~~pursuant to subsection 33-103.004(2), F.A.C.~~, on-site visits to institutions and facilities by staff of the ~~Bureau Office~~ of Internal Audit, and from monthly reports prepared by the Bureau of ~~Policy Management and Inmate Grievance Appeals~~.

~~Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 12-22-92, 4-10-95, Formerly 33-29.017, Amended 2-9-05, _____.~~

33-103.019 Inmate Grievances – Forms.

The following forms relevant to this chapter are hereby incorporated by reference. A copy of any of these forms is available from the Bureau of Inmate Grievance Appeals, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

(1) Form DC1-303, Request for Administrative Remedy or Appeal, effective 2-9-05.

(2) Form DC6-236, Inmate Request, effective ~~10-19-09~~.

(3) Form DC1-306, Grievance Approval Action Form, effective 8-1-00.

(4) Form DC2-901, Training Attendance Report, effective 6-18-07.

(5) Form DC1-307, Acknowledgement of Receipt of Grievance Orientation, effective 10-11-00.

~~Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 4-10-95, 12-7-97, Formerly 33-29.018, Amended 8-1-00, 10-11-00, 2-9-05, 12-17-06, 6-18-07, 8-27-07, 10-19-09, _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Michelle Pyle, Deputy Assistant Secretary

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth S. Tucker, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 2, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: September 30, 2011

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-8.001
 RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The proposed rule amendments are intended to delete the requirement for community service in the Board's various disciplinary guidelines.

SUMMARY: The proposed rule amendments delete the requirements for community service.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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

RULEMAKING AUTHORITY: 456.079, 458.309, 458.331(5) FS.

LAW IMPLEMENTED: 456.50(2), 456.0575, 456.072, 456.079, 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: Joy A. Tootle, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-8.001 Disciplinary Guidelines.

(1) No change.

(2) 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.

RECOMMENDED RANGE OF PENALTY

VIOLATION	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
(a) No change.			
(b) Action taken against license by another jurisdiction. (458.331(1)(b), F.S.) (456.072(1)(f), F.S.)	(b) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to suspension or denial of the license until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken, and an administrative fine ranging from \$1,000.00 to \$5,000.00.	(b) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to revocation or denial of the license, and an administrative fine ranging from \$5,000.00 to \$10,000.00.	
1. No change. 2. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts of \$5,000.00 or less.	2. A \$10,000.00 administrative fine, 100 hours of community service , and suspension of the license, followed by a period of probation.	2. Revocation or denial and a fine of \$10,000.00.	
(c) Guilty of crime directly relating to practice or ability to practice. (458.331(1)(c), F.S.) (456.072(1)(c), F.S.)	(c) From probation to revocation or denial of the license, an administrative fine ranging from \$1,000.00 to \$10,000.00, and 50 to 100 hours of community service .	(c) From suspension to revocation or denial of the license, an administrative fine ranging from \$5,000.00 to \$10,000.00, and from 100 to 200 hours of community service .	
1. No change. 2. Involving a crime related to healthcare fraud in dollar amounts of \$5,000.00 or less.	2. A \$10,000.00 administrative fine, compliance with any criminal probation, a reprimand, from 100 to 200 hours of community service and suspension of the license, followed by a period of probation.	2. Revocation and a fine of \$10,000.00.	
(d) False, deceptive, or misleading advertising. (458.331(1)(d), F.S.)			
1. Negligent false, deceptive, or misleading advertising. (458.331(1)(d), F.S.)	1. From a letter of concern to one (1) year suspension or denial, to be followed by a period of probation, 50 to 100 hours of community service and an administrative fine from \$1,000.00 to \$5,000.00.	1. From reprimand to up to one (1) year suspension or denial, to be followed by a period of probation, from 100 to 200 hours of community service and an administrative fine from \$5,000.00 to \$10,000.00.	
2. Fraudulent false, deceptive or misleading advertising	2. From reprimand to up to one (1) year suspension or denial, to be followed by a period of probation, 50 to 100 hours of community service and an administrative fine of \$10,000.00.	2. From suspension, to be followed by a period of probation, up to revocation, from 100 to 200 hours of community service and a fine of \$10,000.00.	
(e) Failure to report another licensee in violation. (458.331(1)(e), F.S.) (456.072(1)(i), F.S.)	(e) From a letter of concern to probation or denial, 50 to 100 hours of community service and an administrative fine from \$1,000.00 to \$5,000.00.	(e) From probation to suspension or denial, from 100 to 200 hours of community service and an administrative fine from \$5,000.00 to \$10,000.00.	

(f) Aiding unlicensed practice.
(458.331(1)(f), F.S.)
(456.072(1)(j), F.S.)

(f) From probation to revocation or denial, ~~50 to 100 hours of community service~~ and an administrative fine from \$1,000.00 to \$10,000.00.

(f) From suspension, to be followed by a period of probation, to revocation or denial, ~~from 100 to 200 hours of community service~~ and an administrative fine from \$5,000.00 to \$10,000.00.

(g) Failure to perform legal obligation.
(458.331(1)(g), F.S.)
(456.072(1)(k), F.S.)

(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a letter of concern to revocation or denial, ~~100 hours of community service~~ and an administrative fine from \$1,000.00 to \$10,000.00, unless otherwise provided by law.

(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial, ~~from 100 to 200 hours of community service~~ and an administrative fine from \$5,000.00 to \$10,000.00, unless otherwise provided by law.

1. Failing to register a laser device.
(456.072(1)(d), F.S.)

1. If the device is an approved device, from an administrative fine of \$1,000.00 to \$5,000.00; if the device is not approved, from an administrative fine from \$5,000.00 to a suspension or denial, ~~50 to 100 hours of community service~~ and an administrative fine of \$10,000.00.

1. If the device is an approved device, from a reprimand to probation or restriction of practice, ~~from 100 to 200 hours of community service~~ and an administrative fine of \$5,000.00 to \$10,000.00; if the device is not approved, from suspension to revocation and an administrative fine of \$10,000.00.

2. No change.
3. Failing to comply with the requirements for profiling and credentialing.
(456.039, F.S.) (456.072(1)(v), F.S.); (458.319, F.S.);

a. No change.
b. Involving violations of any provision of Chapter 456, F.S., for making misleading, untrue, deceptive or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

(I) Negligently making misleading or untrue representations on a profile, credentialing, or initial licensure or renewal application.

(I) From a \$1,000.00 fine and 3 hours CME on ethics to suspension, to be followed by a period of probation, and a reprimand, ~~50 to 100 hours of community service~~ and a \$5,000.00 administrative fine.

(I) From suspension, to be followed by a period of probation, and a reprimand, ~~from 100 to 200 hours of community service~~, and a \$10,000.00 fine to revocation or denial.

(II) Fraudulently making misleading, untrue, deceptive or fraudulent representations on a profile, credentialing, or initial licensure or renewal application.

(II) Referral to State Attorney for prosecution pursuant to Sections 456.067 and 456.066, F.S., and from suspension, to be followed by a period of probation, ~~and 100 to 200 hours of community service~~, and a reprimand and a \$10,000.00 fine to revocation or denial and a \$10,000 fine.

(II) Referral to State Attorney for prosecution and revocation or denial and a \$10,000.00 fine.

4. Failing to report to the board within 30 days after the licensee has been convicted of a crime in any jurisdiction. Convictions prior to the enactment of this section not reported in writing to the board, on or before October 1, 1999.

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

5. Failing to comply with obligations regarding ownership and control of medical records, patient records; report or copies of records to be furnished.

(456.054, F.S.)

6. Failing to maintain confidentiality of communication between a patient and a psychiatrist.

(456.059, F.S.)

7. No change.

8. Failing to disclose financial interest to patient.

(456.052, F.S.)

(h) No change.

Filing a false report or failing to file a report as required.

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

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

1. through 3. No change.

4. Involving healthcare fraud in dollar amounts of \$5,000.00 or less.

(i) Kickbacks or split fee arrangements.

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

(456.054, F.S.)

(j) Sexual misconduct

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

(458.329, F.S.)

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

(k) Deceptive, untrue, or fraudulent representations in the practice of medicine.

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

(456.072(1)(a), (m), F.S.)

1. No change.

4. From an administrative fine of \$2,000.00 to a fine of \$5,000.00, ~~50 to 100 hours of community service~~ and a reprimand or denial.

5. From a letter of concern to two (2) years suspension followed by probation or denial, ~~50 to 100 hours of community service~~ and an administrative fine from \$1,000.00 to \$5,000.00.

6. From a \$5,000.00 administrative fine; ~~50 to 100 hours of community service~~ and a reprimand to suspension, to be followed by a period of probation, and a \$10,000.00 administrative fine or denial.

8. A refund of fees paid by or on behalf of the patient and from an administrative fine of \$1,000.00, ~~50 hours of community service~~ to a reprimand, ~~100 hours of community service~~ and an administrative fine of \$5,000.00.

4. A \$10,000.00 administrative fine, ~~100 to 200 hours of community service~~, suspension of the license, followed by a period of probation.

(i) A refund of fees paid by or on behalf of the patient, ~~50 to 100 hours of community service~~ and from six (6) months suspension, to be followed by a period of probation, to revocation or denial and an administrative fine from \$1,000.00 to \$10,000.00.

(j) From one (1) year suspension to be followed by a period of probation and a reprimand, ~~100 to 200 hours of community service~~, and an administrative fine of \$5,000.00 to revocation or denial and an administrative fine of \$10,000.00.

(k) From probation, ~~and 50 to 100 hours of community service~~, to revocation or denial, and an administrative fine from \$1,000.00 to \$10,000.00.

4. From suspension, to be followed by a period of probation, ~~100 to 200 hours of community service~~, to revocation and an administrative fine from \$5,000.00 to \$10,000.00.

5. From a reprimand to two (2) years suspension followed by probation or denial, ~~100 to 200 hours of community service~~ and an administrative fine from \$5,000.00 to \$10,000.00.

6. From suspension, to be followed by a period of probation, ~~and 100 to 200 hours of community service~~ to revocation or denial.

8. A refund of fees paid by or on behalf of the patient and from restriction of practice, ~~100 hours of community service~~ and an administrative fine of \$5,000.00 to a reprimand, ~~200 hours of community service~~ and an administrative fine of \$10,000.00.

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

(i) A refund of fees paid by or on behalf of the patient, ~~100 to 200 hours of community service~~, and from a two (2) year suspension, to be followed by a period of probation, to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.

(j) Revocation.

(k) From suspension, to be followed by a period of probation, ~~100 to 200 hours of community service~~, to revocation or denial, and an administrative fine from \$5,000.00 to \$10,000.00.

2. Deceptive, untrue, or fraudulent representations in the practice of medicine involving healthcare fraud in dollar amounts of \$5,000.00 or less.

(l) Improper solicitation of patients. (458.331(1)(l), F.S.)

(m) Failure to keep appropriate written medical records. (458.331(1)(m), F.S.)

1. No change.

2. Failure to keep appropriate written medical records involving healthcare fraud in dollar amounts of \$5,000.00 or less.

(n) Exercising influence on patient for financial gain.

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

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

(o) Improper advertising of pharmacy.

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

(p) Performing professional services not authorized by patient.

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

(q) Inappropriate or excessive prescribing.

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

(r) Prescribing or dispensing of a scheduled drug by the physician to himself.

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

2. A \$10,000.00 administrative fine, suspension of the license, followed by a period of probation, ~~100 to 200 hours of community service.~~

(l) From one (1) year suspension, to be followed by a period of probation, ~~50 to 100 hours of community service~~, to revocation or denial and an administrative fine from \$1,000.00 to \$10,000.00.

(m) From a reprimand to denial or two (2) years suspension followed by probation, ~~50 to 100 hours of community service~~, and an administrative fine from \$1,000.00 to \$10,000.00.

2. A \$10,000.00 administrative fine, suspension of the license, followed by a period of probation, ~~100 to 200 hours of community service.~~

(n) Payment of fees paid by or on behalf of the patient and from probation to denial or two (2) years suspension, to be followed by a period of probation, ~~50 to 100 hours of community service~~, and an administrative fine from \$5,000.00 to \$10,000.00.

(o) From a reprimand and \$250.00 fine or denial to one year probation, to be followed by a period of probation, ~~50 to 100 hours of community service~~, and an administrative fine from \$250.00 to \$5,000.00.

(p) From a reprimand or denial to two (2) years suspension, to be followed by a period of probation, ~~50 to 100 hours of community service~~, and an administrative fine from \$1,000.00 to \$10,000.00.

(q) From one (1) year probation to revocation or denial ~~and 50 to 100 hours of community service~~, and an administrative fine from \$1,000.00 to 10,000.00.

(r) From one (1) year probation, ~~50 to 100 hours of community service~~, to revocation or denial and an administrative fine from \$1,000.00 to \$5,000.00, and a mental and physical examination.

2. Revocation.

(l) From one (1) year suspension, to be followed by a period of probation, ~~100 to 200 hours of community service~~, to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.

(m) From probation to suspension followed by probation or denial, ~~100 to 200 hours of community service~~, and an administrative fine from \$5,000.00 to \$10,000.00.

2. Revocation or denial.

(n) Payment of fees paid by or on behalf of the patient and from suspension, ~~100 to 200 hours of community service~~, to revocation or denial and an administrative fine of \$10,000.00.

(o) From probation, ~~100 to 200 hours of community service~~ to suspension, to be followed by a period of probation, or denial and an administrative fine of \$5,000.00 to \$10,000.00.

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

(q) From suspension, to be followed by a period of probation, ~~and 100 to 200 hours of community service~~ to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.

(r) From suspension, to be followed by a period of probation, ~~100 to 200 hours of community service~~, to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00, and a mental and physical examination.

(s) Inability to practice medicine with skill and safety.
(458.331(1)(s), F.S.)

(t) Failure to practice medicine in accordance with appropriate level of care, skill and treatment recognized in general law related to the practice of medicine.
(456.50(1)(g), F.S.)
(458.331(1)(t), F.S.)
1. Gross Malpractice.

2. No change.
(u) Performing of experimental treatment without informed consent.
(458.331(1)(u), F.S.)

(v) Practicing beyond scope permitted.
(458.331(1)(v), F.S.)
(456.072(1)(o), F.S.)

(w) Delegation of professional responsibilities to unqualified person.
(458.331(1)(w), F.S.)
(456.072(1)(p), F.S.)

(x)1. Violation of law, rule, or failure to comply with subpoena.
(458.331(1)(nn), F.S.)
(456.072(1)(b), (q), F.S.)

2. Violation of an order of the Board.
458.331(1)(x), F.S.

(s) From probation, ~~50 to 100 hours of community service~~, to denial or indefinite suspension until licensee is able to demonstrate ability to practice with reasonable skill and safety followed by probation, and an administrative fine from \$1,000.00 to \$5,000.00.

(t) From one (1) year probation, ~~50 to 100 hours of community service~~, to revocation or denial and an administrative fine from \$1,000.00 to \$10,000.00.

1. From one (1) year suspension followed by three (3) years probation, ~~50 to 100 hours of community service~~; to revocation or denial and an administrative fine from \$1,000.00 to \$10,000.00 and licensee shall be subject to reexamination.

(u) From one (1) year suspension, to be followed by a period of probation; ~~100 to 200 hours of community service~~, to revocation or denial and an administrative fine from \$1,000.00 to \$10,000.00.

(v) From two (2) years suspension; ~~50 to 100 hours of community service~~; to revocation or denial and an administrative fine from \$1,000.00 to \$10,000.00.

(w) From one (1) year probation, ~~50 to 100 hours of community service~~; to denial or five (5) years suspension followed by probation, and an administrative fine from \$1,000.00 to \$10,000.00.

(x)1. For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand, ~~50 to 200 hours of community service~~, to revocation or denial and an administrative fine from \$1,000.00 to \$10,000.00.

2. Reprimand, ~~50 to 100 hours of community service~~; and an administrative fine from \$5,000.00 to \$10,000.00, to revocation or denial based upon the severity of the offense and the potential for patient harm.

(s) From indefinite suspension, followed by probation, ~~100 to 200 hours of community service~~, to suspension for a minimum of five (5) years or until licensee is able to demonstrate ability to practice with reasonable skill and safety followed by probation, and an administrative fine from \$5,000.00 to \$10,000.00.

(t) From two (2) years probation; ~~100 to 200 hours of community service~~, to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.

1. From suspension, to be followed by a period of probation, ~~100 to 200 hours of community service~~, or denial to revocation or denial and an administrative fine of \$5,000.00 to \$10,000.00, and an evaluation or reexamination by a physician evaluation program approved by the Board.

(u) Revocation or denial.

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

(w) From suspension, to be followed by a period of probation; ~~100 to 200 hours of community service~~; to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.

(x)1. From probation, ~~100 to 200 hours of community service~~; to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.

2. From suspension, to be followed by a period of probation, ~~100 to 200 hours of community service~~; and a \$10,000.00 fine or denial to revocation.

- | | | |
|---|---|--|
| <p>3. Failure to comply with any provision of Rule 64B8-8.019, F.A.C.</p> | <p>3. From a \$1,000.00 fine, letter of concern, 50 hours of community service; demonstration of compliance with the rule or denial to a \$5,000.00 fine, a reprimand, completion of a laws and rules course, a term of probation, 100 hours of community service; demonstration of compliance with the rule or denial.</p> | <p>3. From a \$7,500.00 fine, a reprimand, a term of probation, completion of a laws and rules course, 100 to 200 hours of community service; demonstration of compliance with the rule or denial to a \$10,000.00 fine and revocation.</p> |
| <p>(y) Conspiring to restrict another from lawfully advertising services. (458.331(1)(y), F.S.)</p> | <p>(y) A reprimand or denial; 50 to 100 hours of community service; and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> | <p>(y) Probation or denial; 100 to 200 hours of community service; and an administrative fine from \$5,000.00 to \$10,000.00.</p> |
| <p>(z) Aiding an unlawful abortion. (458.331(1)(z), F.S.)</p> | <p>(z) From one (1) year suspension, to be followed by a period of probation, 50 to 100 hours of community service; to revocation or denial and an administrative fine from \$1,000.00 to \$10,000.00.</p> | <p>(z) From suspension, to be followed by a period of probation; 100 to 200 hours of community service; to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.</p> |
| <p>(aa) Presigning prescription forms. (458.331(1)(aa), F.S.)</p> | <p>(aa) From a reprimand to two (2) years probation, 50 to 100 hours of community service; and an administrative fine from \$1,000.00 to \$5,000.00.</p> | <p>(aa) From suspension, to be followed by a period of probation, 100 to 200 hours of community service; to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.</p> |
| <p>(bb) Prescribing a Schedule II substance for Office use. (458.331(1)(bb), F.S.)</p> | <p>(bb) From a reprimand to probation with CME in pharmacology, 50 to 100 hours of community service; and an administrative fine from \$1,000.00 to \$5,000.00.</p> | <p>(bb) From probation to suspension, to be followed by a period of probation, or denial, 100 to 200 hours of community service; and an administrative fine from \$5,000.00 to \$10,000.00.</p> |
| <p>(cc) Improper prescribing of Schedule II amphetamine or sympathomimetic amine drug. (458.331(1)(cc), F.S.)</p> | <p>(cc) From probation, 50 hours of community service, to denial or two (2) years suspension followed by probation, 100 hours of community service, and an administrative fine from \$1,000.00 to \$10,000.00.</p> | <p>(cc) From suspension, to be followed by a period of probation, 100 to 200 hours of community service, to revocation or denial of the license and an administrative fine ranging from \$5,000.00 to \$10,000.00.</p> |
| <p>(dd) Failure to adequately supervise assisting personnel. (458.331(1)(dd), F.S.)</p> | <p>(dd) From probation, 50 hours of community service, to denial or two (2) years suspension followed by probation, 100 hours of community service, and an administrative fine from \$1,000.00 to \$5,000.00.</p> | <p>(dd) From one (1) year suspension, to be followed by a period of probation, 100 to 200 hours of community service, to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.</p> |
| <p>(ee) Improper use of substances for muscle building or enhancement of athletic performance. (458.331(1)(ee), F.S.)</p> | <p>(ee) From one (1) year suspension, to be followed by a period of probation, 50 to 100 hours of community service, to revocation or denial and an administrative fine from \$1,000.00 to \$5,000.00.</p> | <p>(ee) From suspension, to be followed by a period of probation, 100 to 200 hours of community service, to revocation or denial of the license and an administrative fine ranging from \$5,000.00 to \$10,000.00.</p> |
| <p>(ff) Use of amygdalin (laetrile). (458.331(1)(ff), F.S.)</p> | <p>(ff) From one (1) year suspension, to be followed by a period of probation, 50 to 100 hours of community service, to revocation or denial and an administrative fine from \$1,000.00 to \$10,000.00.</p> | <p>(ff) From suspension, to be followed by a period of probation, 100 to 200 hours of community service, to revocation or denial of the license and an administrative fine ranging from \$5,000.00 to \$10,000.00.</p> |

- | | | |
|--|---|---|
| <p>(gg) Misrepresenting or concealing a material fact.
(458.331(1)(gg), F.S.)</p> | <p>(gg) From suspension, to be followed by a period of probation, 50 to 100 hours of community service, to denial or revocation of license and an administrative fine from \$1,000.00 to \$5,000.00.</p> | <p>(gg) From suspension, to be followed by a period of probation, 100 to 200 hours of community service, to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.</p> |
| <p>(hh) Improperly interfering with an investigation or a disciplinary proceeding (458.331(1)(hh), F.S.)</p> | <p>(hh) From suspension, to be followed by a period of probation, 50 to 100 hours of community service, to denial or revocation of license and payment of a \$5,000.00 fine.</p> | <p>(hh) From suspension, to be followed by a period of probation, 100 to 200 hours of community service, to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.</p> |
| <p>(ii) Failing to report any licensee in violation who practices in a hospital or an H.M.O.; or failing to report any person in violation of Chapter 456, F.S.
(458.331(1)(ii), F.S.)
(456.072(1)(i), F.S.)</p> | <p>(ii) From a reprimand to probation, 50 to 100 hours of community service, or denial and an administrative fine from \$1,000.00 to \$5,000.00.</p> | <p>(ii) From probation, 100 to 200 hours of community service, to suspension, to be followed by a period of probation, or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</p> |
| <p>(jj) Providing written medical opinion without reasonable investigation.
(458.331(1)(jj), F.S.)</p> | <p>(jj) From suspension, to be followed by a period of probation, 50 to 100 hours of community service to denial or revocation of license and payment of a \$1,000.00 to \$5,000.00 fine.</p> | <p>(jj) From suspension, to be followed by a period of probation, 100 to 200 hours of community service to revocation or denial of the license and an administrative fine ranging from \$5,000.00 to \$10,000.00.</p> |
| <p>(kk) Failure to report disciplinary action by another jurisdiction.
(458.331(1)(kk), F.S.)</p> | <p>(kk) From an administrative fine of \$2,000.00 to a fine of \$5,000.00 and a reprimand, 50 to 100 hours of community service to denial or revocation of license and payment of a \$5,000.00.</p> | <p>(kk) From probation, 100 to 200 hours of community service, to suspension, to be followed by a period of probation, or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</p> |
| <p>(ll) Improper holding oneself out as a specialist.
(458.331(1)(ll), F.S.)</p> | <p>(ll) From letter of concern, 50 to 100 hours of community service, to one (1) year suspension, to be followed by a period of probation, or denial and an administrative fine from \$500.00 to \$5,000.00.</p> | <p>(ll) From reprimand, 100 to 200 hours of community service, to up to one (1) year suspension, to be followed by a period of probation, or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</p> |
| <p>(mm) No change.</p> | <p>(nn) From a reprimand, 50 to 200 hours of community service, to revocation or denial and an administrative fine from \$1,000.00 to \$10,000.00.</p> | <p>(nn) From probation, 100 to 200 hours of community service, to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.</p> |
| <p>(oo) Violating Chapters 458, 456, F.S., or any rules adopted pursuant thereto.
(458.331(1)(nn), F.S.)</p> | <p>(oo) From an administrative fine of \$1,000.00 to a fine of \$5,000.00, reprimand, 50 to 100 hours of community service and probation.</p> | <p>(oo) From reprimand to up to one (1) year suspension, 100 to 200 hours of community service or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</p> |
| <p>(oo) Improper use of information about accident victims for commercial or any other solicitation of the people involved in such accidents.
(456.072(1)(x), F.S.)</p> | <p>(pp) No change.</p> | <p>(pp) No change.</p> |
| <p>(pp) No change.</p> | <p>(qq) Violation of Patient Self Referral Act.
(456.053, F.S.)</p> | <p>(qq) In addition to any civil penalty imposed pursuant to Section 456.053, F.S., for each separate violation, from an administrative fine of \$5,000.00 to an administrative fine of \$10,000.00, and 50 to 100 hours of community service.</p> |
| <p>(qq) Violation of Patient Self Referral Act.
(456.053, F.S.)</p> | <p>(qq) In addition to any civil penalty imposed pursuant to Section 456.053, F.S., for each separate violation, from an administrative fine of \$5,000.00 to an administrative fine of \$10,000.00, and 50 to 100 hours of community service.</p> | <p>(qq) From probation, 100 to 200 hours of community service to suspension, to be followed by a period of probation, or denial, and an administrative fine from \$5,000.00 to \$10,000.00.</p> |

(rr) Violation of medical director clinic responsibilities.
(456.0375(4)(c), F.S.)

(rr) Based upon the severity of the offense and the potential for patient harm, from a letter of concern, ~~50 to 100 hours of community service~~, to revocation and an administrative fine from \$1,000.00 to \$10,000.00.

(rr) Restricted from serving as the medical director of any registered clinic and based upon the severity of the offense and the potential for patient harm, from a reprimand, ~~100 to 200 hours of community service~~, to revocation and an administrative fine from \$5,000.00 to \$10,000.00.

1. - 3. No change.

4. Failure to ensure that all health care practitioners employed at clinic have active, unencumbered license.

4. From probation, ~~50 to 100 hours of community service~~, to revocation, and an administrative fine from \$1,000.00 to \$10,000.00.

4. From suspension, to be followed by a period of probation, ~~100 to 200 hours of community service~~, to revocation, and an administrative fine from \$5,000.00 to \$10,000.00.

5. Failure to review patient referral contracts or agreements executed by clinic.

5. A refund of fees paid by or on behalf of the patient, ~~50 hours of community service~~, and from an administrative fine of \$1,000.00 to a reprimand, ~~100 hours of community service~~, and an administrative fine of \$5,000.00.

5. A refund of fees paid by or on behalf of the patient and from restriction of practice, ~~100 hours of community service~~, and an administrative fine of \$5,000.00 to a reprimand, ~~200 hours of community service~~, and an administrative fine of \$10,000.00.

6. Failure to ensure that all health care practitioners employed at clinic have active appropriate certification or licensure for the level of care being provided.

6. From probation, ~~50 to 100 hours of community service~~, to revocation, and an administrative fine from \$1,000.00 to \$10,000.00.

6. From suspension, to be followed by a period of probation, ~~100 to 200 hours of community service~~, to revocation, and an administrative fine from \$5,000.00 to \$10,000.00.

7. Failure to comply with Section 456.057, F.S., with regard to clinic records.

7. From a letter of concern to two (2) years suspension followed by probation, ~~50 to 100 hours of community service~~, and an administrative fine from \$1,000.00 to \$5,000.00.

7. From a reprimand to two (2) years suspension followed by probation, ~~100 to 200 hours of community service~~, and an administrative fine from \$5,000.00 to \$10,000.00.

8. Failure to ensure compliance with recordkeeping requirements.

8. From a letter of concern to two (2) years suspension followed by probation, ~~50 to 100 hours of community service~~, and an administrative fine from \$1,000.00 to \$5,000.00.

8. From a reprimand to two (2) years suspension followed by probation, ~~100 to 200 hours of community service~~, and an administrative fine from \$5,000.00 to \$10,000.00.

9. Failure to ensure compliance with office surgery requirements.

9. From probation, ~~50 to 100 hours of community service~~, to revocation, and an administrative fine from \$1,000.00 to \$10,000.00.

9. From suspension, to be followed by a period of probation, ~~100 to 200 hours of community service~~, to revocation, and an administrative fine from \$5,000.00 to \$10,000.00.

10. No change.

11. Failure to conduct systematic reviews of clinic billings.

11. From a reprimand to two (2) years suspension followed by probation, ~~50 to 100 hours of community service~~, and an administrative fine from \$1,000.00 to \$10,000.00.

11. From probation, ~~100 to 200 hours of community service~~, to suspension followed by probation, and an administrative fine from \$5,000.00 to \$10,000.00.

12. Failure to take immediate corrective action upon discovery of unlawful billing.

13. Serving as medical/ clinical director for more registered clinics than provided by Department rule.

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

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

(uu) For the practitioner(s) responsible for the adverse incident, failing to inform a patient, or an individual identified pursuant to Section 765.401(1), F.S., in person about adverse incidents that result in serious harm to the patient.
(456.0575, F.S.)

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

(ww) – (aaa) No change.

(bbb) A violation of Rule 64B8-9.0131, F.A.C.

12. A refund of fees paid by or on behalf of the patient and from six (6) months suspension, to be followed by a period of probation, ~~50 to 100 hours of community service~~; to revocation, and an administrative fine from \$1,000.00 to \$10,000.00.

13. From probation, ~~50 to 100 hours of community service~~, to two (2) years suspension followed by probation, ~~150 hours of community service~~, and an administrative fine from \$1,000.00 to \$5,000.00.

(ss) From a \$1,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, and one (1) hour lecture on wrong-site surgery in the State of Florida to a \$10,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, ~~50 to 100 hours of community service~~, undergo a risk management assessment, a one (1) hour lecture on wrong-site surgery, and suspension to be followed by a term of probation.

(tt) From a \$2,000.00 to a \$10,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, ~~50 to 100 hours of community service~~, and a one hour lecture to the staff of a Florida licensed healthcare facility on retained foreign body objects to revocation.

(uu) From a reprimand to probation, ~~50 to 100 hours of community service~~, or denial and an administrative fine of \$1,000 to \$5,000.

(vv) From one (1) year probation to revocation or denial ~~and 50 to 100 hours of community service~~; and an administrative fine from \$1,000.00 to \$10,000.00.

(bbb) From probation for a term no less than two years, ~~100 hours of community service~~, and a fine of \$5,000.00 to \$10,000.00 to revocation.

12. A refund of fees paid by or on behalf of the patient and from a two (2) year suspension, to be followed by a period of probation; ~~100 to 200 hours of community service~~; to revocation, and an administrative fine from \$5,000.00 to \$10,000.00.

13. From one (1) year suspension, to be followed by a period of probation, ~~200 hours of community service~~, to revocation, and an administrative fine from \$5,000.00 to \$10,000.00.

(ss) From a \$10,000.00 fine, a reprimand, ~~100 to 200 hours of community service~~, undergo a risk management assessment, and probation or denial to a \$10,000.00 fine and revocation.

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

(uu) From probation, ~~100 to 200 hours of community service~~, to suspension or denial and an administrative fine of \$5,000 to \$10,000.

(vv) From suspension, to be followed by a period of probation, ~~and 100 to 200 hours of community service~~ to revocation or denial and an administrative fine from \$5,000.00 to \$10,000.00.

(bbb) From suspension for a minimum of one year, to be followed by a term of probation; ~~200 hours of community service~~, and a \$10,000.00 fine to revocation.

(ccc) A violation of Rule 64B8-9.0132, F.A.C.

(ccc) From probation for a term no less than one year, ~~50 hours of community service~~, and a fine of \$5,000.00 to \$10,000.00 to revocation.

(ccc) From suspension for a minimum of six months, to be followed by a term of probation; ~~100 hours of community service~~, and a \$10,000.00 fine to revocation.

(ddd) – (qqq) No change.

(3) through (7) No change.

Rulemaking Authority 456.079, 458.309, 458.331(5) FS. Law Implemented 456.50(2), 456.0575, 456.072, 456.079, 458.331(5) FS. History—New 12-5-79, Formerly 21M-20.01, Amended 1-11-87, 6-20-90, Formerly 21M-20.001, Amended 11-4-93, Formerly 61F6-20.001, Amended 6-24-96, 12-22-96, Formerly 59R-8.001, Amended 5-14-98, 12-28-99, 1-31-01, 7-10-01, 6-4-02, 9-10-02, 12-11-02, 8-20-03, 6-7-04, 8-17-04, 1-4-06, 8-13-06, 8-29-06, 11-22-06, 1-30-07, 2-18-09, 12-22-09, 7-27-10, 6-21-11, 12-27-11, _____.

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: February 3, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 13, 2012

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.: 65A-1.716
 RULE TITLE: Income and Resource Criteria

PURPOSE AND EFFECT: The proposed rule updates the monthly federal poverty levels, the Food Assistance Program standard utility allowance, the average monthly private pay nursing facility rate and the life expectancy tables used in the Medicaid eligibility determination process.

SUMMARY: The proposed rule amends Medicaid Program standards used in the eligibility determination process.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department considered the factors in Section 120.541, F.S. The proposed rule is not expected to exceed the criteria in paragraph 120.541(2)(a), F.S., therefore legislative ratification is not required under subsection 120.541(3), F.S.

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

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.903, 409.904, 409.906, 409.919 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: March 14, 2012, 1:30 p.m.

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Cindy Keil. 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: Cindy Keil, Economic Self-Sufficiency Program, 1317 Winewood Boulevard, Building 3, Tallahassee, Florida 32399-0700, (850)717-4113, cindy_keil@dcf.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.716 Income and Resource Criteria.

(1) The monthly federal poverty level figures based on the size of the filing unit are as follows:

Filing Unit Size	88% of Poverty Guideline	100% of Poverty Guideline	120% of Poverty Guideline	133% of Poverty Guideline	135% of Poverty Guideline	185% of Poverty Guideline	200% of Poverty Guideline
1	\$820 \$683	\$931 \$776	\$1,117 \$931	\$1,239 \$1032	\$1,257 \$1048	\$1,723 \$1436	\$1,862 \$1552
2	\$1,110 \$916	\$1,261 \$1041	\$1,513 \$1249	\$1,677 \$1385	\$1,703 \$1406	\$2,333 \$1926	\$2,522 \$2082

3		\$1,591 \$1306		\$2,116 \$1737		\$2,944 \$2416		\$3,182 \$2612
4		\$1,921 \$1574		\$2,555 \$2090		\$3,554 \$2907		\$3,842 \$3142
5		\$2,251 \$1836		\$2,994 \$2442		\$4,165 \$3397		\$4,502 \$3672
6		\$2,581 \$2101		\$3,433 \$2795		\$4,775 \$3887		\$5,162 \$4202
7		\$2,911 \$2366		\$3,872 \$3147		\$5,386 \$4377		\$5,822 \$4732
8		\$3,241 \$2631		\$4,311 \$3500		\$5,996 \$4868		\$6,482 \$5262
9		\$3,571 \$2896		\$4,750 \$3852		\$6,607 \$5358		\$7,142 \$5792
10		\$3,901 \$3161		\$5,189 \$4204		\$7,217 \$5848		\$7,802 \$6322
11		\$4,231 \$3426		\$5,628 \$4557		\$7,828 \$6338		\$8,462 \$6852
12		\$4,561 \$3691		\$6,066 \$4909		\$8,438 \$6829		\$9,122 \$7382
Add each		\$330 \$265		\$439 \$353		\$611 \$494		\$660 \$530
add. person								

(2) through (5)(c)3. No change.

4. Food Assistance Program Standard Utility Allowance: \$343 \$198.

5. No change.

(d) Average monthly private pay nursing facility rate: \$6,880 \$5,000.

(e) The following life expectancy tables are compiled from information published by the Office of the Chief Actuary of the Social Security Administration:

LIFE EXPECTANCY TABLE – FEMALES

Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
0	80.43 79.24	40	41.91 40.80	80	9.43 8.92
1	79.92 78.77	41	40.97 39.85	81	8.86 8.37
2	78.95 77.81	42	40.03 38.92	82	8.31 7.85
3	77.97 76.83	43	39.10 37.99	83	7.77 7.34
4	76.99 75.85	44	38.17 37.06	84	7.26 6.86
5	76.00 74.86	45	37.24 36.13	85	6.77 6.40
6	75.01 73.88	46	36.32 35.21	86	6.31 5.96
7	74.02 72.89	47	35.41 34.29	87	5.87 5.54
8	73.03 71.90	48	34.50 33.38	88	5.45 5.15
9	72.04 70.91	49	33.59 32.47	89	5.06 4.78
10	71.04 69.91	50	32.69 31.56	90	4.69 4.44
11	70.05 68.92	51	31.80 30.66	91	4.36 4.12
12	69.06 67.93	52	30.91 29.77	92	4.04 3.83
13	68.07 66.94	53	30.02 28.88	93	3.76 3.56
14	67.08 65.95	54	29.14 28.00	94	3.50 3.31
15	66.09 64.97	55	28.27 27.13	95	3.26 3.09
16	65.11 63.99	56	27.40 26.27	96	3.05 2.89
17	64.13 63.01	57	26.53 25.41	97	2.87 2.72
18	63.15 62.04	58	25.67 24.57	98	2.70 2.55
19	62.18 61.07	59	24.82 23.73	99	2.54 2.40
20	61.20 60.09	60	23.97 22.90	100	2.39 2.26
21	60.23 59.12	61	23.14 22.08	101	2.25 2.12
22	59.26 58.15	62	22.31 21.28	102	2.11 1.99
23	58.29 57.18	63	21.49 20.48	103	1.98 1.87
24	57.32 56.20	64	20.69 19.70	104	1.86 1.75
25	56.35 55.23	65	19.89 18.93	105	1.74 1.63
26	55.38 54.26	66	19.10 18.18	106	1.62 1.52
27	54.40 53.29	67	18.32 17.44	107	1.52 1.42
28	53.44 52.31	68	17.55 16.71	108	1.41 1.32
29	52.47 51.34	69	16.79 16.00	109	1.31 1.23
30	51.50 50.37	70	16.05 15.29	110	1.22 1.14
31	50.53 49.40	71	15.32 14.59	111	1.13 1.05
32	49.56 48.44	72	14.61 13.91	112	1.05 0.97
33	48.60 47.47	73	13.91 13.23	113	0.97 0.90
34	47.64 46.51	74	13.22 12.57	114	0.89 0.82
35	46.68 45.55	75	12.55 11.92	115	0.82 0.76
36	45.72 44.59	76	11.90 11.29	116	0.75 0.71
37	44.76 43.64	77	11.26 10.67	117	0.70 0.65
38	43.81 42.69	78	10.63 10.07	118	0.64 0.60
39	42.86 41.74	79	10.03 9.49	119	0.59 0.55

LIFE EXPECTANCY TABLE MALES

Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
0	<u>75.38</u> 73.90	40	<u>37.84</u> 36.39	80	<u>7.90</u> 7.23
1	<u>74.94</u> 73.50	41	<u>36.93</u> 35.49	81	<u>7.41</u> 6.78
2	<u>73.98</u> 72.54	42	<u>36.02</u> 34.59	82	<u>6.94</u> 6.35
3	<u>73.00</u> 71.57	43	<u>35.12</u> 33.69	83	<u>6.49</u> 5.94
4	<u>72.02</u> 70.59	44	<u>34.22</u> 32.08	84	<u>6.06</u> 5.55
5	<u>71.03</u> 69.60	45	<u>33.33</u> 31.92	85	<u>5.65</u> 5.18
6	<u>70.04</u> 68.62	46	<u>32.45</u> 31.04	86	<u>5.26</u> 4.84
7	<u>69.05</u> 67.63	47	<u>31.57</u> 30.17	87	<u>4.89</u> 4.52
8	<u>68.06</u> 66.64	48	<u>30.71</u> 29.31	88	<u>4.55</u> 4.21
9	<u>67.07</u> 65.65	49	<u>29.84</u> 28.45	89	<u>4.22</u> 3.93
10	<u>66.08</u> 64.66	50	<u>28.99</u> 27.60	90	<u>3.92</u> 3.67
11	<u>65.09</u> 63.67	51	<u>28.15</u> 26.75	91	<u>3.64</u> 3.42
12	<u>64.09</u> 62.68	52	<u>27.32</u> 25.90	92	<u>3.38</u> 3.20
13	<u>63.10</u> 61.69	53	<u>26.49</u> 25.07	93	<u>3.15</u> 2.99
14	<u>62.12</u> 60.71	54	<u>25.68</u> 24.24	94	<u>2.93</u> 2.80
15	<u>61.14</u> 59.74	55	<u>24.87</u> 23.42	95	<u>2.75</u> 2.63
16	<u>60.18</u> 58.78	56	<u>24.06</u> 22.61	96	<u>2.58</u> 2.48
17	<u>59.22</u> 57.82	57	<u>23.26</u> 21.81	97	<u>2.44</u> 2.34
18	<u>58.27</u> 56.88	58	<u>22.48</u> 21.03	98	<u>2.30</u> 2.21
19	<u>57.33</u> 55.94	59	<u>21.69</u> 20.25	99	<u>2.19</u> 2.10
20	<u>56.40</u> 55.00	60	<u>20.92</u> 19.48	100	<u>2.07</u> 1.99
21	<u>55.47</u> 54.07	61	<u>20.16</u> 18.73	101	<u>1.96</u> 1.88
22	<u>54.54</u> 53.15	62	<u>19.40</u> 17.98	102	<u>1.85</u> 1.78
23	<u>53.63</u> 52.22	63	<u>18.66</u> 17.25	103	<u>1.75</u> 1.68
24	<u>52.71</u> 51.30	64	<u>17.92</u> 16.54	104	<u>1.66</u> 1.58
25	<u>51.78</u> 50.37	65	<u>17.19</u> 15.84	105	<u>1.56</u> 1.49
26	<u>50.86</u> 49.44	66	<u>16.48</u> 15.16	106	<u>1.47</u> 1.40
27	<u>49.93</u> 48.50	67	<u>15.77</u> 14.50	107	<u>1.39</u> 1.32
28	<u>49.00</u> 47.56	68	<u>15.08</u> 13.86	108	<u>1.30</u> 1.24
29	<u>48.07</u> 46.62	69	<u>14.40</u> 13.23	109	<u>1.22</u> 1.16
30	<u>47.13</u> 45.68	70	<u>13.73</u> 12.61	110	<u>1.15</u> 1.09
31	<u>46.20</u> 44.74	71	<u>13.08</u> 12.01	111	<u>1.07</u> 1.02
32	<u>45.27</u> 43.80	72	<u>12.44</u> 11.42	112	<u>1.00</u> 0.95
33	<u>44.33</u> 42.87	73	<u>11.82</u> 10.84	113	<u>0.94</u> 0.89
34	<u>43.40</u> 41.93	74	<u>11.21</u> 10.28	114	<u>0.87</u> 0.82
35	<u>42.47</u> 41.00	75	<u>10.62</u> 9.73	115	<u>0.81</u> 0.76
36	<u>41.54</u> 40.07	76	<u>10.04</u> 9.20	116	<u>0.75</u> 0.71
37	<u>40.61</u> 39.14	77	<u>9.48</u> 8.68	117	<u>0.70</u> 0.65
38	<u>39.68</u> 38.22	78	<u>8.94</u> 8.18	118	<u>0.64</u> 0.60
39	<u>38.76</u> 37.31	79	<u>8.41</u> 7.69	119	<u>0.59</u> 0.55

Rulemaking Specific Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.906, 409.919 FS. History—New 10-8-97, Amended 12-9-99, 2-15-01, 11-25-01, 7-28-02, 4-1-03, 9-10-03, 8-30-04, 8-10-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jeri Flora

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: David E. Wilkins

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 17, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 16, 2011

FISH AND WILDLIFE CONSERVATION COMMISSION

RULE NO.:
68-1.003

RULE TITLE:
Florida Fish and Wildlife Conservation Commission Grants Program

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to update the Florida Boating Improvement Program Guidelines (Jan. 2010), and the accompanying application forms, incorporated by reference in subsection 68-1.003(9), F.A.C., to improve and increase efficiency in the grant application and award process.

SUMMARY: The proposed rule amendment replaces the Florida Boating Improvement Program Guidelines (01/2010) and the accompanying application forms, incorporated by reference, with the Florida Boating Improvement Program

Guidelines (02/2012). Proposed changes to the guidelines include the following: 1) revised evaluation criteria to increase the emphasis on cost efficiency and the need for the project; 2) reduce the number of required copies of the application; 3) provide more time to obtain permits for construction projects; 4) change match requirements to cost share; 5) include compliance requirements regarding contingency fees and employment eligibility.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Based on the nature of the rule and the preliminary information and analysis conducted to date.

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: Article IV, Section 9, Florida Constitution., 206.606, 327.04, 327.47, 379.106 FS.

LAW IMPLEMENTED: 206.606, 327.47, 328.72, 379.106 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: Tim Woody, FBIP Program Administrator, or Patricia Harrell, Boat Access Coordinator, Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, Boating and Waterways Section, 620 South Meridian Street, Room 235, Tallahassee, Florida 32399, telephone (850)488-5600 or email fbip@myfwc.com

THE FULL TEXT OF THE PROPOSED RULE IS:

68-1.003 Florida Fish and Wildlife Conservation Commission Grants Program.

(1) through (8) No change.

(9) Florida Boating Improvement Program grants shall meet all additional program requirements set forth in the Florida Boating Improvement Program Guidelines (~~Feb. 2012 Jan. 2010~~), which are hereby incorporated by reference. The following forms are hereby adopted and incorporated by reference: FWC/FBIP-A, Florida Boating Improvement Program Grant Application for Recreational Channel Markers and Other Uniform Waterway Markers, ~~02/12 01/10~~; FWC/FBIP-B, Florida Boating Improvement Program Grant

Application for Boating Access Facilities, ~~02/12 01/10~~; FWC/FBIP-C, Florida Boating Improvement Program Grant Application for Derelict Vessel Removal, ~~02/12 01/10~~; FWC/FBIP-D, Florida Boating Improvement Program Boater Education Grant Application, ~~02/12 01/10~~; FWC/FBIP-E, Florida Boating Improvement Program Grant Application for Economic Initiatives and Other Local Boating Related Projects, ~~02/12 07/08~~. The guidelines and forms are available at <http://www.myfwc.com/boating/boating-grant-programs/fbip/> ~~http://www.myfwc.com/RECREATION/boat_grant_index.htm~~ or from the Commission at 620 S. Meridian Street, 1M, Tallahassee, Florida 32399-1600.

(10) through (12) No change.

Rulemaking Authority 206.606, 327.04, 327.47, 379.106 FS. Law Implemented 206.606, 327.47, 328.72, 379.106 FS. History--New 4-4-04, Amended 3-15-05, Formerly 68A-2.015, Amended 5-22-07, 7-6-08, 1-18-09, 3-21-10, 6-30-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Patricia Harrell, Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 8, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 5, 2011

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

DEPARTMENT OF STATE

Division of Library and Information Services

RULE NO.: 1B-2.011 **RULE TITLE:** Library Grant Programs

NOTICE OF CORRECTION

Notice is hereby given that the following corrections have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 38, No. 4, January 27, 2012 issue of the Florida Administrative Weekly.

The following change was made to the Notice of Proposed Rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule.