

Section I
Notices of Development of Proposed Rules
and Negotiated Rulemaking

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE NOS.:	RULE TITLES:
5F-6.001	Performance Specifications and Standards for Motor Vehicle Brake Fluid
5F-6.002	Registration
5F-6.003	Guidelines for Imposing Administrative Penalties

PURPOSE AND EFFECT: The purpose of this rule development is to update the adopted version of the US Department of Transportation Motor Vehicle Safety Standards, No. 116, Motor Vehicle Brake Fluid specifications and include references to obtain copies; create a rule section to reflect current versions of referenced Department forms; create a rule section to further define and clarify registration requirements for brake fluid products; and create a rule section to define recent statutory changes regarding penalties for violations of Chapter 526, Part II, F.S., and Chapter 5F-6, F.A.C.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development to Chapter 5F-6, F.A.C., includes updating the adopted version of the US Department of Transportation Motor Vehicle Safety Standards, No. 116, Motor Vehicle Brake Fluid specifications and include references to obtain copies; creating a rule section to reflect current versions of referenced Department forms; creating a rule section to further define and clarify registration requirements for brake fluid products; and creating a rule section to define recent statutory changes regarding penalties for violations of Chapter 526, Part II, F.S., and Chapter 5F-6, F.A.C.

RULEMAKING AUTHORITY: 526.52(1), 526.53(4), 570.07(23) FS.

LAW IMPLEMENTED: 526.51, 526.53, 526.53, 526.54, 526.55 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Matthew D. Curran, Ph.D., Chief, Bureau of Standards, 3125 Conner Blvd., Bldg. #2, Tallahassee, FL 32399, Phone: (850)921-1570

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE NOS.:	RULE TITLES:
5F-10.001	Standards
5F-10.0015	Registration
5F-10.003	Guidelines for Imposing Administrative Penalties

PURPOSE AND EFFECT: The purpose of this rule development is to rename the chapter title; update ASTM International specifications for recycled and non-recycled antifreeze products; add quality specifications provisions allowing for specialty applications, such as mini-bike racing, that do not permit the use of coolants with contents of 50 percent or more glycol and as a result, do not meet the freezing point minimum requirements for glycol-based coolants containing 50% or more glycol; define dilution procedures used during testing; adopt quality specifications for coolant products made from 1,3-Propanediol (a different engine coolant base material than in conventional glycol-based products); adopt quality specifications for coolant products made from Glycerin (a different engine coolant base material than in conventional glycol-based products) designed for light duty applications; adopt quality specifications for coolant products containing low silicate levels designed for heavy duty applications; adopt quality specifications for coolant products designed for heavy duty applications; adopt quality specifications for coolant products made from 1,3-Propanediol (a different engine coolant base material than in conventional glycol-based products) designed for heavy duty applications; adopt quality specifications for coolant products made from Glycerin (a different engine coolant base material than in conventional glycol-based products) designed for heavy duty applications; define the term ‘motor vehicle’ to clarify this rule chapter does not only apply to engines with coolant systems operating on roads or highways; reference where readers may obtain and/or view a copy of the specifications adopted in this Rule; reference all forms used in the stoppage of sale of substandard antifreeze products and subsequent release of said products after proper remedy; and further clarify procedures for the registration of antifreeze products intended for distribution in this state. In addition, reference forms used for the application for and granting of registration of said products; and establish a penalty structure consistent with others established within the department.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development to Chapter 5F-10, F.A.C., includes renaming the chapter; updates to ASTM International specifications for recycled and non-recycled antifreeze products; addition of

quality specifications provisions allowing for specialty applications, such as mini-bike racing, that do not permit the use of coolants with contents of 50 percent or more glycol and as a result, do not meet the freezing point minimum requirements for glycol-based coolants containing 50% or more glycol; define dilution procedures used during testing; adoption of quality specifications for coolant products made from 1,3-Propanediol (a different engine coolant base material than in conventional glycol-based products); adoption of quality specifications for coolant products made from Glycerin (a different engine coolant base material than in conventional glycol-based products); adoption of quality specifications for coolant products containing low silicate levels designed for heavy duty applications; adoption of quality specifications for coolant products designed for heavy duty applications; adoption of quality specifications for coolant products made from 1,3-Propanediol (a different engine coolant base material than in conventional glycol-based products) designed for heavy duty applications; adoption of quality specifications for coolant products made from Glycerin (a different engine coolant base material than in conventional glycol-based products) designed for light duty applications; defining the term ‘motor vehicle’ to clarify this rule chapter does not only apply to engines with coolant systems operating on roads or highways; referencing where readers may obtain and/or view a copy of the specifications adopted in this Rule; referencing all forms used in the stoppage of sale of substandard antifreeze products and subsequent release of said products after proper remedy; further clarifying procedures for the registration of antifreeze products intended for distribution in this state; referencing forms used for the application for and granting of registration of said products; and establishing a penalty structure consistent with others established within the department.

RULEMAKING AUTHORITY: 501.921, 570.07(23) FS.

LAW IMPLEMENTED: 501.912, 501.913, 501.919, 501.921, 501.922 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Matthew D. Curran, Ph.D., Chief, Bureau of Standards, 3125 Conner Blvd., Bldg. #2, Tallahassee, FL 32399, Phone: (850)921-1570

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STATE BOARD OF ADMINISTRATION

RULE NOS.:	RULE TITLES:
19-3.016	Executive Director
19-3.0161	Investment Responsibilities of the Executive Director
19-3.099	Plan

PURPOSE AND EFFECT: Amendments are being made to add provisions to Rule 19-3.016, F.A.C., setting forth the authority of the Executive Director & CIO to bring suit, file claims or take any other legal actions or proceedings in the name of the State Board of Administration (“SBA”), and to manage, settle or resolve any claim or action brought against the SBA. Provisions also are added to provide that the Executive Director may execute, or delegate the authority to execute, final orders issued pursuant to Chapter 120, Florida Statutes. Provisions also are added to provide that the Executive Director & CIO may take whatever actions that will provide full transparency and accountability in the fulfillment of the SBA’s fiduciary duties. Amendments are being made to Rule 19-3.0161, F.A.C., to make it clear, as required by law, that Investment Policy Statements must be submitted both to the Investment Advisory Council and the Board of Trustees of the SBA. Amendments are being made to Rule 19-3.099, F.A.C., to clarify that Final Orders are to be obtained from the Agency Clerk of the State Board of Administration, and that the charge for such orders is no more than cost.

SUBJECT AREA TO BE ADDRESSED: To update information regarding the duties and responsibilities of the Executive Director & CIO of the State Board of Administration, to update information as to Investment Policy Statements; and to update and clarify information concerning Final Orders.

RULEMAKING AUTHORITY: 120.533(1)(j), 215.52, 215.62(5), 215.835, 215.84(5), 216.345(3), 218.412 FS.

LAW IMPLEMENTED: 112.061, 215.44, 215.441, 215.45, 215.47, 215.475, 215.515, 215.52, 215.69, 215.84, 216.345, 218.409 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Wednesday, March 6, 2013, 9:00 a.m. – 11:00 a.m.

PLACE: Room 116 (Hermitage Conference Room), 1801 Hermitage Blvd., Tallahassee, FL 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Tina Joanos, Agency Clerk, Office of the General Counsel, State Board of Administration, 1801 Hermitage Blvd., Tallahassee, FL 32308, (850)413-1197;

tina.joanos@sbafla.com If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Ruth A. Smith, Assistant General Counsel, Office of the General Counsel, State Board of Administration, 1801 Hermitage Blvd., Tallahassee, FL 32308, (850)413-1182, ruth.smith@sbafla.com

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

STATE BOARD OF ADMINISTRATION

RULE NOS.:	RULE TITLES:
19-4.0012	Definitions
19-4.0031	General Policies and Review Procedures for Investments
19-4.0035	Florida Retirement System Defined Benefit Plan Investment Policy Statement

PURPOSE AND EFFECT: Amendments are being made to update definitions set forth in Rule 19-4.0012, F.A.C. Rule 19-4.0031, F.A.C., is being amended to update the terms set forth, to update procedures to reflect current practices, and to revise a statutory provision. New proposed Rule 19-4.0035, F.A.C., will advise the public of the existence of the most recent version of the Investment Policy Statement for the Florida Retirement System (“FRS”) Defined Benefit Plan and also advise the public how to obtain copies of this statement.

SUBJECT AREA TO BE ADDRESSED: To update information and to set forth the most recent version of the Investment Policy Statement for the FRS Defined Benefit Plan.

RULEMAKING AUTHORITY: 215.52 FS.

LAW IMPLEMENTED: 215.44, 215.45, 215.47, 215.475 FS.

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tina.joanos@sbafla.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Ruth A. Smith, Assistant General Counsel, Office of the General Counsel, State Board of Administration, 1801 Hermitage Blvd., Tallahassee, FL 32308, (850)413-1182, ruth.smith@sbafla.com

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DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.:	RULE TITLE:
64B8-35.002	Standards for Protocols
PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to update the rule so that it is consistent with the Board of Nursing’s rule regarding ARNP protocols.	

SUBJECT AREA TO BE ADDRESSED: Update of the rule with regard to filing of the ARNP protocol.

RULEMAKING AUTHORITY: 458.348(2), 458.309 FS.

LAW IMPLEMENTED: 458.348(2) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Allison M. Dudley, J.D., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

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

**Section II
Proposed Rules**

NONE

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE NO.: RULE TITLE:
5E-2.041 Materials Incorporated by Reference
NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 38, No. 93, December 18, 2012 issue of the Florida Administrative Register.

- (1) No change.
- (a) No change.
- (b) Field Advisory Notice (FDACS-13374 Rev. 02/13 ~~08/12~~), <http://www.flrules.org/Gateway/reference>
- (c) through (e) No change.
- (f) Worker Protection Standard Inspection Form (FDACS-13240 Rev. 02/13 ~~08/12~~), <http://www.flrules.org/Gateway/reference>.

Rulemaking Authority 570.07 (23) FS. Law Implemented 570.07 ~~(22), 487.031, 487.03, 487.048, 487.071, 487.081, 487.159, 487.2041, 504.14, 576.051, 578.11, 580.036, 580.36~~ FS. History—New _____.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE NO.: RULE TITLE:
5E-3.020 Commercial Feed Sales Quarterly
Reporting
NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 38, No. 93, December 18, 2012 issue of the Florida Administrative Register.

- (1) through (3) No change.
- ~~(4) A Distributor who fails to timely file a quarterly tonnage distribution report required by (1) or that makes false statements on a report submitted to the Department is subject to one or more of the penalties provided in Section 580.121, Florida Statutes.~~

Rulemaking Authority 570.07(23), 580.036(2) FS. Law Implemented 580.041 FS. History—New _____.

DEPARTMENT OF ELDER AFFAIRS

Federal Aging Programs

<p>RULE NOS.:</p> <p>58A-5.0131</p> <p>58A-5.014</p> <p>58A-5.016</p> <p>58A-5.0181</p> <p>58A-5.0182</p> <p>58A-5.0185</p> <p>58A-5.0186</p> <p>58A-5.019</p> <p>58A-5.0191</p> <p>58A-5.0194</p> <p>58A-5.020</p> <p>58A-5.021</p> <p>58A-5.023</p> <p>58A-5.024</p> <p>58A-5.026</p> <p>58A-5.029</p> <p>58A-5.030</p> <p>58A-5.033</p>	<p>RULE TITLES:</p> <p>Definitions</p> <p>License Application, Change of Ownership, and Provisional Licenses</p> <p>License Requirements</p> <p>Admission Procedures, Appropriateness of Placement and Continued Residency Criteria</p> <p>Resident Care Standards</p> <p>Medication Practices</p> <p>Do Not Resuscitate Orders (DNROs)</p> <p>Staffing Standards</p> <p>Staff Training Requirements and Competency Test</p> <p>Alzheimer's Disease or Related Disorders Training Provider and Curriculum Approval</p> <p>Food Service Standards</p> <p>Fiscal Standards</p> <p>Physical Plant Standards</p> <p>Records</p> <p>Emergency Management</p> <p>Limited Mental Health</p> <p>Extended Congregate Care Services</p> <p>Administrative Enforcement</p>
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NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 38, No. 76, November 21, 2012 issue of the Florida Administrative Register. The changes are in response to input received at public hearings held on the proposed rules on November 28, 2012 in Tallahassee, Florida; on December 4, 2012 in Tampa, Florida; and on December 6, 2012, in Fort Lauderdale, Florida. No additional hearings were requested pursuant to Section 120.54(3)(c)1., F.S. The Department considered the testimony of the parties at the hearings, as well as suggestions made by the Joint Administrative Procedures Committee, and determined that the following changes are appropriate.

Rules 58A-5.0131, 58A-5.014, 58A-5.016, 58A-5.0181, 58A-5.0182, 58A-5.0185, 58A-5.0186, 58A-5.019, 58A-5.0191, 58A-5.0194, 58A-5.020, 58A-5.021, 58A-5.023, 58A-5.024, 58A-5.026, 58A-5.029, 58A-5.030, and 58A-5.033, F.A.C., are amended to read:

58A-5.0131 Definitions.

In addition to the terms defined in Section 429.02, F.S., the following definitions are applicable in this rule chapter:

- (1) through (11) No change.

(12) "Direct care staff" means staff providing personal or nursing services to residents, including ~~or~~ administrators and managers providing such services.

(13) through (16) No change.

~~(17) "Hold itself out" means making any personal, verbal, telephone, mail contact, or other communication to a person or any announcement, solicitation, display, or advertisement to inform the general public of the services provided by the facility.~~

~~(17)(18) "Licensed dietitian/nutritionist" means a dietitian or nutritionist licensed in accordance with Section 468.509, F.S.~~

~~(18)(19) "Long-term care ombudsman program (LTCOP)" means the long-term care ombudsman program established under Part I, Chapter 400, F.S.~~

~~(19)(20) "Manager" means an individual who is responsible for the operation and maintenance of an assisted living facility while under the supervision of the administrator of that facility.~~

~~(20)(21) "Mental illness", for the purposes of identifying a mental health resident, means schizophrenia ~~schizophrenic~~ and other psychotic disorders; affective disorders; anxiety related disorders; and personality and dissociative disorders. However, mental illness does not include residents with a primary diagnosis of Alzheimer's disease, other dementias, or mental retardation.~~

~~(21)(22) "Mental health care provider" means:~~

~~(a) aAn individual, agency, or organization providing mental health services to clients of the Department of Children and Families;~~

~~(b) aAn individual licensed by the state to provide mental health services; or~~

~~(c) aAn entity ~~agency or organization~~ employing or contracting with individuals licensed by the state to provide mental health services.~~

~~(22)(23) "Mental health case manager" means a case manager employed by or under contract to a mental health care provider to assist mental health residents residing in a facility holding a limited mental health license. A private mental health care provider may serve as a resident's mental health case manager.~~

~~(23)(24) "Newly licensed" means a new facility which is licensed for the first time. The term does not apply to an existing facility that has undergone a change of ownership.~~

~~(24)(25) "Nurse" means a licensed practical nurse (LPN), registered nurse (RN), or advanced registered nurse practitioner (ARNP) licensed under Chapter 464, F.S.~~

~~(25)(26) "Nursing assessment" means a written review of information collected from observation of and interaction with a resident, the resident's record, and any other relevant sources, the analysis of the information, and recommendations for modification of the resident's care, if warranted.~~

~~(26)(27) "Nursing progress notes" or "progress report" means a written record of nursing services, other than medication administration or the taking of vital signs, provided to each resident who receives such services pursuant to a limited nursing or extended congregate care license. The progress notes shall be completed by the nurse who delivered the service and shall describe the date, type, scope, amount, duration, and outcome of services that are rendered; the general status of the resident's health; any deviations; any contact with the resident's physician; and shall contain the signature and credential initials of the person rendering the service.~~

~~(27)(28) "Optional state supplementation (OSS)" means the state program providing monthly payments to eligible residents pursuant to Section 409.212, F.S., and Rule Chapter 65A-2, F.A.C.~~

~~(28)(29) "Owner" means the person, partnership, association, limited liability company, or corporation, which owns or leases the facility, and is licensed by the agency. The term does not include a person, partnership, association, limited liability company, or corporation which contracts only to manage or operate the facility.~~

~~(29)(30) "Physician" means an individual licensed under Chapter 458 or 459, F.S.~~

~~(30)(31) "Registered dietitian" means an individual registered with the Commission on Dietetic Registration, the accrediting body of the Academy of Nutrition and Dietetics.~~

~~(31)(32) "Renovation" means additions, repairs, restorations, or other improvements to the physical plant of the facility within a 5 year period that costs in excess of 50 percent of the value of the building as reported on the tax rolls, excluding land, before the renovation.~~

~~(32)(33) "Respite care" means facility-based supervision of an impaired adult for the purpose of relieving the primary caregiver.~~

~~(33)(34) "Significant change" means a sudden or major shift in behavior or mood, or a deterioration in health status such as unplanned weight change, stroke, heart condition, or stage 2, 3, or 4 pressure sore. Ordinary day-to-day fluctuations in functioning and behavior, a short-term illness such as a cold, or the gradual deterioration in the ability to carry out the activities of daily living that accompanies the aging process are not considered significant changes.~~

~~(34)(35) "Staff" means any individual employed by a facility; or contracting with a facility to provide direct or indirect services to residents; or employees of firms under contract to the facility to provide direct or indirect services to residents when present in the facility. The term includes volunteers performing any service which counts toward meeting any staffing requirement of this rule chapter.~~

~~(35)(36) "Staff in regular contact" means all staff who do not provide direct care to residents, but whose duties ~~may take them into resident living areas and~~ may require them to interact with, ~~or have direct contact with,~~ residents on a daily basis.~~

~~(37)~~ “Staff with incidental contact” means all staff who do not provide direct care to residents, and whose duties do not take them into resident living areas or require them to interact with residents on a daily basis.

~~(36)(38)~~ “Third Party” means any individual or business entity providing services to residents who is not staff of the facility.

~~(37)(39)~~ “Unscheduled service need” means a need for a personal service, nursing service, or mental health intervention which generally cannot be predicted in advance of the need for service, and which must be met promptly within a time frame which provides reasonable assurance that the health, safety, and welfare of all residents is preserved.

Rulemaking Authority 429.23, 429.41 FS. Law Implemented 429.07, 429.075, 429.11, 429.14, ~~429.178~~, 429.19, ~~429.255~~, ~~429.23~~, ~~429.28~~, New 9-30-92, Formerly 10A-5.0131, Amended 10-30-95, 6-2-96, 4-20-98, 10-17-99, 1-9-02, 7-30-06, 4-15-10, _____.

58A-5.014 Licensing and Change of Ownership.

(1) through (4) No change.

Rulemaking Authority 429.17, 429.27, 429.275, 429.41 FS. Law Implemented 429.07, 429.12, 429.17, ~~429.20~~, 429.27, ~~429.275~~, 429.41 FS. History—New 5-14-81, Amended 1-6-82, 5-19-83, 9-17-84, Formerly 10A-5.14, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.014, Amended 10-30-95, 4-20-98, 10-17-99, 7-30-06, _____.

58A-5.016 License Requirements.

(1) SERVICE PROHIBITION. An assisted living facility may not ~~represent that it provides~~ ~~hold itself out to the public as providing~~ any service other than a service for which it is licensed to provide.

(2) through (6) No change.

Rulemaking Authority 429.41 FS. Law Implemented 429.41, 429.44, 429.445 FS. History—New 5-15-81, Amended 1-6-82, 9-17-84, Formerly 10A-5.16, Amended 6-21-88, 9-30-92, Formerly 10A-5.016, Amended 10-30-95, 10-17-99, 7-30-06, 4-15-10, _____.

58A-5.0181 Admission Procedures, Appropriateness of Placement and Continued Residency Criteria.

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

(j) Not have any stage 3 or 4 pressure sores. A resident requiring care of a stage 2 pressure sore may be admitted provided that:

1. Such resident either:

a. Resides in a standard licensed facility and contracts directly with a licensed home health agency or a nurse to provide care, or

b. Resides in a limited nursing services licensed facility and services are provided pursuant to a plan of care issued by a health care provider, or the resident contracts directly with a licensed home health agency or a nurse to provide care

The facility has a limited nursing services license and services are provided pursuant to a plan of care issued by a licensed health care provider, or the resident contracts directly with a licensed home health agency or a nurse to facility provide care;

2. The condition is documented in the resident’s record; and

3. If the resident’s condition fails to improve within 30 days, as documented by a licensed health care provider, the resident shall be discharged from the facility.

(k) through (o) No change.

(p) A resident who otherwise meets the admission criteria for residency in a standard licensed facility, but who requires assistance with the administration and regulation of portable oxygen, assistance with routine colostomy care, or assistance and monitoring of the application of and anti-embolism stockings or hosiery as prescribed by a health care provider in accordance with manufacturer’s guidelines, and who otherwise meets the admission criteria, may be admitted to the a facility with a standard license as long as the facility has a ~~registered~~ nurse on staff or under contract to perform the services.

1. The facility must have a ~~licensed~~ nurse on staff or under contract to provide the ongoing assistance or training to the resident to perform these functions.

2. Nursing staff may not provide training to unlicensed persons to perform skilled nursing services, and shall not delegate the nursing services described in this section to certified nursing assistants or unlicensed persons as defined in Section 429.256(1)(b), F.S. Certified nursing assistants may not be delegated the nursing services described in this section, but may apply anti-embolism stockings or hosiery under the supervision of a nurse in accordance with paragraph 64B9-15.002(1)(e), F.A.C. This provision does not restrict a resident or a resident’s representative from contracting with a licensed third party to provide such ongoing assistance if the facility is agreeable to such an arrangement and the resident otherwise meets the criteria for admission and continued residency in a facility with a standard license.

(q) An individual admitted to and receiving services from a hospice may be admitted to an assisted living facility as long as the individual otherwise meets resident admission criteria.

(2) HEALTH ASSESSMENT. As part of the admission criteria, an individual must undergo a face-to-face medical examination completed by a ~~licensed~~ health care provider, as specified in either paragraph (a) or (b) of this subsection.

(a) A medical examination completed within 60 calendar days prior to the individual’s admission to a facility pursuant to Section 429.26(4), F.S. The examination must address the following:

(a)1. through 6. No change.

7. A statement on the day of the examination that, in the opinion of the examining ~~licensed~~ health care provider, the individual’s needs can be met in an assisted living facility; and

8. The date of the examination, and the name, signature, address, phone number, and license number of the examining ~~licensed~~ health care provider. The medical examination may be conducted by a currently ~~licensed~~ health care provider from another state.

(b) A medical examination completed after the resident's admission to the facility within 30 calendar days of the admission date. The examination must be recorded on AHCA Form 1823, Resident Health Assessment for Assisted Living Facilities, October 2010. The form is hereby incorporated by reference. A copy of AHCA Form 1823 may be obtained from the Agency Central Office or its website at http://ahca.myflorida.com/mchq/long_term_care/assisted_living/pdf/ahca_form_1823.pdf ~~www.fdhc.state.fl.us/MCHQ/Long_Term_Care/Assisted_living/pdf/AHCA_Form_1823%.pdf~~. ~~Faxed or electronic copies of the completed form are acceptable.~~ The form must be completed as follows:

1. The resident's ~~licensed~~ health care provider must complete all of the required information in Sections 1, Health Assessment, and 2, Self-Care and General Oversight Assessment.

a. Items on the form that may have been omitted by the ~~licensed~~ health care provider during the examination do not necessarily require an additional face-to-face examination for completion.

b. The facility may obtain the omitted information either verbally or in writing from the licensed health care provider. ~~A faxed copy of the completed form is acceptable.~~

c. Omitted information received verbally must be documented in the resident's record, including the name of the ~~licensed~~ health care provider, the name of the facility staff recording the information and the date the information was provided.

2. The facility administrator, or designee, must complete Section 3 of the form, Services Offered or Arranged by the Facility, or may use electronic documentation, which at a minimum includes the elements in Section 3. This requirement does not apply for residents receiving:

a. No change.

b. Services under community living support plans in facilities holding limited mental health licenses; and

~~e. Medicaid assistive care services; and~~

~~c. d. State-funded services.~~

(c) and (d) No change.

(e) An assessment that has been conducted through the Comprehensive, Assessment, Review and Evaluation for Long-Term Care Services (CARES) program may be substituted for the medical examination requirements of Section ~~429.26~~ ~~429.426~~, F.S., and this rule.

(f) Any orders for medications, nursing, therapeutic diets, or other services to be provided or supervised by the facility issued by the ~~licensed~~ health care provider conducting the medical examination may be attached to the health assessment.

A ~~licensed~~ health care provider may attach a do-not-resuscitate order for residents who do not wish cardiopulmonary resuscitation to be administered in the case of cardiac or respiratory arrest.

(g) A resident placed on a temporary emergency basis by the Department of Children and Families pursuant to Section 415.105 or 415.1051, F.S., shall be exempt from the examination requirements of this subsection for up to 30 days. However, a resident accepted for temporary emergency placement shall be entered on the facility's admission and discharge log and counted in the facility census; a facility may not exceed its licensed capacity in order to accept a such a resident. A medical examination must be conducted on any temporary emergency placement resident accepted for regular admission.

(3) No change.

(4) CONTINUED RESIDENCY. Except as follows in paragraphs (a) through (e) of this subsection, criteria for continued residency in any licensed facility shall be the same as the criteria for admission. As part of the continued residency criteria, a resident must have a face-to-face medical examination by a ~~licensed~~ health care provider at least every 3 years after the initial assessment, or after a significant change, whichever comes first. A significant change is defined in Rule 58A-5.0131, F.A.C. The results of the examination must be recorded on AHCA Form 1823, which is incorporated by reference in paragraph (2)(b) of this rule. The form must be completed in accordance with that paragraph.

(a) No change.

(b) A resident requiring care of a stage 2 pressure sore may be retained provided that:

1. The facility has a limited nursing services license and services are provided pursuant to a plan of care issued by a ~~licensed~~ health care provider, or the resident contracts directly with a licensed home health agency or a nurse to provide care;

2. No change.

3. If the resident's condition fails to improve within 30 days, as documented by a ~~licensed~~ health care provider, the resident shall be discharged from the facility.

(c) through (g) No change.

(5) DISCHARGE. If the resident no longer meets the criteria for continued residency, or the facility is unable to meet the resident's needs, as determined by the facility administrator or ~~licensed~~ health care provider, the resident shall be discharged in accordance with Section ~~429.28~~ ~~429.28(1)~~, F.S.

Rulemaking Authority 429.07, 429.41 FS. Law Implemented 429.07, 429.255, 429.26, 429.28, 429.41 FS. History—New 9-17-84, Formerly 10A-5.181, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.0181, Amended 10-30-95, 6-2-96, 10-17-99, 7-30-06, 10-9-06, 4-15-10, 10-14-10, _____.

58A-5.0182 Resident Care Standards.

An assisted living facility shall provide care and services appropriate to the needs of residents accepted for admission to the facility.

(1) through (6)(d) No change.

(e) Residents may not be required to perform any work in the facility without compensation, except that facility rules or the facility contract may include a requirement that residents be responsible for cleaning their own sleeping areas or apartments. If a resident is employed by the facility, the resident shall be compensated, at a minimum, at an hourly wage consistent with the federal minimum wage laws law.

(f) No change.

(g) In addition to the requirements of Section 429.41(1)(k), F.S. ~~429.41, F.S.~~, the use of physical restraints by a facility shall be reviewed by the resident's physician annually ~~biannually~~. Any device, including half-bed rails, which the resident chooses to use, and can remove or avoid without assistance, shall not be considered a physical restraint.

(7)(a) No change.

(b) ~~In instances W~~hen residents require or arrange for services from a third party provider, the facility administrator or designee must take action to assist in facilitating the provision of those services and coordinate with the provider to meet the specific service goals, unless residents or their representatives decline the assistance. ~~The declination of assistance must be reviewed at least annually.~~ These actions must be documented in the resident's record.

~~(e) In instances when residents or their representatives arrange for third party services, the facility administrator or designee, when requested by residents or representatives, must take action to assist in facilitating the provision of those services and coordinate with the provider to meet the specific service goals. These actions must be documented in the resident's record.~~

~~(c)(d)~~ The facility's facilitation and coordination as described under this subsection does not represent a guarantee that residents will receive third party services. If the facility's efforts at facilitation and coordination are unsuccessful, the facility should include this documentation in the resident's record, explaining the reason or reasons its efforts were unsuccessful, which will serve to demonstrate its compliance with this subsection.

(8)(a) and (8)(b) No change.

(c) Facility Resident Elopement Drills. The facility shall conduct and document resident elopement drills pursuant to Sections 429.41(1)(a)3. and 429.41(1)(l), F.S.

(9) No change.

Rulemaking Authority 429.41 FS. Law Implemented 429.255, ~~429.256~~, 429.26, 429.28, 429.41 FS. History—New 9-17-84, Formerly 10A-5.182, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.0182, Amended 10-30-95, 4-20-98, 11-2-98, 10-17-99, 7-30-06, 10-9-06, 4-15-10, _____.

58A-5.0185 Medication Practices.

Pursuant to Sections 429.255 and 429.256, F.S., and this rule, licensed facilities may assist with the self-administration or administration of medications to residents in a facility. A resident may not be compelled to take medications but may be counseled in accordance with this rule.

(1) through (2) No change.

(3)(a) No change.

(b) In addition to the specifications of Section 429.256(3), F.S., assistance with self-administration of medication includes verbally prompting a resident to take medications as prescribed, ~~retrieving and opening a properly labeled medication container, and reading aloud the medication label in the resident's presence.~~ Assistance with self administration of medication does not include the activities detailed in Section 429.256(4), F.S.

(c) through (e) No change.

(f) Assistance with self-administration of medication does not include the activities detailed in Section 429.256(4), F.S.

1. As used in Section 429.256(4)(h), F.S., the term "competent resident" means that the resident is cognizant of when a medication is required and understands the purpose for taking the medication.

2. As used in Section 429.256(4)(i), F.S., the terms "judgment" and "discretion" mean interpreting vital signs and evaluating or assessing a resident's condition.

~~(f) Pursuant to Section 429.256(4)(h), F.S., the term "competent resident" means that the resident is cognizant of when a medication is required and understands the purpose for taking the medication.~~

~~(g) Pursuant to Section 429.256(4)(i), F.S., the terms "judgment" and "discretion" mean interpreting vital signs and evaluating or assessing a resident's condition.~~

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

(d) A facility which performs clinical laboratory tests for residents, including blood glucose testing, must be in compliance with the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA) and Part I of Chapter 483, F.S. A valid copy of the State Clinical Laboratory License, if required, and the federal CLIA Certificate must be maintained in the facility. A state license or federal CLIA certificate is not required if residents perform the test themselves, or if a third party assists residents in performing the test. The facility is not required to maintain a State Clinical Laboratory License or a federal CLIA Certificate if facility staff assist residents in performing clinical laboratory testing with the residents' own equipment. Information about the State Clinical Laboratory License and federal CLIA Certificate is available from the Clinical Laboratory Licensure Unit, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 32, Tallahassee, FL 32308; telephone (850)412-4500.

(5) through (7)(d) No change.

(e) A nurse may take a medication order by telephone. Such order must be promptly documented in the resident's medication observation record. The facility must obtain a written medication order from the health care provider within 10 working days. A faxed or electronic copy of a signed order is acceptable.

(f) through (g) No change.

(h) Pursuant to Section 465.0276(2)(c), F.S., before dispensing any sample or complimentary prescription drug, the resident's health care provider shall provide the resident with a written prescription, or a faxed or electronic ~~fax~~ copy of such order.

(8) OVER THE COUNTER (OTC) PRODUCTS. For purposes of this subsection, the term OTC includes, but is not limited to, OTC medications, vitamins, nutritional supplements and nutraceuticals, hereafter referred to as OTC products, which can be sold without a prescription.

(a) No change.

(b) OTC products, including those prescribed by a ~~licensed~~ health care provider, must be labeled with the resident's name and the manufacturer's label with directions for use, or the ~~licensed~~ health care provider's directions for use. No other labeling requirements are necessary nor should be required.

(c) No change.

(d) A facility cannot require a ~~licensed~~ health care provider's order for all OTC products when a resident self-administers his or her own medications, or when staff provides assistance with self-administration of medications pursuant to Section 429.256, F.S. A ~~licensed~~ health care provider's order is required when a ~~licensed~~ nurse provides assistance with self-administration or administration of medications, which includes OTC products. When such an order for an OTC product exists, only the requirements of paragraphs (b) and (c) of this subsection are required.

Rulemaking Authority 429.256, 429.41 FS. Law Implemented 429.255, 429.256, 429.41 FS. History—New 10-17-99, Amended 7-30-06, 4-15-10, 10-14-10, _____.

58A-5.0186 Do Not Resuscitate Orders (DNROs).

(1) POLICIES AND PROCEDURES.

(a) Each assisted living facility must have written policies and procedures, which delineate its position with respect to state laws and rules relative to Do Not Resuscitate Orders (DNROs). The policies and procedures shall not condition treatment or admission upon whether or not the individual has executed or waived a DNRO. The assisted living facility must provide the following to each resident, or resident's representative, at the time of admission:

1. No change.

2. DH Form 1896, Florida Do Not Resuscitate Order Form, December, 2004, which is hereby incorporated by reference ~~in Rule 64J-2.018, F.A.C.~~, along with the DH

informational pamphlet for DH Form 1896. This form may be obtained online at: <http://www.doh.state.fl.us/demo/trauma/PDFs/DNROFormMultiLingual2004.pdf>.

(b) through (c) No change.

(2) No change.

(3) DNRO PROCEDURES. Pursuant to Section 429.255, F.S., an assisted living facility must honor a properly executed DH Form 1896 as follows:

(a) In the event a resident experiences cardiopulmonary arrest, staff trained in cardiopulmonary resuscitation (CPR); or a ~~licensed~~ health care provider present in the facility; may withhold cardiopulmonary resuscitation.

(b) No change.

~~(4) LIABILITY. Pursuant to Section 429.255, F.S., assisted living facility providers shall not be subject to criminal prosecution or civil liability, nor be considered to have engaged in negligent or unprofessional conduct, for following the procedures set forth in subsection (3) of this rule, which involves withholding or withdrawing cardiopulmonary resuscitation pursuant to a properly executed Do Not Resuscitate Order (DH Form 1896) and rules adopted by the department.~~

Rulemaking Authority 429.255 FS. Law Implemented 429.255 FS. History—New 4-15-10, Amended _____.

58A-5.019 Staffing Standards.

(1) ADMINISTRATORS. Every facility must be under the supervision of an administrator who is responsible for the operation and maintenance of the facility including the management of all staff and the provision of adequate care to all residents as required by Part II, Chapter 408, F.S., Part I, Chapter 429, F.S., Rule Chapter 59A-35, F.A.C., and this rule chapter.

(a) An administrator must:

1. No change.

2. If employed on or after October 30, 1995, have at a minimum, a high school diploma or G.E.D.;

3. No change.

4. Complete the core training and core competency test requirements pursuant to Rule 58A-5.0191, F.A.C., no later than 30 days after becoming employed as a facility administrator. Individuals who have successfully completed these requirements prior to July 1, 2014 are not required to retake either the training or testing required unless specified elsewhere in this rule.

5. Satisfy the continuing education requirements pursuant to Rule 58A-5.0191, F.A.C. Administrators who are not in compliance with these requirements must retake the core training and core competency test requirements in effect at the time of non-compliance.

(b) In the event of extenuating circumstances, such as the death of a facility administrator, the agency may permit an individual who otherwise has not satisfied the ~~background~~

~~screening or~~ training requirements of subparagraphs (1)(a)4. (1)(a)3. and 4. of this rule to temporarily serve as the facility administrator for a period not to exceed 90 days. During the 90 day period, the individual temporarily serving as facility administrator must:

~~1. Obtain compliance with Level 2 background screening requirements pursuant to Sections 408.809 and 429.174, F.S.;~~

~~1.2.~~ Complete the core training and core competency test requirements pursuant to Rule 58A-5.0191, F.A.C.; and

~~2.3.~~ Complete all additional training requirements if the facility maintains licensure as an extended congregate care or limited mental health facility.

(c) Administrators may supervise a maximum of either three assisted living facilities, or a combination of housing and health care facilities or agencies on a single campus. Administrators who supervise more than one facility shall appoint in writing a separate manager for each facility. However, an administrator supervising a maximum of three assisted living facilities, each licensed for 16 or fewer beds and all within a 15 mile radius of each other, is only required to appoint one manager to assist in the operation and maintenance of those facilities.

(d) An individual serving as a manager must satisfy the same qualifications, background screening, ~~and~~ core training and competency test requirements, and continuing education requirements of an administrator pursuant to paragraph (1)(a) of this rule. In addition, a manager may not serve as a manager of more than a single facility, except as provided in paragraph (1)(c) of this rule, and may not simultaneously serve as an administrator of any other facility.

(e) Pursuant to Section 429.176, F.S., facility owners shall notify the Agency Central Office within 10 days of a change in facility administrator on the Notification of Change of Administrator form, AHCA Form 3180-1006, October 2007 January 2006, which is incorporated by reference and available online at: http://ahca.myflorida.com/MCHO/Corebill/AssistedLivingFacility/FORM_ALF_Notification_of_change_of_administrator.doc <http://www.ahca.myflorida.com/Publications/Forms/HQA.shtml>.

(2) STAFF.

(a) Within 30 days after beginning employment, newly hired staff must submit a written statement from a health care provider documenting that the individual does not have signs or symptoms of a communicable disease, including tuberculosis. The examination performed by the health care provider must have been conducted no earlier than 6 months prior to submission of the statement. Freedom from tuberculosis must be documented on an annual basis. A person with a positive tuberculosis test must submit a health care provider's statement that the person does not constitute a risk of communicating tuberculosis. Newly hired staff does not include an employee transferring, without a break in service, from one facility to another when the facility is under the same

management or ownership. If any staff member has, or is suspected of having, a communicable disease, such individual shall be immediately removed from duties until providing a written statement from a health care provider indicating that the individual does not constitute a risk of transmitting a communicable disease.

(b) through (e) No change.

(f) Level 2 background screening must be conducted for staff, including staff contracted by the facility to provide services to residents, pursuant to Sections 408.809 and 429.174, F.S.

(3) STAFFING STANDARDS.

(a) Minimum staffing:

1. No change.

2. Independent living residents, as referenced in Rule 58A-5.024(3), F.A.C., who occupy beds included within the licensed capacity of an assisted living facility and who receive no personal, limited nursing, or extended congregate care services, shall not be counted as a resident for purposes of computing minimum staff hours.

3. through 4. No change.

5. A staff member who has completed courses in First Aid and Cardiopulmonary Resuscitation (CPR), and who holds a currently valid card documenting completion of such courses, must be in the facility at all times.

a. No change.

b. A ~~licensed~~ nurse shall be considered as having met the course requirements for both First Aid and CPR. In addition, an emergency medical technician or paramedic currently certified under Part III, Chapter 401, F.S., shall be considered as having met the course requirements for both First Aid and CPR.

6. through 9. No change.

(b) through (c) No change.

(d) The facility shall be required to provide staff immediately when the agency determines that the requirements of paragraph (a) are not met. The facility shall also be required to immediately increase staff above the minimum levels established in paragraph (a) if the agency determines that adequate supervision and care are not being provided to residents, resident care standards described in Rule 58A-5.0182, F.A.C., are not being met, or that the facility is failing to meet the terms of residents' contracts. The agency shall consult with the facility administrator and residents regarding any determination that additional staff is required. Based on the recommendations of the local fire safety authority, the agency may require additional staff when the facility fails to meet the fire safety standards described in Section 429.41(1)(a), F.S., and Rule Chapter 69A-40, F.A.C., until such time as the local fire safety authority informs the agency that fire safety requirements are being met.

1. When additional staff is required above the minimum, the agency ~~shall~~ ~~may~~ require the submission, within the time specified in the notification, of a corrective action plan indicating how the increased staffing is to be achieved and resident service needs met. The plan will be reviewed by the agency to determine if the plan will increase the staff to needed levels and meet resident needs.

2. No change.

~~3. Based on the recommendations of the local fire safety authority, the agency may require additional staff when the facility fails to meet the fire safety standards described in Section 429.41, F.S., and Rule Chapter 69A 40, F.A.C., until such time as the local fire safety authority informs the agency that fire safety requirements are being met.~~

(e) through (f) No change.

Rulemaking Authority 429.275, 429.41, 429.52 FS. Law Implemented 429.174, ~~429.176, 429.275~~, 429.41, 429.52 FS. History--New 5-14-81, Amended 1-6-82, 9-17-84, Formerly 10A-5.19, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.019, Amended 10-30-95, 4-20-98, 11-2-98, 10-17-99, 7-30-06, 4-15-10, _____.

58A-5.0191 Administrator, Manager, and Staff Training Requirements.

Administrators, managers, and staff must satisfy the minimum training, testing, continuing education, and documentation requirements as specified in this rule.

(1) ALL FACILITY STAFF. All facility staff, regardless of responsibilities or duties, must satisfy the following requirements within 30 days of beginning employment:

(a) through (b) No change.

(c) Completion of in-service training relating to at least 1 hour of training on the facility's policies and procedures regarding Do Not Resuscitate Orders (DNROs).

(2) ADMINISTRATORS AND MANAGERS. Administrators and managers must satisfy the training requirements as stated below.

(a) Core Training. Completion of a qualified an approved assisted living facility core training course consisting of a minimum of 40 hours of training. ~~The course and the training provider must be approved by the department.~~ Completion of a qualified an approved core training course is required before ~~prior to~~ registering for the core competency test. A listing of approved courses and training providers and qualified courses may be obtained from <http://elderaffairs.state.fl.us/doea/alf.php> or <http://www.alf.usf.edu>.

(b) Core Competency Test. Successful passage of the core competency test ~~no later than 30 days after becoming employed as a facility administrator or manager, and~~ within 24 6 months of completing a qualified an approved core training course. The overall minimum passing score for each module of the competency test is 75%. Registration information for the

core competency test may be obtained from the ALF Core Competency Testing Office at <http://www.alf.usf.edu>, or by calling (813)974-2571.

1. Administrators and managers who fail to pass the core competency test after three attempts must retake a qualified an approved 40 hour core training course before ~~prior to~~ retaking the core competency test.

2. No change.

3. Before July 1, 2014, any individual registering to take the core competency test must have completed a qualified 26 hour core training course, obtained from an approved training provider listed at <http://elderaffairs.state.fl.us/doea/alf.php> or <http://www.alf.usf.edu>. On or after July 1, 2014, any individual registering to take the core competency test must have completed a qualified 40 hour core training course, as provided above.

(c) Initial Specialty License Training. Administrators and managers of facilities holding the following specialty licenses must satisfy the specific training identified below:

1. No change.

2. Limited Mental Health. Completion of a minimum of 6 hours of training in working with individuals with mental health diagnoses, and successful passage of a limited mental health competency test, within 6 months of the facility's receiving an initial limited mental health license, or within 30 days of beginning employment in a facility with an existing limited mental health license. ~~The training course may be offered online by the Department of Children and Families or, if conducted in a group setting, must be provided by a registered trainer approved by the Department of Children and Families, or its designee. The minimum passing score for each module of the limited mental health competency test is 75%.~~

a. Beginning December 1, 2013, the training course will be offered online by the Department of Children and Families or, if conducted in a group setting, must be provided by a trainer approved by the Department of Children and Families, or its designee.

b. Passage of the limited mental health competency test is required beginning December 1, 2013, and the minimum passing score for each module of the test is 75%. Administrators and managers who begin employment at a facility with a limited mental health license before December 1, 2013 and who have completed a minimum of 6 hours of training in working with individuals with mental health diagnoses are not required to pass the limited mental health competency test.

(d) Continuing Education. Completion of 18 hours of continuing education every 2 years in topics related to the core training curriculum as specified in DOEA Form ALFCT-001, Assisted Living Facility Minimum Core Training Curriculum, June 2009, incorporated in Rule 58T-1.205, F.A.C., or other topics relating to the operation and maintenance of an assisted

living facility and the care of residents residing in assisted living facilities. Continuing education must be obtained from courses or workshops offered by providers as specified below.

1. Continuing Education Providers. Continuing education hours must ~~may~~ be obtained from ~~any~~ of the following providers:

a. through b. No change.

c. Providers and courses registered within the continuing education tracking databases maintained by the department, the agency, or the Department of Health;

d. No change.

e. Courses and workshops approved by the department and offered by associations representing assisting living facilities.

~~f.~~ For training related to food services, continuing education may be obtained from a certified food manager, certified dietary manager, registered or licensed dietitian, dietetic registered technician, or health department sanitarian; or

g.f. For training related to nutrition, continuing education may be obtained from a certified food manager, certified dietary manager, registered or licensed dietitian, or dietetic registered technician.

2. through 4. No change.

(3) STAFF INTERACTING WITH RESIDENTS. Direct care staff, other than administrators and managers who have satisfied the training requirements of subsection (2) of this rule, must satisfy the training requirements as stated below. Additionally, staff in regular contact with residents must satisfy the limited mental health training specified in subparagraph (3)(c)2. below.

(a) Pre-Service Training. Facility administrators or managers must provide or arrange through approved providers as set forth in subparagraph (2)(d)1. of this rule, a minimum of 1 hour of training for direct care staff relating to infection control, universal precautions, and facility sanitation procedures.

1. No change.

2. Documentation of compliance with the staff training requirements of 29 CFR 1910.1030, relating to blood borne pathogens, July 2012, which is hereby incorporated by reference and available at: <http://www.gpo.gov/fdsys/pkg/CFR-2012-title29-vol6/pdf/CFR-2012-title29-vol6-sec1910-1030.pdf>, may be used to meet this requirement.

3. No change.

(b) No change.

(c) Specialty License Training.

1. Extended Congregate Care. All direct care staff providing care to residents receiving in an extended congregate care services program must complete at least 2 hours of in-service training, provided by the facility administrator or manager, within 30 days of beginning employment in the facility. The training must address extended congregate care

concepts and requirements, including statutory and rule requirements, and delivery of personal care and supportive services in an extended congregate care facility.

2. Limited Mental Health. Direct care staff and staff in regular contact with mental health residents must complete a minimum of 6 hours of training in working with individuals with mental health diagnoses, and must successfully pass a limited mental health competency test, within 6 months of the facility's receiving an initial limited mental health license, or within 30 days of beginning employment in a facility with an existing limited mental health license. ~~The training course may be offered online by the Department of Children and Families or, if conducted in a group setting, must be provided by a registered trainer approved by the Department of Children and Families, or its designee. The minimum passing score for each module of the limited mental health competency test is 75%.~~

a. Beginning December 1, 2013, the training course will be offered online by the Department of Children and Families or, if conducted in a group setting, must be provided by a trainer approved by the Department of Children and Families, or its designee.

b. Passage of the limited mental health competency test is required beginning December 1, 2013, and the minimum passing score for each module of the test is 75%. Direct care staff and staff in regular contact with mental health residents who begin employment at a facility with a limited mental health license before December 1, 2013 and who have completed a minimum of 6 hours of training in working with individuals with mental health diagnoses are not required to pass the limited mental health competency test.

(d) No change.

(4) ADDITIONAL TRAINING REQUIREMENTS FOR ADMINISTRATORS, MANAGERS AND STAFF. Additional training requirements for administrators, managers, and staff are specified below.

(a) Alzheimer's Disease or Related Disorders ("ADRD") Training. Facilities ~~advertised as~~ providing special care for persons with ADRD, or which maintain secured areas as described in Chapter 4, Section 434.4.6 of the Florida Building Code, as adopted in Rule 61G20-1.001, F.A.C., must ensure that facility staff ~~receives~~ receive the following training.

1. Individuals other than direct care staff or staff in regular contact ~~Staff with incidental contact with~~ residents with ADRD must receive general written information provided by the facility on interacting with such residents within 3 months of beginning employment.

2. through 6. No change.

(b) Assistance With Self-Administered Medication Training. Unlicensed persons, as defined in Section 429.256(1)(b), F.S., who provide assistance with self-administered medications as described in Rule 58A-5.0185, F.A.C., must complete 6 hours of training provided by a registered nurse, licensed pharmacist, or

department staff prior to assuming this responsibility. Training shall include demonstrations of proper techniques and provide opportunities for hands-on learning through practice exercises. Unlicensed persons who have received a training certificate demonstrating successful completion of a 4 hour course before the effective date of this rule are not required to retake the initial 6 hour training.

1. Courses provided in fulfillment of this requirement must address the following subject areas:

a. State law and rule requirements with respect to recognizing the differences between providing assistance with the self-administration of medications and the supervision, ~~assistance,~~ administration, and management of medications in assisted living facilities;

b. through h. No change.

2. A training certificate will be issued to a trainee after successfully demonstrating the ~~demonstrating an~~ ability to provide assistance with self-administration, including the ability to:

a. No change.

b. Assist with oral dosage forms, topical dosage forms, and topical ophthalmic, otic, and nasal dosage forms, including solutions, suspensions, sprays, and inhalers;

c. through h. No change.

3. Continuing education. Unlicensed persons who provide assistance with self-administered medications, and who have successfully completed the initial 6 hour training, must obtain annually a minimum of 2 hours of continuing education in topics relating to providing assistance with self-administered medications and safe medication practices in an assisted living facility. The 2 hours of continuing education may only be provided by a registered nurse, licensed pharmacist, or department staff.

(c) No change.

(5) No change.

Rulemaking Authority 429.178, 429.41, 429.52 FS. Law Implemented 429.07, 429.075, 429.178, 429.256, ~~429.28~~, 429.41, 429.52 FS. History—New 9-30-92, Formerly 10A-5.0191, Amended 10-30-95, 6-2-96, 4-20-98, 11-2-98, 10-17-99, 7-5-05, 7-30-06, 10-9-06, 7-1-08, 4-15-10, _____.

58A-5.0194 Alzheimer’s Disease or Related Disorders Training Provider and Curriculum Approval.

(1) The Alzheimer’s Disease or Related Disorders (“ADRD”) training provider and curriculum shall be approved by the department or its designee prior to commencing training activities. The department or its designee shall maintain a list of approved ADRD training providers and curricula, which may be obtained from <http://trainingonaging.usf.edu/products/atc/>.

(a) ADRD Training Providers.

1. through a. No change.

b. A Bachelor’s degree from an accredited college or university, or licensure as a registered nurse, and:

(i) through (iii) No change.

c. No change.

2. No change.

(b) No change.

(2) through (5) No change.

Rulemaking Authority 429.178 FS. Law Implemented 429.178 FS. History—New _____, Formerly 58A-5.0191.

58A-5.020 Food Service Standards.

(1) GENERAL RESPONSIBILITIES. When food service is provided by the facility, the administrator or an individual designated in writing by the administrator must be responsible for total food services and the day-to-day supervision of food services staff. In addition, the following requirements apply:

(a) and (b) No change.

(c) An administrator, manager, or designee must perform his or her duties in a safe and sanitary manner.

(d) An administrator, manager, or designee must provide regular meals which meet the nutritional needs of residents, and therapeutic diets as ordered by the resident’s health care provider for residents who require special diets.

(e) No change.

(2) DIETARY STANDARDS.

(a) The meals provided by the assisted living facility must be planned based on the current USDA Dietary Guidelines for Americans, 2010, which are incorporated by reference and available for review at: <http://health.gov/dietaryguidelines/dga2010/DietaryGuidelines2010.pdf>, and the current summary of Dietary Reference Intakes established by the Food and Nutrition Board of the Institute of Medicine of the National Academies, 2010, which are incorporated by reference and available for review at: http://www.iom.edu/Activities/Nutrition/SummaryDRIs/~media/Files/Activity%20Files/Nutrition/DRIs/5_Summary%20Table%20Tables%201-4.pdf Academy of Sciences. Therapeutic diets must meet these nutritional standards to the extent possible.

(b) through (h) No change.

(3) through (4) No change.

Rulemaking Authority 429.41 FS. Law Implemented 429.41, 429.52 FS. History—New 5-14-81, Amended 1-6-82, 5-19-83, 9-17-84, Formerly 10A-5.20, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.020, Amended 10-30-95, 6-2-96, 10-17-99, _____.

58A-5.021 Fiscal Standards.

(1) through (2) No change.

(3) SURETY BONDS. In addition Pursuant to the requirements of Section 429.27(2), F.S.:

(a) For entities corporations which own more than one facility in the state, one surety bond may be purchased to cover the needs of all residents served by the entity corporation.

~~1. If serving as representative payee for residents who receive OSS, the minimum bond proceeds shall equal twice the supplemental security income or social security disability income plus the OSS payments, including the personal needs allowance.~~

~~2. If holding a power of attorney for residents who receive OSS, the minimum bond proceeds shall equal twice the supplemental security income or social security disability income; the OSS payments, including the personal allowance; plus the value of any resident property held at the facility.~~

(b) The following additional bonding requirements apply to facilities serving residents receiving OSS:

1. If serving as representative payee for a resident receiving OSS, the minimum bond proceeds shall equal twice the supplemental security income or social security disability income plus the OSS payments, including the personal needs allowance.

2. If holding a power of attorney for a resident receiving OSS, the minimum bond proceeds shall equal twice the supplemental security income or social security disability income; the OSS payments, including the personal allowance; plus the value of any resident property held at the facility.

~~(c)(b)~~ Upon the annual issuance of a new bond or continuation bond, the facility must file a copy of the bond with the Agency Central Office.

(4) No change.

Rulemaking Authority 429.24, 429.27, 429.275, 429.41 FS. Law Implemented 429.24, 429.27, 429.275 FS. History—New 5-14-81, Amended 1-6-82, 9-17-84, Formerly 10A-5.21, Amended 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.021, Amended 10-30-95, 6-2-96, 10-17-99,_____.

58A-5.023 Physical Plant Standards.

(1) NEW FACILITIES. Newly constructed facilities that are to be licensed as assisted living facilities, and existing structures not previously licensed as assisted living facilities that are to be converted to assisted living facilities, as well as any subsequent additions, modifications, alterations, renovations or refurbishing of such facilities, should be aware of the following standards:

(a) Chapter 4, Section 434, of the Florida Building Code, as adopted in Rule 61G20-1.001, F.A.C., ~~Florida Building Code Adopted~~; and

(b) Section 633.022, F.S., Uniform Firesafety Standards, and Rule Chapter 69A-40, F.A.C., The Uniform Fire Safety Standards for Assisted Living Facilities, ~~except for the specific National Fire Protection Association codes described in Section 429.41, F.S.~~

(c) The National Fire Protection Association codes described in Section 429.41, F.S.

(2) EXISTING FACILITIES.

(a) An assisted living facility must comply with the rule or building code in effect at the time of initial licensure, as well as the rule or building code in effect at the time of any and any part of the facility included in additions, modifications, alterations, refurbishing, renovations or reconstruction of an existing facility must comply with the codes and standards referenced in subsection (1) of this rule. Determination of the installation of a fire sprinkler system in an existing facility must comply with the requirements described in Section 429.41, F.S.

(b) No change.

(3) No change.

~~(4) FACILITIES WITH 16 OR FEWER RESIDENTS: Pursuant to Section 429.41, F.S., facilities with 16 or fewer residents are not required to maintain an accessible telephone in each building where residents reside, maintain written staff job descriptions, have awake night staff, or maintain standardized recipes as provided in Rules 58A-5.0182(6)(f), 58A-5.019(2)(e), 58A-5.019(3)(a)4., and 58A-5.020(2)(b), F.A.C., respectively.~~

Rulemaking Authority 429.41 FS. Law Implemented 429.27, 429.28, 429.41 FS. History—New 5-14-81, Amended 1-6-82, 5-19-83, 9-17-84, Formerly 10A-5.23, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.023, Amended 10-30-95, 6-2-96, 10-17-99, 7-30-06, 4-15-10,_____.

58A-5.024 Records.

The facility must maintain required records in a manner that makes such records readily available at the licensee’s physical address for review by a legally authorized entity. For purposes of this section, “readily available” means the ability to produce documents, records, or other such data, either by electronic or paper format, upon request. If records are maintained in an electronic format, facility staff must be able to access the data and produce requested information.

(1) through (2) No change.

(3) RESIDENT RECORDS. Resident records must be maintained on the premises, and include:

(a) No change.

(b) A copy of the Resident Health Assessment form, AHCA Form 1823, described in Rule 58A-5.0181, F.A.C.

(c) No change.

(d) Documentation relating to The signed statement from a resident’s refusal of resident who refuses a therapeutic diet pursuant to Rule 58A-5.020, F.A.C., if applicable.

(e) through (k) No change.

(l) If the resident is an OSS recipient, aA copy of Alternate Care Certification for Optional State Supplementation (OSS) Form, CF-ES 1006, October 2005, which is hereby incorporated by reference and available for review at: www.dcf.state.fl.us/DCFForms/Search/OpenDCFForm.aspx?FormId=72 if the resident is an OSS recipient. The absence of this form shall not be the basis for administrative action against

a facility if the facility can demonstrate that it has made a good faith effort to obtain the required documentation from the Department of Children and Families.

(m) through (o) No change.

(p) For beds included within the licensed capacity of an assisted living facility, ~~but~~ which are occupied by independent living residents ~~receiving who receive meals, but who are not receiving any~~ ~~no~~ personal, limited nursing, or extended congregate care services, ~~certain~~ record keeping ~~may be limited. Such record keeping for these independent living residents who receive meals may be limited to the following at the discretion of the facility:~~

1. through 5. No change.

(q) through (r) No change.

(4) No change.

Rulemaking Authority 429.275, 429.41 FS. Law Implemented 429.07, ~~429.075~~, 429.24, 429.255, 429.256, 429.26, 429.27, 429.275, ~~429.28~~, 429.35, 429.41, 429.52 FS. History—New 5-14-81, Amended 1-6-82, 5-19-83, 9-17-84, Formerly 10A-5.24, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.024, Amended 10-30-95, 4-20-98, 11-2-98, 10-17-99, 7-30-06, 10-9-06, _____.

58A-5.026 Emergency Management.

(1) No change.

(2) EMERGENCY PLAN APPROVAL. The plan must be submitted for review and approval to the local emergency management agency.

(a) ~~If the The~~ local emergency management agency ~~requires revisions to the emergency management plan, such has 60 days in which to review and approve the plan or advise the facility of necessary revisions. Any~~ revisions must be made, and the plan resubmitted to the local office of emergency management within 30 days of receiving notification from the local agency that the plan must be revised.

(b) through (e) No change.

(3) PLAN IMPLEMENTATION. In the event of an internal or external disaster, the facility must implement the facility's emergency management plan in accordance with Part I, Chapter 252, F.S.

(a) through (b) No change.

(4) through (5) No change.

Rulemaking Authority 429.41 FS. Law Implemented 429.41 FS. History—New 10-17-99, Amended 7-30-06, _____.

58A-5.029 Limited Mental Health.

(1) No change.

(a) through (b) No change.

(c) Resident records must include:

1. Documentation, provided by a mental health care provider within 30 days of the resident's admission to the facility, that the resident is a mental health resident as defined

in Section 394.4574, F.S., and that the resident is receiving social security disability or supplemental security income and optional state supplementation as follows:

a. An affirmative statement on the Alternate Care Certification for Optional State Supplementation (OSS) Form, CF-ES 1006, October 2005, which is hereby incorporated by reference and available for review at: www.dcf.state.fl.us/DCFForms/Search/OpenDCFForm.aspx?FormId=72 ~~from <http://www.def.state.fl.us>~~, that the resident is receiving SSI or SSDI due to a psychiatric disorder;

b. Written verification provided by the Social Security Administration that the resident is receiving SSI or SSDI for a mental illness. Such verification may be acquired from the Social Security Administration upon obtaining a release from the resident permitting the Social Security Administration to provide such information ~~to the Department of Children and Families~~; or

c. No change.

2. An appropriate placement assessment provided by the resident's mental health care provider within 30 days of admission to the facility, that the resident has been assessed and found appropriate for residence in an assisted living facility. Such assessment must be conducted by a psychiatrist, clinical psychologist, clinical social worker, psychiatric nurse, or person supervised by one of these professionals.

a. Any of the following documentation which contains the name of the resident and the name, signature, date, and license number, if applicable, of the person making the assessment, shall meet this requirement:

(i) Completed Alternate Care Certification for Optional State Supplementation (OSS) Form, CF-ES Form 1006, October 2005 available from www.dcf.state.fl.us/DCFForms/Search/OpenDCFForm.aspx?FormId=72 ~~<http://www.def.state.fl.us>~~;

(ii) through (iii) No change.

b. No change.

3. through 4. No change.

(3) RESPONSIBILITIES OF FACILITY. In addition to the staffing and care standards of this rule chapter to provide for the welfare of residents in an assisted living facility, a facility holding a limited mental health license must:

~~(a) Ensure that the residents who meet the criteria as a mental health resident are referred for case management and other mental health services as needed from either a public or private agency. If a resident refuses services, the facility must document the refusal and must request such refusal in writing;~~

~~(a)(b)~~ Meet the facility's obligation to assist the resident in carrying out the activities identified in the Community Living Support Plan;

~~(b)(e)~~ Provide an opportunity for private face-to-face contact between the mental health resident and the resident's mental health case manager or other treatment personnel of the resident's mental health care provider;

~~(c)~~(d) Observe resident behavior and functioning in the facility, and record and communicate observations to the resident's mental health case manager or mental health care provider regarding any significant behavioral or situational changes which may signify the need for a change in the resident's professional mental health services, supports, and services described in the community living support plan, or that the resident is no longer appropriate for residency in the facility;

~~(d)~~(e) If the facility initiates an involuntary mental health examination pursuant to Section 394.463, F.S., the facility must document the circumstances giving rise to the initiation of the examination ~~all actions taken in the effort to avert such action;~~

~~(e)~~(f) Ensure that designated staff have completed limited mental health training as required by Rule 58A-5.0191, F.A.C.; and

~~(f)~~(g) Maintain facility, staff, and resident records in accordance with the requirements of this rule chapter.

Rulemaking Authority 429.41 FS. Law Implemented 429.075, 429.26, 429.41 FS. History—New 8-15-90, Amended 9-30-92, Formerly 10A-5.029, Repromulgated 10-30-95, Amended 6-2-96, 11-2-98, 7-30-06, _____.

58A-5.030 Extended Congregate Care Services.

(1) LICENSING.

(a) Any facility intending to establish ~~an~~ extended congregate care services program must obtain a license from the agency prior to accepting extended congregate care residents.

(b) No change.

(2) EXTENDED CONGREGATE CARE POLICIES. Policies and procedures established through ~~an~~ extended congregate care services program must promote resident independence, dignity, choice, and decision-making. The services program must develop and implement specific written policies and procedures which address:

(a) through (f) No change.

(g) How to involve residents in decisions concerning the resident. The services program must provide opportunities and encouragement for the resident to make personal choices and decisions. If a resident needs assistance to make choices or decisions, a family member or other resident representative shall be consulted. Choices shall include at a minimum whether:

1. No change.

2. To remain in the same room in the facility, except that a current resident transferring into ~~an~~ extended congregate care services program may be required to move to the part of the facility licensed for extended congregate care, if only part of the facility is so licensed;

3. through 5. No change.

(3) No change.

(4) STAFFING REQUIREMENTS. The following staffing requirements apply for ~~each~~ extended congregate care services program:

(a) through (f) No change.

(5) ADMISSION AND CONTINUED RESIDENCY.

(a) An individual must meet the following minimum criteria in order to receive ~~be admitted to an~~ extended congregate care services program.

1. through 9. No change.

(b) Criteria for continued residency in ~~an~~ extended congregate care services program shall be the same as the criteria for admission, except as specified below.

(b)1. through 2. No change.

3. The extended congregate care administrator or manager is responsible for monitoring the continued appropriateness of placement of a resident in ~~an~~ extended congregate care services program at all times.

4. through 5. No change.

(6) HEALTH ASSESSMENT. Prior to receiving admission to an extended congregate care services program, all persons, including residents transferring within the same facility to that portion of the facility licensed to provide extended congregate care services, must be examined by a health care provider physician or advanced registered nurse practitioner ~~physician or advanced registered nurse practitioner~~ pursuant to Rule 58A-5.0181, F.A.C. A health assessment conducted within 60 days prior to receiving admission to the extended congregate care services program shall meet this requirement. Once receiving services admitted, a new health assessment must be obtained at least annually.

(7) SERVICE PLANS.

(a) Prior to receiving services, admission the extended congregate care administrator or manager must develop a preliminary service plan which includes an assessment of whether the resident meets the facility's residency criteria, an appraisal of the resident's unique physical, psychological and social needs and preferences, and an evaluation of the facility's ability to meet the resident's needs.

(b) Within 14 days of receiving services admission the extended congregate care administrator or manager must ~~supervisor shall~~ coordinate the development of a written service plan which takes into account the resident's health assessment obtained pursuant to subsection (6); the resident's unique physical, psychological and social needs and preferences; and how the facility will meet the resident's needs including the following if required:

1. through 8. No change.

(c) through (d) No change.

(8) EXTENDED CONGREGATE CARE SERVICES. All services must be provided in the least restrictive environment, and in a manner which respects the resident's independence, privacy, and dignity.

(a) A facility providing an extended congregate care services program may provide supportive services including social service needs, counseling, emotional support, networking, assistance with securing social and leisure services, shopping service, escort service, companionship, family support, information and referral, assistance in developing and implementing self-directed activities, and volunteer services. Family or friends shall be encouraged to provide supportive services for residents. The facility must provide training for family or friends to enable them to provide supportive services in accordance with the resident's service plan.

(b) A facility providing an extended congregate care services program must make available the following additional services if required by the resident's service plan:

1. through 9. No change.

(c) Licensed nursing staff providing in an extended congregate care services program may provide any nursing service permitted within the scope of their license consistent with the residency requirements of this rule and the facility's written policies and procedures, provided the nursing services are:

1. through 6. No change.

(d) No change.

(9) RECORDS. In addition to the records required under Rule 58A-5.024, F.A.C., a facility providing an extended congregate care services program must maintain the following:

(a) through (d) No change.

(10) No change.

Rulemaking Authority 429.07, 429.41 FS. Law Implemented 429.07, 429.255, 429.26, 429.28, 429.41 FS. History—New 9-30-92, Formerly 10A-5.030, Amended 10-30-95, 6-2-96, 4-20-98, 11-2-98, 10-17-99, 7-30-06, _____.

58A-5.033 Administrative Enforcement.

Facility staff shall cooperate with agency personnel during surveys, complaint investigations, monitoring visits, license application and renewal procedures and other activities necessary to ensure compliance with Part II, Chapter 408, F.S., Part I, Chapter 429, F.S., Rule Chapter 59A-35, F.A.C., and this rule chapter.

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

(2) SURVEY DEFICIENCY.

(a) Prior to or in conjunction with a notice of violation issued pursuant to Part II, Chapter 408, F.S., and Section 429.19, F.S., the agency shall issue a statement of deficiency for cClass I, II, III, and IV violations which are observed by agency personnel during any inspection of the facility. The deficiency statement must be issued within 10 working days of the agency's inspection and must include:

1. through 3. No change.

(b) No change.

(3) EMPLOYMENT OF A CONSULTANT.

(a) Medication Deficiencies.

1. If a cClass I, cClass II, or uncorrected cClass III deficiency directly relating to facility medication practices as established in Rule 58A-5.0185, F.A.C., is documented by the agency personnel pursuant to an inspection of the facility, the agency must notify the facility in writing that the facility must employ, on staff or by contract, the services of a pharmacist licensed pursuant to Section 465.0125, F.S., or registered nurse, as determined by the agency.

2. After developing and implementing a corrective action plan in compliance with Section 429.42(2), F.S., ~~The initial on-site consultant visit must take place within 7 working days of the notice identification of the a cClass I or Class II deficiency or and within 14 working days of the notice identification of an uncorrected cClass III deficiency.~~ The facility must have available for review by the agency a copy of the license of the consultant pharmacist or registered nurse pharmacist's or registered nurse's license and the consultant's a signed and dated review of the recommended corrective action plan no later than 10 working days subsequent to the initial on-site consultant visit.

3. No change.

(b) Dietary Deficiencies.

1. If a cClass I, ~~Class II,~~ or uncorrected cClass III deficiency directly related to dietary standards as established in Rule 58A-5.020, F.A.C., is documented by the agency personnel pursuant to an inspection of the facility, the agency must notify the facility in writing that the facility must employ, on staff or by contract, the services of a registered or licensed dietitian, or a licensed nutritionist.

2. The initial on-site consultant visit must take place within 7 working days of the notice identification of a cClass I or ~~Class II~~ deficiency or and within 14 working days of the notice identification of an uncorrected cClass III deficiency. The facility must have available for review by the agency a copy of the license or registration of the consultant dietitian or nutritionist dietitian's license or registration card and the consultant's a signed and dated review of the facility's dietary consultant's recommended corrective action plan, if a plan is required by the agency, no later than 10 working days subsequent to the initial on-site consultant visit.

3. If a corrective action plan is required, ~~The facility must provide the agency with,~~ at a minimum, quarterly on-site corrective action plan updates until the agency determines after written notification by the dietary consultant and facility administrator that deficiencies are corrected and staff has been trained to ensure that proper dietary standards are followed and

that such consultant services are no longer required. The agency must provide the facility with written notification of such determination.

Rulemaking Authority 429.41, 429.42 FS. Law Implemented ~~429.07, 429.08, 429.14, 429.19, 429.28, 429.34, 429.41, 429.42 FS.~~ History—New 9-30-92, Formerly 10A-5.033, Amended 10-30-95, 10-17-99, 1-9-02, 7-30-06, 4-15-10, _____.

DEPARTMENT OF ELDER AFFAIRS

Federal Aging Programs

RULE NOS.:	RULE TITLES:
58A-5.0131	Definitions
58A-5.014	License Application, Change of Ownership, and Provisional Licenses
58A-5.015	License Renewal and Conditional Licenses
58A-5.016	License Requirements
58A-5.0161	Inspection Responsibilities
58A-5.0181	Admission Procedures, Appropriateness of Placement and Continued Residency Criteria
58A-5.0182	Resident Care Standards
58A-5.0185	Medication Practices
58A-5.0186	Do Not Resuscitate Orders (DNROs)
58A-5.019	Staffing Standards
58A-5.0191	Staff Training Requirements and Competency Test
58A-5.0194	Alzheimer’s Disease or Related Disorders Training Provider and Curriculum Approval
58A-5.020	Food Service Standards
58A-5.021	Fiscal Standards
58A-5.023	Physical Plant Standards
58A-5.024	Records
58A-5.0241	Adverse Incident Report
58A-5.0242	Liability Claim Report
58A-5.025	Resident Contracts
58A-5.026	Emergency Management
58A-5.029	Limited Mental Health
58A-5.030	Extended Congregate Care Services
58A-5.031	Limited Nursing Services
58A-5.033	Administrative Enforcement
58A-5.035	Waivers

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule published in the Vol. 38, No. 76, November 21, 2012 issue of the Florida Administrative Register. The Department has provided a Statement of Estimated Regulatory Costs, prepared in accordance with Section 120.541(2), F.S., and reflecting changes proposed in the Notice of Change which is being issued and published simultaneous to this Notice of Correction. A copy of the Statement of Estimated Regulatory Costs is available at:

http://elderaffairs.state.fl.us/does/alf_rulemaking.php.

Although the Notice of Proposed Rule indicated that the Department believed that legislative ratification of the proposed rule was necessary pursuant to Section 120.541(3), F.S., the Department believes that the adverse impacts or regulatory costs of the rule, as amended in the Notice of Change, do not exceed any of the criteria specified in Section 120.541(2)(a), F.S., as noted in the Statement of Estimated Regulatory Costs. The following is a summary of the Statement of Estimated Regulatory Costs prepared by the Department:

- The rule is not likely to directly or indirectly have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the rule.
- The rule is not likely to directly or indirectly have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after implementation of the rule.
- The rule is not likely to directly or indirectly increase regulatory costs, including transactional costs, in excess of \$1 million in the aggregate within 5 years after implementation of the rule.
- The number of individuals and entities likely to be required to comply with the rule based on available data include 2,442 facility administrators, at most 601 facility managers, an annual average of 794 successful applicants for the core training competency examination, and, in a general sense, all staff members of standard licensed and specialty licensed assisted living facilities in the state.
- The Department will not incur any costs for implementing or enforcing the proposed rule.
- There will be no cost to any other state or local government entities for implementing or enforcing the proposed rule.
- The estimated number of small businesses that would be subject to the rule, pursuant to Section 288.703, F.S., include most, if not all, of the 3,043 licensed assisted living facilities in the state.
- There will be no impact on small counties or small cities as defined in Section 120.52, F.S.

This correction does not affect the substance of the rule as it appeared in the Florida Administrative Register as outlined above

DEPARTMENT OF HEALTH

Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

RULE NOS.:	RULE TITLES:
64B4-3.001	Application for Licensure for Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling Applicants
64B4-3.0085	Intern Registration

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 38, No. 88, December 11, 2012 issue of the Florida Administrative Register.

The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The changes are as follows:

1. For Rule 64B4-3.001: the revision date of the incorporated form DH-MQA 1174 will be 02/13.
2. For Rule 64B4-3.001: in incorporated Form DH-MQA 1174, Revised 02/13, the requirement that the applicant provide a photograph as referenced in Section II of the instructions and the application, has been removed.
3. For Rule 64B4-3.001: 456.013, 456.0635, and 491.0065, F.S. will be added to Law Implemented.
4. For Rule 64B4-3.0085: the revision date of the incorporated form DH-MQA 1175 will be 02/13.
5. For Rule 64B4-3.0085: in incorporated Form DH-MQA 1175, Revised 02/13, the requirement that the applicant provide a photograph as referenced in Section II of the instructions and the application, has been removed.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

**Section IV
Emergency Rules**

NONE

**Section V
Petitions and Dispositions Regarding Rule
Variance or Waiver**

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
Division of Hotels and Restaurants
RULE NO.: RULE TITLE:

61C-5.001: Safety Standards

NOTICE IS HEREBY GIVEN that on February 14, 2013, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for North Cove. Petitioner seeks a variance of the requirements of ASME A17.1, Section 2.1.4 and FBC 3004.1, as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by subsection 61C-5.001(1), Florida Administrative Code that requires upgrading the elevators control of smoke and hot gases and hoistway venting which poses a significant economic/financial hardship. Any interested person may file comments within 14 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW 2013-050).

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001: Safety Standards

NOTICE IS HEREBY GIVEN that on February 15, 2013, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for Connexions Building. Petitioner seeks a variance of the requirements of ASME A17.1, Section 2.20.1, 2.18.5.1 as adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code that requires steel ropes of a minimum diameter of 9.5 mm which poses a significant economic/financial hardship. Any interested person may file comments within 14 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW 2013-051).

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

**Section VI
Notices of Meetings, Workshops and Public
Hearings**

DEPARTMENT OF TRANSPORTATION

The Florida Department of Transportation (FDOT) announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, March 12, 2013. Open House: 5:00 p.m. – 7:00 p.m. Presentations: 5:30 p.m. and 6:30 p.m.

PLACE: Florida Department of Transportation, 133 South Semoran Boulevard, Orlando, FL 32807

GENERAL SUBJECT MATTER TO BE CONSIDERED:
Financial Management No. 424898-1-52-01.

Project Description: Goldenrod Road (State Road (SR) 551)
Roadway Improvements.

The FDOT is holding a public information meeting about roadway design on Goldenrod Road (SR 551) from south of Curry Ford Road (SR 552) to south of SR 408 (East-West Expressway) in Orange County.

The project consists of median modifications, turn lane extensions, and median closures. Other improvements include milling and resurfacing the pavement, installing a new mast arm traffic signal at the intersection of Goldenrod Road and Nolton Way, upgrading pedestrian features to meet Americans with Disabilities requirements, adding bike lanes, and improving drainage. The project is funded for construction in 2014.

A copy of the agenda may be obtained by contacting Ms. Megan Olivera, (407)709-9840 or megan@qcausa.com. A flyer will be distributed at the meeting.

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: Ms. Megan Olivera, Quest Corporation of America, at 1800 Pembroke Drive, Suite 374, Orlando FL 32810, (407)709-9840, or via e-mail at megan@qcausa.com.

Public participation is solicited without regard to race, color, national origin, age, sex, disability or family status.

Persons who require translation services (free of charge) should contact Ms. Megan Olivera at the phone number above. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Sarah Van Gundy, the FDOT Project Manager, at (386)943-5551 or via e-mail at sarah.vangundy@dot.state.fl.us.

STATE BOARD OF ADMINISTRATION

The Compensation Subcommittee of the Investment Advisory Council (IAC) announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, February 26, 2013, 3:00 p.m. until conclusion of business.

PLACE: The Hermitage Centre, Conference Room 116, 1801 Hermitage Boulevard, Tallahassee, Florida 32308

GENERAL SUBJECT MATTER TO BE CONSIDERED:
Meeting of the Compensation Subcommittee of the IAC to consider the consultant's incentive plan design recommendations resulting from competitive market analysis. The IAC is guiding and overseeing a compensation study to ensure interests are aligned and human capital risk issues are prudently addressed.

A copy of the agenda may be obtained by contacting: Diane Bruce, State Board of Administration, (850)413-1253 or diane.bruce@sbafla.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: James Linn, (850)413-1166 or james.linn@sbafla.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

COMMISSION FOR THE TRANSPORTATION DISADVANTAGED

The Commission for the Transportation Disadvantaged announces a public meeting to which all persons are invited.

DATE AND TIME: March 7, 2013, 9:00 a.m.

PLACE: FL Dept. of Transportation Auditorium, 605 Suwannee Street, Tallahassee, FL 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss regular Commission business.

A copy of the agenda may be obtained by contacting: Vicki Scheffer, 605 Suwannee St., MS-49, Tallahassee, FL 32399, (850)410-5700 or (800)983-2435.

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: Vicki Scheffer, 605 Suwannee St., MS-49, Tallahassee, FL 32399 (850)410-5700 or (800)983-2435. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Building Code Administrators and Inspectors Board

The Building Code Administrators & Inspectors Board announces public meetings to which all persons are invited.

DATES AND TIMES: April 10, 11, and 12, 2013, 9:00 a.m.

PLACE: Tampa Marriott Westshore, 1001 N Westshore Blvd, Tampa, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Committee meetings, probable cause panel (portions may be closed to the public), general board business.

A copy of the agenda may be obtained by contacting: Building Code Administrators & Inspectors Board, 1940 N. Monroe Street, Tallahassee, FL 32399-2211.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: the board office. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Building Code Administrators and Inspectors Board

The Building Code Administrators & Inspectors Board announces a public meeting to which all persons are invited.

DATE AND TIME: May 20, 2013, 10:00 a.m.

PLACE: Daytona Beach Hilton, 100 S. Atlantic Avenue, Daytona Beach, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: A discussion panel of the Board members at the Building Officials Association of Florida's Annual Conference.

A copy of the agenda may be obtained by contacting: Building Officials Association of Florida, 3697 Lake Emma Road, Lake Mary, FL 32746-6121.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Building Officials Association of Florida. 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).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Division of Recreation and Parks announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, February 27, 2013, 7:00 p.m. (EST).

PLACE: Cedar Point Environmental Park, 2300 Placida Road, Englewood, Florida 34224

GENERAL SUBJECT MATTER TO BE CONSIDERED: Presentation of the updates to the unit management plans for Don Pedro Island State Park and Stump Pass Beach State Park. A copy of the agenda may be obtained by contacting: Chad Lach, Park Manger, 880 Belcher Road, Boca Grande, Florida 33921, (941)964-0375, fax (941)964-1154 or email Chad.Lach@dep.state.fl.us.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Chad Lach, Park Manger, 880 Belcher Road, Boca Grande, Florida 33921, (941)964-0375, fax (941)964-1154 or email Chad.Lach@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Division of Recreation and Parks announces a public meeting to which all persons are invited.

DATE AND TIME: Thursday, February 28, 2013, 9:00 a.m. (EST).

PLACE: Cedar Point Environmental Park, 2300 Placida Road, Englewood, Florida 34224

GENERAL SUBJECT MATTER TO BE CONSIDERED: Presentation of the updates to the unit management plans for Don Pedro Island State Park and Stump Pass Beach State Park for members of the Advisory Group.

A copy of the agenda may be obtained by contacting: Chad Lach, Park Manger, 880 Belcher Road, Boca Grande, Florida 33921, (941)964-0375, fax (941)964-1154 or email Chad.Lach@dep.state.fl.us.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Chad Lach, Park Manger, 880 Belcher Road, Boca Grande, Florida 33921, (941)964-0375, fax (941)964-1154 or email Chad.Lach@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

For more information, you may contact: Chad Lach, Park Manger, 880 Belcher Road, Boca Grande, Florida 33921, (941)964-0375, fax (941)964-1154 or email Chad.Lach@dep.state.fl.us.

FLORIDA HOUSING FINANCE CORPORATION

The Florida Housing Finance Corporation announces a public meeting to which all persons are invited.

DATE AND TIME: February 26, 2013, 1:00 p.m.

PLACE: Tallahassee City Hall, Commission Chambers, 300 South Adams Street, Tallahassee, FL 32301

GENERAL SUBJECT MATTER TO BE CONSIDERED: To receive comments and suggestions from interested persons relative to Florida Housing’s proposed High Priority Request for Proposals (RFPs). In accordance with Section 420.507(48), F.S., Florida Housing expects to issue two (2) RFPs. One RFP will focus on Special Needs populations, with an emphasis on veterans with special needs, and the other RFP will focus on Public Housing Authority (PHA) Revitalization Developments, with an emphasis on leveraging.

A description of the targeted developments, RFP parameters, and scoring priorities for each RFP will be posted to the FHFC Website under the Multifamily Programs link prior to the meeting.

A copy of the agenda may be obtained by contacting: Jean Salmonsens at (850)488-4197.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Jean Salmonsens at (850)488-4197. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

Section VII
Notices of Petitions and Dispositions
Regarding Declaratory Statements

NONE

Section VIII
Notices of Petitions and Dispositions
Regarding the Validity of Rules

Notice of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:

NONE

Notice of Disposition of Petition for Administrative Determination have been filed by the Division of Administrative Hearings on the following rules:

NONE

Section IX
Notices of Petitions and Dispositions
Regarding Non-rule Policy Challenges

NONE

Section X
Announcements and Objection Reports of
the Joint Administrative Procedures
Committee

NONE

Section XI
Notices Regarding Bids, Proposals and
Purchasing

DEPARTMENT OF EDUCATION

Florida State University

Notice to Construction Managers

Florida State University announces that construction management services will be required for the continuing service contract listed below:

Project and Location: Minor Projects at Florida State University, Tallahassee, Florida.

Project Description: The construction manager will be a single point of responsibility for performance of minor project construction contracts, functioning as an independent contractor; publicly bidding trade contracts. The construction manager may be required to perform a project utilizing the Design/Build method of delivery or asked to perform preconstruction/estimating services. A minor project is defined as a project with a construction budget estimated to be less than \$2,000,000 or studies for which the fee for professional services is \$200,000 or less. Accordingly, the selected firm(s) minimum bonding capacity should be \$2,000,000 and be sufficient to contract multiple concurrent projects. The University intends to award multiple contracts for the upcoming fiscal year through June 30, 2014 with an option to renew for two additional one-year periods.

Selection of finalists for interviews will be made on the basis of construction manager qualifications, including experience and ability; past experience; bonding capacity; record-keeping/administrative ability, critical path scheduling expertise; cost estimating; cost control ability; quality control capability; qualification of the firm's personnel, staff and consultants. Finalists will be provided with a description of the final interview requirements and a copy of FSU’s standard

construction management agreement for minor projects. The Selection Committee may reject all proposals and stop the selection process at any time. The construction manager shall have no ownership, entrepreneurial or financial affiliation with the architect/engineers under contract with the University to provide services on minor projects.

INSTRUCTIONS: Firms desiring to provide construction management services for the project shall submit a letter of application and the completed Florida State University "Construction Manager Qualifications Supplement." Proposals must not exceed 80 pages, including the Construction Manager Qualifications Supplement and letter of application. Pages must be numbered consecutively. Submittals that do not comply with these requirements or do not include the requested data will not be considered. No submittal material will be returned. All applicants must be licensed to practice as general contractors in the State of Florida at the time of application. Corporations must be registered to operate in the State of Florida by the Department of State, Division of Corporations, at the time of application.

The Florida State University Construction Manager Qualifications Supplement form and the Project Fact Sheet may be obtained online at <https://www.facilities.fsu.edu/FDC> or by contacting: Lynetta Mills, Facilities Design & Construction, 969 Learning Way, Suite 109 Mendenhall Building A, Florida State University, Tallahassee, Florida, 32306-4152, (850)644-2843, fax (850)644-8351.

Five (5) bound copies of the required proposal data shall be submitted. Submittals must be received at the above location by 2:00 p.m., local time, on Tuesday, March 19, 2013. Facsimile (fax) submittals are not acceptable and will not be considered.

For further information on campus service projects, contact Bill Lamb at the address and phone number above. The plans and specifications for campus service projects are subject to reuse in accordance with the provisions of Section 287.055, Florida Statutes. As required by Section 287.133, Florida Statutes, a construction management firm may not submit a proposal for this project if it is on the convicted vendor list for a public entity crime committed within the past 36 months. The selected construction management firm must warrant that it will neither utilize the services of, nor contract with, any supplier, subcontractor, or consultant in excess of \$50,000.00 in connection with this project for a period of 36 months from the date of their being placed on the convicted vendor list.

**Section XII
Miscellaneous**

DEPARTMENT OF TRANSPORTATION

Intended New Site Approval for Adana Field

The Florida Department of Transportation intends to issue an "Airport Site Approval Order," in accordance with Chapter 330, Florida Statutes, "Regulation of Aircraft, Pilots, and Airports" and Chapter 14-60, Florida Administrative Code, "Airport Licensing, Registration, and Airspace Protection" for the following site:

Adana Airfield, a private airport, in Charlotte County, at Latitude 26° 57' 09.29" and Longitude 81° 52' 15.39", to be owned and operated by Mr. George A Pertuit, 5640 Acorn Ranch Road, Punta Gorda, FL 33982.

A copy of the Airport Site Approval Order, the Airport's application, the applicable rules, and other pertinent information may be obtained by contacting Aaron N. Smith, State Aviation Manager, Florida Department of Transportation, Aviation Office, 605 Suwannee Street, Mail Station 46, Tallahassee, Florida 32399-0450; (850)414-4514; aviation.fdot@dot.state.fl.us. Website: <http://www.dot.state.fl.us/aviation>.

ADMINISTRATIVE HEARING RIGHTS: Any person whose substantial interests will be determined or affected by this Airport Site Approval Order has the right, pursuant to Section 120.57, Florida Statutes, to petition for an administrative hearing. The petition for an administrative hearing must conform to the requirements of Rule Chapter 28-106, Florida Administrative Code, and must be filed, in writing, within twenty-one days of the publication of this notice, with the Clerk of Agency Proceedings, Office of General Counsel, Florida Department of Transportation, 605 Suwannee Street, Mail Station 58, Room 550, Tallahassee, Florida 32399-0450. Failure to file a petition within the allowed time constitutes a waiver of any right such person has to request a hearing under Chapter 120, Florida Statutes.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

East Coast Tri-Motors, LLC, for the ZHNG line-make

Notice of Publication for a New Point

Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that BMS Motorsports, Inc., intends to allow the establishment of East Coast Tri-Motors, LLC, as a dealership for the sale of motorcycles manufactured by Taizhou Zhongneng (line-make ZHNG) at 3132 Fortune Way Unit D-9 & D-21, Wellington, (Palm Beach County), Florida 33414, on or after March 21, 2013.

The name and address of the dealer operator(s) and principal investor(s) of East Coast Tri-Motors, LLC, are dealer operator(s): Daryl Pfaff, 3132 Fortune Way, Wellington, Florida 33334; principal investor(s): Daryl Pfaff, 3132 Fortune Way, Wellington, Florida 33334.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-31, MS 65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Patrick Y. Kim, BMS Motorsports, Inc., 1201 Jellick Avenue, City of Industry, California 91748.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

Wild Hog Scooters and Motorsports, LLC, (Lake Mary) for the CIXI line-make

Notice of Publication for a New Point

Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that El Sol Trading, Inc., intends to allow the establishment of Wild Hogs Scooters and Motorsports, LLC, as a dealership for the sale of motorcycles manufactured by Cixi Kingring Motorcycle Co. Ltd. (line-make CIXI) at 3311 West Lake Mary Boulevard Units 1, 2, Lake Mary, (Seminole County), Florida 32746, on or after March 22, 2013.

The name and address of the dealer operator(s) and principal investor(s) of Wild Hogs Scooters and Motorsports, LLC, are dealer operator(s): Jason M. Rupp, 3311 West Lake Mary Boulevard, Lake Mary, Florida 32746; principal investor(s): Jason M. Rupp, 3311 West Lake Mary Boulevard, Lake Mary, Florida 32746.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS 65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Gloria Ma, El Sol Trading, Inc., 1310 South Johnson Drive, City of Industry, California 91745.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

Jaguar Power Sports, LLC, for the CIXI line-make

Notice of Publication for a New Point

Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that El Sol Trading, Inc., intends to allow the establishment of Jaguar Power Sports, LLC, as a dealership for the sale of motorcycles manufactured by Cixi Kingring Motorcycle Co. Ltd. (line-make CIXI) at 1265 Lane Avenue, Unit 6, Jacksonville, (Duval County), Florida 32205, on or after March 22, 2013.

The name and address of the dealer operator(s) and principal investor(s) of Jaguar Power Sports, LLC, are dealer operator(s): Shaun Jackrel, 4955 Northwest 21st Street, Gainesville, Florida 32605; principal investor(s): Shaun Jackrel, 4955 Northwest 21st Street, Gainesville, Florida 32605.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS 65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Gloria Ma, El Sol Trading, Inc., 1310 South Johnson Drive, City of Industry, California 91745.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

Jaguar Power Sports, LLC, for the SHEN line-make

Notice of Publication for a New Point

Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that El Sol Trading, Inc., intends to allow the establishment of Jaguar Power Sports, LLC, as a dealership for the sale of motorcycle manufactured by Zhejiang Jonway Motorcycle Manufacturing Co. Ltd. (line-make SHEN) at 1265 Lane Avenue, Unit 6, Jacksonville, (Duval County), Florida 32205, on or after March 22, 2013.

The name and address of the dealer operator(s) and principal investor(s) of Jaguar Power Sports, LLC, are dealer operator(s): Shaun Jackrel, 4955 Northwest 21st Street, Gainesville, Florida 32605; principal investor(s): Shaun Jackrel, 4955 Northwest 21st Street, Gainesville, Florida 32605.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS 65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Gloria Ma, El Sol Trading, Inc., 1310 South Johnson Drive, City of Industry, California 91745.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

Jaguar Power Sports, LLC, for the ZLMI line-make

Notice of Publication for a New Point

Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that El Sol Trading, Inc., intends to allow the establishment of Jaguar Power Sports, LLC, as a dealership for the sale of motorcycles manufactured by Zhejiang Leike Machinery Co. Ltd. (line-make ZLMI) at 1265 Lane Avenue, Unit 6, Jacksonville, (Duval County), Florida 32205, on or after March 22, 2013.

The name and address of the dealer operator(s) and principal investor(s) of Jaguar Power Sports, LLC, are dealer operator(s): Shaun Jackrel, 4955 Northwest 21st Street, Gainesville, Florida 32605; principal investor(s): Shaun Jackrel, 4955 Northwest 21st Street, Gainesville, Florida 32605.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS 65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Gloria Ma, El Sol Trading, Inc., 1310 South Johnson Drive, City of Industry, California 91745.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving

the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

DECISIONS ON BATCHED APPLICATIONS

The Agency for Health Care Administration made the following decisions on Certificate of Need applications for Other Beds and Programs batching cycle with an application due date of November 14, 2012:

County: Palm Beach Service Area: 9C

CON # 10174 Decision Date: 2/15/2013 Decision: D

Applicant: VITAS Healthcare Corporation of Florida

Project Description: Establish an eight-bed inpatient hospice facility

Approved Cost: \$0

County: Palm Beach District: 9-4

CON # 10175 Decision Date: 2/15/2013 Decision: A

Applicant/Facility: SF Boynton, LLC/Boynton Health Care Center

Project Description: Add 18 community nursing home beds by delicensing 18 beds at Edward J. Healey Rehabilitation & Nursing Center

Approved Cost: \$4,884,920.00

County: Palm Beach District: 9-4

CON # 10176 Decision Date: 2/15/2013 Decision: A

Applicant: SF Palm Beach, LLC

Project Description: Establish a 60-bed community nursing home by delicensing 60 beds at Edward J. Healey Rehabilitation & Nursing Center

Approved Cost: \$15,050,900.00

A request for administrative hearing, if any, must be made in writing and must be actually received by this department within 21 days of the first day of publication of this notice in the Florida Administrative Weekly pursuant to Chapter 120, Florida Statutes, and Chapter 59C-1, Florida Administrative Code.

DEPARTMENT OF HEALTH

Board of Nursing

Notice of Emergency Action

On February 14, 2013, the State Surgeon General issued an Order of Emergency Suspension Order with regard to the license of Holly Brogdon Prescott, LPN, License # PN 5145487. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes (2011).

The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

DEPARTMENT OF HEALTH

Board of Nursing

Notice of Emergency Action

On February 14, 2013, the State Surgeon General issued an Order of Emergency Suspension Order with regard to the license of Kathryn Gordon, C.N.A., License # CNA 187272. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes (2011). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

DEPARTMENT OF HEALTH

Board of Nursing

Notice of Emergency Action

On February 14, 2013, the State Surgeon General issued an Order of Emergency Suspension Order with regard to the license of Karen Gail Vance, R.N., License # RN 9180989. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes (2011). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Community Development

DEO FINAL ORDER NO. DEO-13-020

STATE OF FLORIDA

DEPARTMENT OF ECONOMIC OPPORTUNITY

In re: POLK COUNTY LAND DEVELOPMENT

REGULATIONS ADOPTED BY POLK

COUNTY

ORDINANCE NO. 12-041.

FINAL ORDER

The Department of Economic Opportunity (the "Department") hereby issues its Final Order, pursuant to §§ 380.05(6) and (11), Fla. Stat., rejecting Polk County Ordinance No. 12-041.

FINDINGS OF FACT

1. The Green Swamp Area is a statutorily designated area of critical state concern. § 380.0551, Fla. Stat. Polk County is a local government within the Green Swamp Area.

2. On December 18, 2012, the Polk County Board of County Commissioners adopted Ordinance No. 12-041 (the "Ordinance"), a copy of which was received by the Department on December 21, 2012.

3. The Ordinance amends the following provisions in the Polk County Land Development Code: Use Tables 2.1, 4.1, 4.3, 4.8, 4.12, 4.14, 4.16 and 5.2 (Use Tables for Green Swamp ACSC), Section 401.07 Table 1 Northridge Selected Area Plan, Section 403.01 Table 4 Wahneta Neighborhood Plan, Section 303 Conditional Uses, and Chapter 10 Definitions to add vehicle oriented recreation, provide for permitted and conditional land use districts and levels of review, provide for conditions of approval and provide for definitions. The Ordinance also deletes active recreation and amends definitions, standards and permitted and conditional land use districts for passive recreation, golf courses, high intensity recreation, low intensity recreation, recreation and amusement, marinas and related facilities – general, and recreation and amusement – intensive.

CONCLUSIONS OF LAW⁴. The land development regulations in the Ordinance are not consistent with the Principles for Guiding Development and the Polk County Comprehensive Plan for the following reasons: Use Tables 4.8, 4.16 and 5.2 allow golf courses in a number of land use districts in the Green Swamp where golf courses are prohibited under the Polk County Comprehensive Plan. As to marinas, vehicle oriented recreation and general recreation and amusement, Section 303 provides that the Agricultural/Residential-Rural district is not considered a residential district when it is identified as residential in the Polk County Comprehensive Plan. In addition, Section 303 allows vehicle oriented recreation in the Preservation land use which allows non-motorized recreational uses and contains other restrictions with which the Ordinance is inconsistent.

5. The Department is required to approve or reject land development regulations that are enacted, amended or rescinded by any local government in the Green Swamp Area of Critical State Concern. §§ 380.05(6) and (11), Fla. Stat.

6. "Land development regulations" include local zoning, subdivision, building and other regulations controlling the development of land. § 380.031(8), Fla. Stat. The regulations adopted by the Ordinance are land development regulations.

7. All land development regulations enacted, amended or rescinded within an area of critical state concern must be consistent with the principles for guiding development for that area. § 380.05(6), Fla. Stat.; see *Rathkamp v. Department of Community Affairs*, 21 F.A.L.R. 1902 (Dec. 4, 1998), aff'd, 740 So. 2d 1209 (Fla. 3d DCA 1999). The principles for guiding development for the Green Swamp Area of Critical State Concern are set forth in Rule 28-26.003, Fla. Admin. Code. ("Principles").

8. Those portions of the Ordinance identified in paragraph 4 above are inconsistent with the Principles in Rule 28-26.003, Fla. Admin. Code, as a whole and in particular with Principles (a)-(e) and (g)-(i).

9. The portions of the Ordinance identified in paragraph 4 above are inconsistent with Policies 2.132-B8, 2.132-B9, 2.131-C8 and 2.118-A4 of the Polk County Comprehensive Plan.

WHEREFORE, IT IS ORDERED that

A. Tables 4.8, 4.16 and 5.2, and Section 303 for Marinas, Vehicle Oriented Recreation and Recreation and Amusement General, as amended by Polk County Ordinance No. 12-030, are found to be inconsistent with the Principles for Guiding Development for the Green Swamp Area of Critical State Concern, and are hereby REJECTED.

B. Use Tables 2.1, 4.1, 4.3, 4.12 and 4.14; those portions of Section 303 deleting Active Recreation and amending provisions related to Passive Recreation, High Intensity Recreation, Low Intensity Recreation, and Intensive Recreation and Amusement; and the amendments to the Definitions in Chapter 10 of the County Code, are consistent with the Principles for Guiding Development are hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Register unless a petition is filed as described below.

DONE AND ORDERED in Tallahassee, Florida, this 15th day of February, 2013.

/s/

J. Thomas Beck, AICP

Director, Division of Community Development
Department of Economic Opportunity

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL

ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION OF THIS NOTICE. A PETITION IS FILED WHEN IT IS RECEIVED BY:

AGENCY CLERK
 DEPARTMENT OF ECONOMIC OPPORTUNITY
 OFFICE OF THE GENERAL COUNSEL
 107 EAST MADISON STREET, MSC 110
 TALLAHASSEE, FLORIDA 32399-4128
 FAX (850) 921-3230

THE PETITION MUST MEET THE FILING REQUIREMENTS IN SUBSECTION 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A

FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH SUBSECTION 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the persons listed below by the method indicated this 18th day of February, 2013.

_____/s/_____
 Miriam Snipes, Agency Clerk

By U.S. Mail:
 Melony M. Bell, Chairman
 Polk County Board of County Commissioners
 P.O. Box 9005, Drawer BC01
 Bartow, FL 33831-9005

Richard M. Weiss, Clerk
 Polk County Board of County Commissioners
 P.O. Box 9005, Drawer BC01
 Bartow, FL 33831-9005

Michael F. Craig, Esq.
 Polk County Attorney
 330 West Church Street
 Bartow, FL 33830

Thomas Deardorff, AICP, Director
 Polk County Office of Planning and Development
 P.O. Box 9005, Drawer GM01
 Bartow, FL 33831-9005

By Hand Delivery or Interagency Mail:
 Rebecca Jetton, Community Planning Administrator, DEO Tallahassee
 Sherry A. Spiers, Assistant General Counsel, DEO Tallahassee

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Community Development

DEO FINAL ORDER NO. DEO-13-019

STATE OF FLORIDA

DEPARTMENT OF ECONOMIC OPPORTUNITY

In re: POLK COUNTY LAND DEVELOPMENT
 REGULATIONS ADOPTED BY POLK
 COUNTY

ORDINANCE NO. 12-030.

FINAL ORDER

The Department of Economic Opportunity (the “Department”) hereby issues its Final Order, pursuant to §§ 380.05(6) and (11), Fla. Stat., rejecting Polk County Ordinance No. 12-030.

FINDINGS OF FACT

1. The Green Swamp Area is a statutorily designated area of critical state concern. § 380.0551, Fla. Stat. Polk County is a local government within the Green Swamp Area.

2. On October 2, 2012, the Polk County Board of County Commissioners adopted Ordinance No. 12-030 (the “Ordinance”), a copy of which was received by the Department on January 7, 2013.

3. The Ordinance amends the following provisions in the Polk County Land Development Code: Use Tables 2.1, 4.1, 4.3, 4.8, 4.12, 4.14, 4.16 and 5.2 (Use Tables for Green Swamp ACSC), Section 401.07 Table 1 Northridge Selected Area Plan, Section 403.01 Table 4 Wahneta Neighborhood Plan, Section 303 Conditional Uses, and Chapter 10 Definitions to add vehicle oriented recreation, provide for permitted and conditional land use districts and levels of review, provide for conditions of approval and provide for definitions. The Ordinance also deletes active recreation and amends definitions, standards and permitted and conditional land use districts for passive recreation, golf courses, high intensity

recreation, low intensity recreation, recreation and amusement, marinas and related facilities – general, and recreation and amusement – intensive.

4. The land development regulations in the Ordinance are not consistent with the Principles for Guiding Development and the Polk County Comprehensive Plan for the following reasons: Use Tables 4.8, 4.16 and 5.2 allow golf courses in a number of land use districts in the Green Swamp where golf courses are prohibited under the Polk County Comprehensive Plan. As to marinas, vehicle oriented recreation and general recreation and amusement, Section 303 provides that the Agricultural/Residential-Rural district is not considered a residential district when it is identified as residential in the Polk County Comprehensive Plan. In addition, Section 303 allows vehicle oriented recreation in the Preservation land use which allows non-motorized recreational uses and contains other restrictions with which the Ordinance is inconsistent.

CONCLUSIONS OF LAW

5. The Department is required to approve or reject land development regulations that are enacted, amended or rescinded by any local government in the Green Swamp Area of Critical State Concern. §§ 380.05(6) and (11), Fla. Stat.

6. “Land development regulations” include local zoning, subdivision, building and other regulations controlling the development of land. § 380.031(8), Fla. Stat. The regulations adopted by the Ordinance are land development regulations.

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8. Those portions of the Ordinance identified in paragraph 4 above are inconsistent with the Principles in Rule 28-26.003, Fla. Admin. Code, as a whole and in particular with Principles (a)-(e) and (g)-(i).

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WHEREFORE, IT IS ORDERED that

A. Tables 4.8, 4.16 and 5.2, and Section 303 for Marinas, Vehicle Oriented Recreation and Recreation and Amusement General, as amended by Polk County Ordinance No. 12-030, are found to be inconsistent with the Principles for Guiding Development for the Green Swamp Area of Critical State Concern, and are hereby REJECTED.

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DONE AND ORDERED in Tallahassee, Florida, this 15th day of February, 2013.

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J. Thomas Beck, AICP

Director, Division of Community Development
Department of Economic Opportunity

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_____/s/_____
Miriam Snipes, Agency Clerk

By U.S. Mail:

Melony M. Bell, Chairman
Polk County Board of County Commissioners
P.O. Box 9005, Drawer BC01
Bartow, FL 33831-9005

Richard M. Weiss, Clerk
Polk County Board of County Commissioners
P.O. Box 9005, Drawer BC01
Bartow, FL 33831-9005

Michael F. Craig, Esq.
Polk County Attorney
330 West Church Street
Bartow, FL 33830

Thomas Deardorff, AICP, Director
Polk County Office of Planning and Development
P.O. Box 9005, Drawer GM01
Bartow, FL 33831-9005

By Hand Delivery or Interagency Mail:

Rebecca Jetton, Community Planning Administrator, DEO
Tallahassee
Sherry A. Spiers, Assistant General Counsel, DEO Tallahassee

Section XIII
Index to Rules Filed During Preceding Week

RULES FILED BETWEEN February 11, 2013
 and February 15, 2013

Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
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DEPARTMENT OF CORRECTIONS

33-208.004	2/11/13	3/3/13	38/73	
33-602.101	2/11/13	3/3/13	38/82	
33-602.201	2/11/13	3/3/13	38/82	

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

40D-3.341	2/14/13	3/6/13	38/39	
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**COMMISSION FOR THE TRANSPORTATION
 DISADVANTAGED**

41-2.007	2/13/13	3/5/13	38/88	
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DEPARTMENT OF MANAGEMENT SERVICES

Commission of Human Relations

60Y-2.005	2/15/13	3/7/13	38/94	
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**DEPARTMENT OF BUSINESS AND PROFESSIONAL
 REGULATION**

Board of Professional Engineers

61G15-22.001	2/15/13	3/7/13	38/80	
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Drugs, Devices and Cosmetics

61N-1.012	2/12/13	3/4/13	38/77	
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Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
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DEPARTMENT OF ENVIRONMENTAL PROTECTION

62-620.100	2/14/13	2/14/13	39/08	
62-699.200	2/14/13	3/6/13	38/61	
62-699.310	2/14/13	3/6/13	38/61	
62-699.311	2/14/13	3/6/13	38/61	

DEPARTMENT OF HEALTH

Board of Medicine

64B8-9.009	2/11/13	3/3/13	39/03	
64B8-9.0091	2/11/13	3/3/13	39/03	
64B8-15.002	2/11/13	3/3/13	39/03	
64B8-42.001	2/13/13	3/5/13	39/10	
64B8-42.002	2/13/13	3/5/13	39/10	

Board of Pharmacy

64B16-29.001	2/11/13	3/3/13	38/93	
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**LIST OF RULES AWAITING LEGISLATIVE APPROVAL
 PURSUANT TO (CHAPTER 2010-279, LAWS OF
 FLORIDA)**

DEPARTMENT OF ENVIRONMENTAL PROTECTION

62-304.300	3/2/12	*****	38/3	
62-304.330(10), (11)	2-7-13	*****	38/81	
62-304.610	8/20/12	*****	35/31	38/23
62-304.900	11/21/12	*****	38/39	

DEPARTMENT OF FINANCIAL SERVICES

Division of Workers' Compensation

69L-7.020	10/24/11	*****	37/24	37/3
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