

least 5 calendar days before the workshop by contacting Andrena Knicely, (850)487-1764. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Licensing

RULE TITLE: Proprietary Security Officers; Exemption
 from Registration

RULE NO.: 1C-3.144

PURPOSE AND EFFECT: To repeal Rule 1C-3.144 relating to proprietary security officers, since ss. 5, 6, 7 and 8, ch. 96-407, Laws of Florida repealed statutory language authorizing the

implementation of the rule, effective July 1, 1997. The effect is that references to proprietary security officers are removed.

SUMMARY: The proposed action repeals 1C-3.144 detailing who was exempt from registration.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 493.6102(11), 493.6306 FS., ch. 91-248, Laws of Fla.

LAW IMPLEMENTED: 493.6102(11) FS., ch. 91-248, Laws of Fla.

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

TIME AND DATE: 10:00 a.m., September 22, 1999

PLACE: Library/Conference Room, 2520 North Monroe Street, Tallahassee, Florida 32303

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michele Guy, Assistant General Counsel, Department of State, Division of Licensing, The Capitol, MS #4, Tallahassee, FL 32310, Telephone: (850)488-3492; Fax: (850)488-2789

THE FULL TEXT OF THE PROPOSED RULE IS:

1C-3.144 Proprietary Security Officers; Exemption from Registration.

Specific Authority 493.6102(11), 493.6306 FS., ch. 91-248, Laws of Fla., Law Implemented 493.6102(11) FS., ch. 91-248, Laws of Fla. History—New 12-29-91, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michele Guy, Assistant General Counsel, Department of State, Division of Licensing

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: John M. Russi, Director, Division of Licensing

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 16, 1999

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE TITLE: Definitions

RULE NO.: 4A-37.084

PURPOSE AND EFFECT: The rule is being amended to overcome long-existing ambiguities in the existing rule's definitions. These ambiguities in the existing rule have caused a great deal of unnecessary litigation.

SUMMARY: The reference to Council on Post Secondary Accreditation is deleted because that council no longer exists. The change in the definition of "applicable to fire department duties" is being changed to one which is more workable.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No SERC has been prepared.

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

SPECIFIC AUTHORITY: 633.45(2)(a) FS.

LAW IMPLEMENTED: 633.382(2) FS.

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

TIME AND DATE: 9:30 a. m., September 21, 1999

PLACE: Atrium Building, 3rd Floor Conference Room, 325 John Knox Road, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Randall Napoli, Chief, Bureau of Fire Standards and Training, 11655 N. W. Gainesville Road, Ocala, FL 34482-1486; phone (352)732-1330

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White at (850)413-4214.

THE FULL TEXT OF THE PROPOSED RULE IS:

4A-37.084 Definitions.

For purposes of this part, terms used in rules 4A-37.082 – 4A-37.089 are as defined in section 633.382(1), Florida Statutes, and terms which are not otherwise defined in said statutes are defined as follows:

(1) “Accredited” means a post-secondary institution has received accreditation from an accrediting agency that is recognized by the U.S. Department of Education. “Accrediting Agency” means those accrediting agencies belonging to the Council on Post-Secondary Accreditation.

(2) “Eligible Associate Degree” means an Associate of Arts or Associate of Science degree conferred by a an accredited post-secondary institution in which the firefighter successfully completed at least 18 semester hours or 27 quarter hours of courses applicable to fire department duties identified in subsection (5) of this rule.

(3) “Eligible Bachelor's Degree” means a bachelor's Bachelor of Arts or Bachelor of Science degree conferred by an accredited post-secondary institution provided the major study concentration area is readily identifiable as applicable to fire department duties, as defined in subsection (5).

~~(a) A firefighter may receive Supplemental Compensation based on possession of a Bachelor's Degree regardless of whether or not an Associate Degree was previously earned. In no event shall receipt of a transcript for an Associate Degree be used in consideration for qualification of the Bachelor's Degree Supplemental Compensation.~~

~~(b) The major study concentration area must be readily identifiable as applicable to fire department duties. Those major study concentration areas specifically defined in this rule chapter are considered to be readily identifiable as applicable to fire department duties.~~

(4) No change.

(5) “Applicable to Fire Department Duties” means that the firefighter applicant's fire chief or, if there is no fire chief, the chief administrative officer of the fire department within the employing agency reviews the applicant's post-secondary institution transcript and certifies to the division that the associate or bachelor's degree conferred upon the applicant relates to fire department duties. “Major Study Concentration Area” as identified on official sealed transcripts, includes a major in fire science, municipal management, public administration, business administration, computer science, engineering, management information systems, emergency medical technology, and paramedic technology.

(6) “Post-Secondary Institution” means Universities, Colleges, Community Colleges and Junior Colleges which are accredited by an accrediting agency.

(7) No change.

Specific Authority 633.45(2)(a) FS. Law Implemented 633.382(2) FS. History—New 1-3-90, Amended 3-20-95,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Randall Napoli, Chief, Bureau of Fire Standards and Training,
Division of State Fire Marshal, Department of Insurance
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Charles Clark, Director, Division of
State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY THE AGENCY
HEAD: May 7, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: June 26, 1998

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE TITLE: Citrus Canker Eradication

RULE NO.: 5B-58.001

PURPOSE AND EFFECT: The purpose of these amendments is to specify generic descriptions of quarantine area(s) with provisions for publication in a major newspaper of general circulation in the area(s) affected and to stipulate clearer requirements for certification and movement.

SUMMARY: These amendments clarify what constitutes a commercial citrus grove; revises the definition of exposed and infected to more clearly reflect the meaning of terms in the eradication program; gives a generic description of the quarantine area(s) with provision for publication in a major newspaper of general circulation in the area(s) affected; allows replanting of commercial citrus in quarantine areas based on risk assessment; stipulates clearer requirements for fruit certification within quarantined areas and references Federal prohibitions on movement from quarantine areas to citrus producing states; and adds a prohibition against adding citrus nursery stock to nursery inventories in quarantine areas.

SPECIFIC AUTHORITY: 570.07(21),(23), 581.091(1), 581.101 (1), 581.031(1),(4),(5), 581.184 FS.

LAW IMPLEMENTED: 580.07(2),(13),(21); 581.031(6),(7), (9),(15),(17),(19),(30), 581.083, 581.101, 581.131, 581.141, 581.184, 581.211 FS.

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

TIME AND DATE: 10:00 a.m., September 21, 1999
PLACE: Doyle Conner Building, 1911 S. W. 34 Street, Gainesville, FL 32608

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, FL 323608

THE FULL TEXT OF THE PROPOSED RULE IS:

5B-58.001 Citrus Canker Eradication.

(1) Definitions. For the purpose of this rule, the definitions in Section 581.011, Florida Statutes, and the following definition shall apply:

(a) Approved Landfill. A landfill that is fenced, that prohibits the removal of dumped material, and that requires that dumped material be covered ~~with Soil~~ at the end of every day on which dumping occurs.

(b) Citrus Canker Certificate. A document issued by an authorized representative of the department verifying compliance with the requirements of these rules.

(c) Citrus. All members and any hybrids of the subfamily Aurantioideae, of the family Rutaceae including any plants, plant parts, fruits, seeds and any other parts thereof. For the purpose of this rule the remaining subfamilies, Rutoideae and Toddalioideae, of the family rutaceae are excluded from this definition.

(d) Citrus Canker. A bacterial disease of citrus incited by the organism *Xanthomonas axonopodis* pv. citri, (formerly known as *Xanthomonas campestris* pv. citri), Asian strain.

(e) Commercial Citrus Grove. A solid set planting of 40 or more citrus trees.

(f)(e) Commercial Citrus-Producing Area. American Samoa, Arizona, California, Florida, Guam, Hawaii, Louisiana, Northern Mariana Islands, Puerto Rico, Texas and the Virgin Islands of the United States.

(g)(f) Exposed. Determined by the department to likely harbor be at risk for developing citrus canker bacteria because of proximity during the past two years to infected plants, or probable contact with personnel, or regulated articles, or other articles that may have been contaminated with bacteria that cause citrus canker, but not expressing visible symptoms.

(h)(g) Infected. Harboring citrus canker bacteria and expressing visible symptoms. Actually harboring citrus canker in any stage of citrus canker disease development.

(i)(h) Regulated Articles. Any article capable of transporting or harboring citrus canker; including:

1. Trucks, tractors and all other equipment used in the quarantine areas for the production cultivation, harvesting, processing and packing, and transportation of citrus or regulated articles.

2. All lawn and garden tools and nursery equipment used in the quarantine areas.

3. Plant clippings and lawn and yard debris from the quarantine areas.

(2) Purpose. This rule is enacted to prevent the spread of citrus canker and to eradicate citrus canker within the State of Florida. To accomplish that purpose, this rule declares citrus canker to be a plant pest and a nuisance, establishes quarantine areas, establishes eradication and control procedures, prohibits the removal of citrus nursery stock or citrus nursery plants or plant products from the quarantine areas, regulates the prohibits retail sale of citrus fruit originating in the quarantine areas, identifies regulated articles, and provides for entry of authorized representatives upon properties where citrus canker is known to exist or upon properties which have been exposed to citrus canker.

(3) Declaration of citrus canker as a plant pest. Pursuant to Section 581.031(6), Florida Statutes, citrus canker; is declared to be a plant pest and a nuisance capable of causing serious damage to citrus. Any citrus, or any other regulated article capable of transporting or harboring citrus canker and therefore capable of spreading the disease is also declared to be a nuisance.

(4) Quarantine area. An area not to exceed a distance of 5 miles around a site where an infestation of citrus canker is known to occur will be quarantined. The geographical boundaries of the quarantine area shall be established by risk assessment procedures and will be published in a major newspaper of general distribution in each area affected and through other appropriate media. Risk assessment procedures will consider the aggressiveness of the pathogen in the field, the level of disease inoculum, the location and spatial distribution of infected and exposed plants, the variety and type of plants, the risk of spread to areas growing citrus commercially, maintenance practices, and other relevant information. An area shall be released from quarantine provided no detections of citrus canker have occurred during a minimum two-year period of intensive survey and a declaration that citrus canker has been eradicated from the area. Pursuant to Section 581.031(7), Florida Statutes, a quarantine area are declared to be that area of Dade County beginning at the mouth of the Miami River in Biscayne Bay; North along Biscayne Bay to Bal Harbor; exit Biscayne Bay through the inlet at Bal Harbor to the Atlantic Ocean; North along the Atlantic Ocean to Broward County line; West on Broward County line to where Broward County line joins with the Florida Turnpike Homestead extension; West on Turnpike extension and Broward County line to where the Broward County line separates from Turnpike extension; South on Broward County line to where the Broward County line runs West; West on Broward County line to Florida Turnpike Homestead extension; Southwest and South on Florida Turnpike Homestead extension to NW 58th Street; West on NW 58th Street to Krome Avenue (NW 177th Avenue); South on Krome Avenue (NW & SW 177th Avenue) to Coral Reef Drive (SW 152nd Street); East on Coral Reef to Biscayne Bay; Biscayne Bay North to beginning. That area of Manatee County bounded by the Manatee River beginning at the intersection of the Manatee River and Interstate 75 extending West of Gulf and Bay Estates to Terra Ceia Bay; Northeast thru Terra Ceia Bay; then North along the Western boundaries of Sections 25, 24, 13, 12, & 1 TWP 33S RNG 17E to the Manatee, Hillsborough County Line; Then East along the Manatee, Hillsborough county line to the Eastern Boundaries of SEC 3 TWP 33S RNG 18E; South on the Eastern Boundaries of SEC 3 and SEC 10 TWP 33S RNG 18E to where it becomes Carter Road; Carter Road South to where it meets the Eastern Boundary of SEC 22 TWP 33S RNG 18E; South on the Eastern boundary of Section 22 and Section 27, Township 33S, Range 18E to 69th St. East; Then East along 69th St. East to Erie Road; Then Southward on Erie Road to U.

~~S. Highway 301; U. S. Highway 301 Southwest to Interstate 75; and South on Interstate 75 to the point of beginning at the Manatee River. Terra Ceia Bay northeast to the Terra Ceia river; the Terra Ceia River north to Interstate 275; Interstate 275 east to Bishop harbor Road; Bishop Harbor Road north and east to where it becomes Ellenton Gillette and then Moccasin Wallow Road; Moccasin Wallow Road east to the eastern boundary of Section 22, Township 33S, Range 18E (approximately 1 mile east of Interstate 75); south on the eastern boundary of Section 22 and Section 27, Township 33S, Range 18E to Erie Road; Erie Road eastward, then southward to U.S. Highway 301; U. S. Highway 301 southwest to Interstate 75; and south on Interstate 75 to the point of beginning at the Manatee River.~~

(5) Control procedures.

(a) Risk Assessment. The department shall perform risk assessment procedures in the quarantine areas to determine the steps necessary to eradicate, control, and prevent the dissemination of citrus canker. Risk assessment procedures will consider the aggressiveness of the pathogen in the field, the level of disease inoculum, the location and spatial distribution of infected and exposed plants, the variety and type of plants, the risk of spread to areas growing citrus commercially, maintenance practices, and other relevant information.

(b) Control Procedure Documents. The control procedures shall include the preparation of the following documents for each piece of property potentially harboring infected or exposed citrus.

1. A report verifying the presence of, or exposure to, citrus canker through either a laboratory or field diagnosis.

2. A written inventory including size, condition, and variety of citrus located on the infected or exposed property.

3. A map of the infected or exposed property with the location of citrus subject to control action ~~to be removed, pruned or treated.~~

4. A recommendation for control action ~~destroying, pruning or treating the citrus.~~

(c) Immediate Final Orders. The Department shall issue an Immediate Final Order stating the quarantine and control methods to be implemented on the infected or exposed citrus located on the property. A copy of the citrus canker diagnostic report, inventory, map, and recommendation referred to above will be attached to each respective Immediate Final Order. The Immediate Final Order will be provided to each property owner. If provided by personal delivery, the person making the delivery of the Immediate Final Order shall note on the order the date and time of delivery, the name of the recipient of the Order and the name of the person delivering the Order. If provided by mail, the Immediate Final Order shall be sent certified mail return receipt requested. The Immediate Final Order shall be immediately appealable or enjoined. If the property owner is in agreement and signs the waiver

accompanying the Immediate Final Order, control measures in accordance with risk assessment procedures shall proceed. If the property owner refuses to sign the waiver, then control measures mandated by risk assessment procedures shall begin no sooner than five days from the property owner's receipt of the Immediate Final Order. Immediate final orders are not required for control action in commercial citrus groves provided the owner agrees voluntarily to the control action and enters into an agreement not to sue with the department.

(d) Property File. The department shall maintain a property file for each separate piece of property. The file shall contain those documents that were required to be prepared for risk assessment and the following: a copy of the Immediate Final Order with all attachments, a map identifying the location of infected or exposed citrus and the type of control action taken.

(6) Movement of citrus nursery stock or citrus plants.

(a) The movement or planting of citrus nursery stock, citrus plants or plant parts in the quarantine areas is prohibited with the exception of citrus nursery stock planted in a commercial citrus grove as recommended by risk assessment procedures.

(b) Citrus nursery stock may move through the quarantine areas for planting outside the quarantine areas provided it is completely covered or enclosed in containers or in a compartment of a vehicle during movement. The shipment must be accompanied by an invoice denoting a purchaser outside of the quarantine areas.

(7) Movement of citrus fruit originating within the quarantine areas. Notwithstanding Subsection (6) of this rule, citrus fruit originating within the quarantine areas may be moved from or within the quarantine areas upon obtaining a citrus canker Citrus Fruit Harvesting Permit, Revised 6/99, DACS-08123 (formerly PI-123), and incorporated herein by reference, and be in certificate demonstrating compliance with the following requirements:

(a) The grove producing the fruit has been inspected by the department and found to be free of citrus canker. Groves must be mowed and otherwise maintained to facilitate inspection.

(b) The fruit has been treated in accordance with Subsection ~~(11)~~(42) of this rule.

(c) The fruit is not ~~intended for retail sale or~~ destined for a commercial citrus-producing area which is prohibited by the USDA in 7 CFR 301.75.

(d) All citrus harvesters, haulers, packers, and processors operating in the quarantine areas or handling regulated articles from the quarantine areas must sign a compliance agreement, DACS-08031, effective 5/99, and incorporated into this rule by reference.

(e) All movement of bulk fruit must be with a limited permit, DACS-08156, effective 6/99.

(8) Retail sale of citrus fruit. All citrus fruit sold by retail establishments must originate from outside the quarantine areas or be in compliance with section (7). All retail establishments shall maintain records demonstrating compliance with this provision. Any retail establishment ~~selling citrus fruit originating within the quarantine area or~~ failing to maintain the required records shall be subject to stop sale of its citrus fruit.

(9) Movement of plant clippings and lawn and yard debris.

(a) Requirements. Plant clippings and lawn and yard debris may be moved from or within the quarantine areas for disposal in an approved landfill or for composting in a recycling facility only under the following conditions:

1. The plant clippings or yard debris must be completely covered during transportation.

2. If mechanical failure prevents unloading of debris, the department shall be notified immediately. This material may not be stored or held overnight outside the quarantine areas.

(b) Lawn maintenance operators within the quarantine areas shall demonstrate that they have:

1. Treated regulated articles in accordance with the requirements of Subsection ~~(12)(13)~~ of this rule upon departure from any property.

2. Treated personnel in accordance with the requirements of Subsection ~~(13)(14)~~ of this rule when departing from any property.

(c) Compliance Agreements. All lawn maintenance operations within the quarantine areas shall have a citrus canker certificate for each movement demonstrating compliance with paragraph (a) or must enter into a compliance agreement, DACS-08031, effective 5/99, providing for compliance with this rule. All lawn maintenance companies will be provided with a serialized decal upon signing a compliance agreement. Decals shall be prominently displayed on the driver's side of the windshield of the vehicle. All lawn maintenance operators shall on demand provide the department with a list that includes the names and physical address of all clients.

(10) Movement of citrus fruit through Quarantine areas. Notwithstanding Subsection (6) of this rule, citrus fruit originating outside the quarantine areas may be moved through the quarantine areas without a citrus canker certificate provided the following conditions are met:

(a) Citrus fruit must be accompanied by a receipt or bill of lading verifying that the citrus fruit originated outside of the quarantine areas;

(b) The citrus fruit must be completely covered or enclosed in containers or in a compartment of a vehicle during movement through the quarantine areas, except that covering or enclosure is not required if the citrus fruit is moved through the quarantine areas without stopping except for refueling or for traffic conditions such as traffic lights or stop signs.

~~(11)(a)~~ Treatment of citrus fruit.

~~(b)~~ Citrus fruit for which treatment is required by this rule must be treated in accordance with label directions in one of the following ways in the presence of an authorized representative of the department, or at a facility operating under a compliance agreement, DACS-08031, effective 5/99, with the department:

~~(a)1-~~ Thoroughly wetted for at least 2 minutes with a solution containing 200 parts per million sodium hypochlorite, with a solution maintained at a pH of 6.0 to 7.5, or

~~(b)2-~~ Thoroughly wetted with a solution containing sodium o-phenyl phenate (SOPP) at a concentration of 1.86 to 2.0 percent total solution for 45 seconds if the solution has sufficient soap or detergent to cause a visible foaming action, or for 1 minute if the solution does not contain sufficient soap to cause a visible foaming action.

(12) Treatment of Regulated Articles. Regulated Articles for which treatment is required by this rule must be treated in one of the following ways in the presence of an authorized representative of the department, or at a facility operating under a compliance agreement with the department:

(a) All surfaces must be treated to the point of runoff with 200 parts per million sodium hypochlorite solution. A pH of 6.0 to 7.5 must be maintained in the solution.

(b) All surfaces must be treated to the point of runoff with 2000 parts per million solution of quaternary ammonium chloride (0.2% OAC).

(c) All surfaces must be washed thoroughly to the point of runoff with a hot water and detergent solution under high pressure maintained at a minimum temperature of 160 degrees F. (71 degrees C).

(d) All surfaces must be thoroughly cleaned with steam with a minimum temperature of 160 degrees F (71 degrees C) maintained at the point of contact.

(13) Treatment of Personnel. Personnel departing from property which contains citrus shall wash or treat all exposed areas of the body and clothing with an antibacterial soap, wash, spray or other approved solution.

(14) Citrus plants in containers. Maintaining citrus plants in containers within the quarantine areas is prohibited unless they are located in a nursery or nursery stock dealer establishment which is registered with the department. It shall be unlawful for nurseries or nursery stockdealers in the quarantine areas to add citrus plants to their inventory.

(15) Entry of authorized representatives. All owners and occupants of properties on which citrus canker is known or suspected to exist shall permit entry of authorized representatives of the Department of Agriculture and Consumer Services for purposes of inspecting, taking of specimens, or collecting suspect infected fruit, photographing or documenting tree information, applying or supervising treatments, or conducting control activities.

Specific Authority 570.07(21),(23), 581.091(1), 581.101(1), 581.031(1),(4),(5), 581.184 FS. Law Implemented 570.07(2),(13), (21), 581.031(6),(7),(9),(15),(17), 581.083, 581.101, 581.131, 581.141, 581.184, 581.211 FS. History--New 1-17-96, Amended 4-9-96, 5-14-97, 8-19-97, 11-19-97.

NAME OF PERSON ORIGINATING PROPOSED RULE: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, P. O. Box 147100, Gainesville, Florida 32614-7100

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard Gaskalla, Director, Division of Plant Industry, Department of Agriculture and Consumer Services, P. O. Box 147100, Gainesville, Florida 32614-7100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 12, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 9, 1998

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Educational Facilities

RULE NO.: 6A-2.0111

PURPOSE AND EFFECT: The purpose of the rule amendment is to update the rule as it relates to life cycle cost criteria, standards for new and existing relocatable classroom buildings, to reformat and reorganize the material for future incorporation of the "new construction" standards into the Florida Building Code, and to include other updates in response to changed requirements of Florida Statute. The effect will be a rule which reflects the changes made in law.

SUMMARY: This rule is to be amended to comply with current facility standards and with present legislative directive. Chapter 235, Florida Statutes, requires the Commissioner of Education to provide standards and requirements for the procurement and management of educational facilities. Incorporated in the rule by reference is the document "State Requirements for Educational Facilities" (SREF). The SREF requirements include, but are not limited to: leasing, planning, constructing, inspecting and maintaining public educational facilities from public school child care through community colleges. Financing of public educational capital outlay projects includes kindergarten through university facilities and other educational agencies.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: Section AXIIS9(a), AXIIS9(d), State Constitution; 215.61(5), 229.053(1), 230.23(9), 230.64, 235.01(2), 235.06, 235.19, 235.211, 235.26, 235.31, 235.32, 239.229, 240.327(1) FS.

LAW IMPLEMENTED: Section AXIIS9(a), AXIIS9(d), State Constitution; 50.011, 50.021, 50.031, 50.041, 50.051, 50.061, 50.071, 215.61, 230.23(9), 230.33(12)(j), 230.64, 235.011, 235.014, 235.04(1), 235.05, 235.054, 235.055, 235.056, 235.057, 235.06, 235.15, 235.18, 235.19, 235.193, 235.195, 235.211, 235.26, 235.30, 235.31, 235.32, 235.321, 235.34, 235.41, 235.42, 235.435, 236.13, 236.25, 236.35, 236.36, 236.37, 236.49, 237.01, 237.031, 237.40, 239.229, 240.209(3)(a), 240.295, 240.299, 240.319(3)(e)(f), 240.327, 240.331, 255.0515, 255.20, 267.061, 287.055, 287.0935, 287.133, 440.02, 440.03, 440.10, 440.103, 440.38, 442.004, 442.006, 442.007, 442.0105, 422.019, 422.022, 442.101, 442.109, 442.115, 471.003, 481.229, 489.113(2), 489.125, 553.63, 553.64, 553.71, 553.79, 553.80, 633.025 FS.

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

TIME AND DATE: 9:00 a.m., September 28, 1999

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Suzanne Marshall, Bureau Chief, Educational Facilities, Department of Education, 325 West Gaines Street, Room 1054, Tallahassee, Florida 32399-0400, (850)487-1130

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-2.0111 Educational Facilities.

State Board of Education requirements adopted pursuant to Chapter 120, Florida Statutes, to implement the State Uniform Building Code for Public Educational Facilities Construction in Chapter 235, Florida Statutes, are contained in the Department of Education publication titled "State Requirements for Educational Facilities, 1999 Volume I-Process and Rule and Volume II-Building Code 1997," which is hereby incorporated by reference and made a part of this rule. All educational and ancillary facilities constructed by a school board or community college board shall comply with the State Uniform Building Code for Public Educational Facilities Construction (UBC). The UBC shall supersede any other code adopted by a board, or any other building code or ordinance, for the construction of educational and ancillary facilities and plants whether at the local, county, or state level rule. After January 1, 2001, the UBC will be merged into the Florida Building Code.

(1) In addition to "State Requirements for Educational Facilities, 1999 Volumes I and II 1997," all, or the specific portions cited, of the following building codes are hereby incorporated by reference and made a part of this rule. If there should be conflicting requirements between these codes and "State Requirements for Educational Facilities, 1999 Volumes I and II 1997," the more, or most stringent requirement shall apply.

(a) ACI 318-95, American Concrete Institute, "Building Code Requirements for Structural Concrete and Commentary" 1995, and ACI 530-92, Building Code Requirements for Masonry Structures.

(b) AHERA. Asbestos Hazard Emergency Response Act, 40 CFR, Part 763, as revised July 1, 1995.

(c) AISC. American Institute of Steel Construction Allowable Stress Design Ninth Edition adopted by SBC.

(d) AISI. Specification for the Design of Cold-Formed Steel Structure Members August 1986 Edition with December 1989 Addendum.

(e) ANSI. American National Standards Institute. References to ANSI standards shall be the 1995 edition.

(f) ASCE. American Society of Civil Engineers. References to ASCE 7-98 standards shall be the edition listed in the "State Requirements for Educational Facilities, 1999 1997."

(g) ASHRAE. American Society of Heating, Refrigeration, and Air Conditioning Engineers.

(h) ASTM. American Society for Testing Materials. References to ASTM standards shall be the edition listed in the 1997 edition of the ASTM standards.

(i) DCA. Department of Community Affairs.

1. Florida Americans With Disability Implementation Act, 1993 and the Florida Accessibility Code for Building Construction, October 1997 1994 as adopted by the State Board of Building Codes and Standards which has become the Florida Building Commission.

2. Florida Energy Efficiency Code for Building Construction (FEEC), 1998 Revisions to the 1997 Edition 1993, as adopted by the State Board of Building Codes and Standards under Rule 9B-3.047, FAC.

(j) DOT - AASHTO, American Association of State Highway and Transportation Officials "Standard Specifications for Highway Bridges (1990 English Edition; 1994 Metric Edition) as modified by Florida DOT Structures Design Guidelines for Load and Resistance Factor Design" Revised January 1, 1999 July 1998, as incorporated by reference in Chapter 14, FAC.

(k) FEMA. Federal Emergency Management Agency. Rules and Regulations 44 CFR, Parts 59 and 60, revised as of October 1, 1995, for flood plain criteria governing insurability of facilities constructed in flood plain.

(l) NEC. National Electrical Code, 1996 (NFPA 70).

(m) NFPA. National Fire Protection Association, 1997 1994, NFPA 101, and other NFPA codes as applicable. Exceptions are NFPA 101 Sections 10-2.27 and 10-7.2.27 "Exit Passageways" and where NFPA codes are exceeded by these State Requirements.

(n) OSHA. Occupational Safety and Health Administration, U.S. Department of Labor, 29 CFR as Revised July 1, 1995.

~~(o) SBC. Standard Building Code, 1997 as adopted by the Department of Community Affairs 1994 with 1996 Revisions~~, except as may be superseded by these State Requirements.

~~(p) SGC. Standard Gas Code, 1997 1994 with 1996 Revisions.~~

~~(q) SMC. Standard Mechanical Code, 1997 1994 with 1996 Revisions.~~

~~(r) SPC. Standard Plumbing Code, 1994 with 1995/96 Revisions.~~

~~(s) TMS. The Masonry Society Standards, 1992; TMS 602-92, TMS 402-92.~~

~~(t) Commercial Building Standard for Telecommunications Pathways and Spaces, EIA/TIA-569, October 1990.~~

~~(s) Commercial Building Telecommunications Cabling Standard, TIA/EIA-568-A, October 1995.~~

(2) Copies of the publication "State Requirements for Educational Facilities, 1999 Volumes I and II 1997" are available from the Office of Educational Facilities, Florida Department of Education, Room 1054, Turlington Building, 325 West Gaines Street, Tallahassee, Florida 32399-0400, at a cost to be determined by the Commissioner, but which shall not exceed actual cost. Copies of the codes listed in subsection (1) of this rule are available from the publisher whose location and address are available from Educational Facilities. These codes are readily available to the public upon request at the cost established by the publisher.

Specific Authority Section AXIIS9(a), AXIIS9(d), State Constitution; 215.61(5), 229.053(1), 230.23(9), 230.64, 235.01(2), 235.06, 235.19, 235.211, 235.26, 235.31, 235.32, 239.229, 240.327(1) FS. Law Implemented Section AXIIS9(a), AXIIS9(d), State Constitution; 50.011, 50.021, 50.031, 50.041, 50.051, 50.061, 50.071, 215.61, 230.23(9), 230.33(12)(j), 230.64, 235.011, 235.014, 235.04(1), 235.05, 235.054, 235.055, 235.056, 235.057, 235.06, 235.15, 235.18, 235.19, 235.193, 235.195, 235.211, 235.26, 235.30, 235.31, 235.32, 235.321, 235.34, 235.41, 235.42, 235.435, 236.13, 236.25, 236.35, 236.36, 236.37, 236.49, 237.01, 237.031, 237.40, 239.229, 240.209(3)(a), 240.295, 240.299, 240.319(3)(e)&(f), 240.327, 240.331, 255.0515, 255.20, 267.061, 287.055, 287.0935, 287.133, 440.02, 440.03, 440.10, 440.103, 440.38, 442.004, 442.006, 442.007, 442.0105, 422.019, 422.022, 442.101, 442.109, 442.115, 471.003, 481.229, 489.113(2), 489.125, 553.63, 553.64, 553.71, 553.79, 553.80, 633.025 FS. History—New 10-30-94, Amended 4-28-97.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wayne V. Pierson, Deputy Commissioner for Planning, Budgeting and Management, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 18, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 13, 1998

STATE BOARD OF ADMINISTRATION

RULE TITLE: Auditing Procedures
 RULE NO.: 19-8.014

PURPOSE AND EFFECT: This rule is promulgated to establish and implement auditing procedures for exposure audits, regarding the Florida Hurricane Catastrophe Fund, for the 1999-2000 contract year.

SUMMARY: Proposed new rule 19-8.014 establishes auditing procedures for exposure audits of the participating insurers in the Florida Hurricane Catastrophe Fund.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board has prepared a statement and found the cost to be minimal.

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

SPECIFIC AUTHORITY: 215.555(3) FS.

LAW IMPLEMENTED: 215.555(2), (3),(4),(5) FS.

REGARDLESS OF WHETHER OR NOT ONE IS REQUESTED, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m. – noon, Wednesday, September 29, 1999

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jack Nicholson, Chief Operating Officer of the Florida Hurricane Catastrophe Fund, State Board of Administration, P. O. Drawer 13300, Tallahassee, FL 32317-3300; tel.: (850)413-1340

THE FULL TEXT OF THE PROPOSED RULE IS:

PART I: EXPOSURE AUDITS

19-8.014 Auditing Procedures.

(1) The purpose of the subsections in this part is to establish the procedures and requirements for audits of covered policy exposure reported by participating insurers in the Florida Hurricane Catastrophe Fund pursuant to the provisions of Section 215.555, Florida Statutes; the reimbursement contract adopted pursuant to Rule 19-8.010; and the records retention requirements adopted pursuant to the rules adopting each contract year's reimbursement premium formula and data call. The procedures and requirements in this rule relate to all the FHCF's participating insurers, which number slightly under 300 for any one contract year. All of the insurers are different. They differ by volume of direct written premium; by whether they are a stock insurer, a mutual insurer, or some other variation; by lines of business written; by their exposure location in the state; by method of selling business, e.g., captive agents, independent agents, direct mail; by whether their internal operations are in-house or serviced by outside

firms; by whether they are a domestic or nationwide insurer; by whether or not they are a member of a group. These differences necessarily require that the FHCF treat each insurer slightly or significantly different depending on the exposure to be audited and how that audit is to be conducted. The procedures and requirements outlined below describe the generally applicable procedures and requirements. Any variation will be handled on a case-by-case basis using the factors outlined above.

(2) Definitions. The following definitions are applicable to the subsections in this part.

(a) "Covered Policies" are those policies defined in Section 215.555(2)(c), Florida Statutes. Covered Policies are further defined in the Reimbursement Contract adopted and incorporated by reference in Rule 19-8.010.

(b) A "participating insurer" is an authorized insurer as defined in Section 624.09(1), Florida Statutes, and entities created pursuant to Section 627.351, Florida Statutes. A participating insurer is required to participate in the Florida Hurricane Catastrophe Fund pursuant to Section 215.555(4)(a), Florida Statutes.

(c) "Reimbursement Contract" means the document adopted by the SBA which defines the conditions and details of reimbursement coverage provided by the FHCF. The Reimbursement Contract is adopted by reference for each contract year in Rule 19-8.010.

(d) The "data call" is the document adopted for each contract year in the rule entitled "Insurer Reporting Requirements" which details the requirements and format for reporting each participating insurer's covered policy exposure.

(e) "Generally accepted auditing standards" have been primarily established for audits of financial statements. However, many of the standards and procedures are applicable to the more limited exposure audits described herein. To the extent that generally accepted auditing standards are applicable to the unique audits performed herein, they are used. Procedures described herein have been adopted in accordance with generally accepted auditing standards.

(f) A participating insurer's "exposure" is its insured exposure for covered policies reported as of June 30 of each contract year by line of business, geographical location, construction type, and deductible amount.

(g) A participating insurer's "reimbursement premium" is the amount of premium paid per \$1,000 of covered policy insured value as determined in accordance with the premium formula adopted pursuant to Section 215.555(5), Florida Statutes.

(h) The "policy sample" which the auditor will use to conduct the audit will be selected in a haphazard manner in accordance with generally accepted auditing standards.

(3) Confidentiality. Pursuant to the provisions of Section 215.557, Florida Statutes, and Section 215.555(4)(f), Florida Statutes, each participating insurer's covered policy exposure is confidential and exempt from the provisions of Section

119.07(1), Florida Statutes, and section 24(a) of Article I of the Florida State Constitution. Since the audits addressed by the subsections in Part I of this rule are audits of each participating insurer's covered policy exposure, any part of the audit report, workpapers, findings, or recommendations which contains such covered policy exposure information, even when the audit is finalized and the audit is closed, will remain confidential and exempt from the public records law and is not a public record.

(4) Audit procedures

(a) The FHCF will send an audit notice to the participating insurer providing the commencement date of the audit, the site of the audit, any accommodation requirements of the auditor, and the reports and data which must be assembled by the participating insurer and forwarded to the FHCF upon request.

(b) The reports and data forwarded to the FHCF upon request are reviewed internally and forwarded to the auditor. If the FHCF receives accurate and complete records as requested, the auditor will contact the participating insurer to inform the insurer as to what policies or other documentation will be required once the auditor is on site. Any records not provided to the auditor in advance shall be made available at the time the auditor arrives on site.

(c) At the conclusion of the auditor's audit and the management review of the auditor's report, findings, recommendations, and workpapers, the FHCF will forward a preliminary draft of the audit report to the participating insurer and require a response from the participating insurer by a date certain as to the audit's findings and recommendations.

(d) If the participating insurer accepts the audit's findings and recommendations, and there is no recommendation for resubmission of the participating insurer's exposure data, the audit report will be finalized and the audit file closed.

(e) If the participating insurer disputes the audit's findings, the areas in dispute will be resolved by a meeting or a conference call between the participating insurer and FHCF management.

(f) If the auditor's recommendation is to resubmit the insurer's exposure data for the contract year in question, then the FHCF will send the participating insurer a letter outlining the process for resubmission and including a deadline for the resubmission to be received by the FHCF's Administrator. Once the resubmission is received by the FHCF's Administrator and reviewed by the FHCF, the FHCF notifies the FHCF's Administrator which then calculates a revised reimbursement premium for the contract year which has been audited and sends an invoice to the participating insurer or refunds reimbursement premium, as the case may be. Once the resubmission has been approved, the audit report will be finalized and the audit file closed.

(g) If the auditor's recommendation is to correct the errors found but not to resubmit the exposure data, then the insurer will be placed on the FHCF's schedule for an audit for the next

statutorily scheduled exposure submission pursuant to Section 215.555(5)(c), Florida Statutes, to ensure that the corrections have been made.

(h) If the participating insurer continues to dispute the audit's findings and/or recommendations and no resolution of the disputed matters is obtained through discussions between the insurer and FHCF management, then the process within the agency is at an end and further administrative remedies may be obtained under Chapter 120, Florida Statutes.

(i) The auditor's list of errors found during the audit or as a result of a resubmission will be made available to the participating insurer upon request. Given that the audit was based on a sample of the insurer's policies rather than the whole universe of the insurer's covered policy exposure, the error list is not intended to provide a complete list of errors but is intended to indicate what covered policy information needs to be reviewed and corrected throughout the participating insurer's book of covered policy business to ensure more complete and accurate reporting in the resubmission if required and for any future submissions.

(5) Costs of the audits. The costs of the audits shall be borne by the SBA. However, in order to remove any incentive for a participating insurer to delay preparations for an audit, the SBA shall be reimbursed by the participating insurer for any audit expenses incurred in addition to the usual and customary costs of the audits, which additional expenses were incurred as a result of the insurer's failure, despite proper notice, to be prepared for the audit or as a result of a insurer's failure to provide requested information in advance of or while the audit is in progress. All requested information must be complete and accurate. The insurer shall be notified of any administrative remedies which may be obtained under Chapter 120, Florida Statutes.

(6) Pursuant to the provisions of Section 215.555(10), Florida Statutes, any violation of the statute or any rules adopted thereunder is a violation of the Florida Insurance Code. Pursuant to the provisions of Section 215.555(11), Florida Statutes, the SBA is authorized to take all actions necessary to enforce the rules and the contract.

Specific Authority 215.555(3) FS. Law Implemented 215.555(2),(3),(4),(5) FS. History—New.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jack Nicholson, Chief Operating Officer, Florida Hurricane
Catastrophe Fund, State Board of Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Trustees of the State Board of
Administration

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: August 12, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: June 18, 1999

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Standards for the Use of Controlled Substances for Treatment of Pain

RULE NO.: 64B8-9.013

PURPOSE AND EFFECT: The proposed rule is intended to set forth the standards for prescribing, dispensing, and administering controlled substances for the treatment of pain.

SUMMARY: The proposed rule sets forth the standards for physicians in the prescribing, dispensing, and administering controlled substances for those patients experiencing acute or chronic pain.

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

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

SPECIFIC AUTHORITY: 458.309(1) FS.

LAW IMPLEMENTED: 458.326, 458.331(1)(g) FS.

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

TIME AND DATE: 2:00 p.m., or as soon thereafter as can be heard, October 9, 1999

PLACE: Sheraton Suites, 4400 W. Cypress Street, Tampa, FL 33607

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 2020 Capital Circle, S. E., Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.013 Standards for the Use of Controlled Substances for Treatment of Pain.

(1) Pain management principles.

(a) The Board of Medicine recognizes that principles of quality medical practice dictate that the people of the State of Florida have access to appropriate and effective pain relief. The appropriate application of up-to-date knowledge and treatment modalities can serve to improve the quality of life for those patients who suffer from pain as well as reduce the morbidity and costs associated with untreated or inappropriately treated pain. The Board encourages physicians to view effective pain management as a part of quality medical practice for all patients with pain, acute or chronic, and it is especially important for patients who experience pain as a result of terminal illness. All physicians should become

knowledgeable about effective methods of pain treatment as well as statutory requirements for prescribing controlled substances.

(b) Inadequate pain control may result from physicians' lack of knowledge about pain management or an inadequate understanding of addiction. Fears of investigation or sanction by federal, state, and local regulatory agencies may also result in inappropriate or inadequate treatment of chronic pain patients. Physicians should not fear disciplinary action from the Board or other state regulatory or enforcement agencies for prescribing, dispensing, or administering controlled substances including opioid analgesics, for a legitimate medical purpose and that is supported by appropriate documentation establishing a valid medical need and treatment plan. Accordingly, these guidelines have been developed to clarify the Board's position on pain control, specifically as related to the use of controlled substances, to alleviate physician uncertainty and to encourage better pain management.

(c) The Board recognizes that controlled substances, including opioid analgesics, may be essential in the treatment of acute pain due to trauma or surgery and chronic pain, whether due to cancer or non-cancer origins. Physicians are referred to the U.S. Agency for Health Care and Research Clinical Practice Guidelines for a sound approach to the management of acute and cancer-related pain. The medical management of pain including intractable pain should be based on current knowledge and research and includes the use of both pharmacologic and non-pharmacologic modalities. Pain should be assessed and treated promptly, and the quantity and frequency of doses should be adjusted according to the intensity and duration of the pain. Physicians should recognize that tolerance and physical dependence are normal consequences of sustained use of opioid analgesics and are not synonymous with addiction.

(d) The Board of Medicine is obligated under the laws of the State of Florida to protect the public health and safety. The Board recognizes that inappropriate prescribing of controlled substances, including opioid analgesics, may lead to drug diversion and abuse by individuals who seek them for other than legitimate medical use. Physicians should be diligent in preventing the diversion of drugs for illegitimate purposes.

(e) The Board will consider prescribing, ordering, administering, or dispensing controlled substances for pain to be for a legitimate medical purpose if based on accepted scientific knowledge of the treatment of pain or if based on sound clinical grounds. All such prescribing must be based on clear documentation of unrelieved pain and in compliance with applicable state or federal law.

(f) Each case of prescribing for pain will be evaluated on an individual basis. The Board will not take disciplinary action against a physician for failing to adhere strictly to the provisions of these guidelines, if good cause is shown for such deviation. The physician's conduct will be evaluated to a great

extent by the treatment outcome, taking into account whether the drug used is medically and/or pharmacologically recognized to be appropriate for the diagnosis, the patient's individual needs including any improvement in functioning, and recognizing that some types of pain cannot be completely relieved.

(g) The Board will judge the validity of prescribing based on the physician's treatment of the patient and on available documentation, rather than on the quantity and chronicity of prescribing. The goal is to control the patient's pain for its duration while effectively addressing other aspects of the patient's functioning, including physical, psychological, social, and work-related factors. The following guidelines are not intended to define complete or best practice, but rather to communicate what the Board considers to be within the boundaries of professional practice.

(2) Definitions.

(a) Acute Pain. For the purpose of this rule, "acute pain" is defined as the normal, predicted physiological response to an adverse chemical, thermal, or mechanical stimulus and is associated with surgery, trauma, and acute illness. It is generally time-limited and is responsive to opioid therapy, among other therapies.

(b) Addiction. For the purpose of this rule, "addiction" is defined as a neurobehavioral syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects and is characterized by compulsive use despite harm. Addiction may also be referred to by terms such as "drug dependence" and "psychological dependence." Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not be considered addiction.

(c) Analgesic Tolerance. For the purpose of this rule, "analgesic tolerance" is defined as the need to increase the dose of opioid to achieve the same level of analgesia. Analgesic tolerance may or may not be evident during opioid treatment and does not equate with addiction.

(d) Chronic Pain. For the purpose of this rule, "chronic pain" is defined as a pain state which is persistent and in which the cause of the pain cannot be removed or otherwise treated. Chronic pain may be associated with a long term incurable or intractable medical condition or disease.

(e) Pain. For the purpose of this rule, "pain" is defined as an unpleasant sensory and emotional experience associated with actual or potential tissue damage or described in terms of such damage.

(f) Physical Dependence. For the purpose of this rule, "physical dependence" on a controlled substance is defined as a physiologic state of neuro-adaptation which is characterized by the emergence of a withdrawal syndrome if drug use is stopped or decreased abruptly, or if an antagonist is

administered. Physical dependence is an expected result of opioid use. Physical dependence, by itself, does not equate with addiction.

(g) Pseudoaddiction. For the purpose of this rule, "pseudoaddiction" is defined as a pattern of drug-seeking behavior of pain patients who are receiving inadequate pain management that can be mistaken for addiction.

(h) Substance Abuse. For the purpose of this rule, "substance abuse" is defined as the use of any substances for non-therapeutic purposes or use of medication for purposes other than those for which it is prescribed.

(i) Tolerance. For the purpose of this rule, "tolerance" is defined as a physiologic state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect, or a reduced effect is observed with a constant dose.

(3) Guidelines. The Board has adopted the following guidelines when evaluating the use of controlled substances for pain control:

(a) Evaluation of the Patient. A complete medical history and physical examination must be conducted and documented in the medical record. The medical record should document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, and history of substance abuse. The medical record also should document the presence of one or more recognized medical indications for the use of a controlled substance.

(b) Treatment Plan. The written treatment plan should state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and should indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the physician should adjust drug therapy to the individual medical needs of each patient. Other treatment modalities or a rehabilitation program may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.

(c) Informed Consent and Agreement for Treatment. The physician should discuss the risks and benefits of the use of controlled substances with the patient, persons designated by the patient, or with the patient's surrogate or guardian if the patient is incompetent. The patient should receive prescriptions from one physician and one pharmacy where possible. If the patient is determined to be at high risk for medication abuse or have a history of substance abuse, the physician may employ the use of a written agreement between physician and patient outlining patient responsibilities, including, but not limited to:

1. urine/serum medication levels screening when requested;
2. number and frequency of all prescription refills; and

3. reasons for which drug therapy may be discontinued (i.e., violation of agreement).

(d) Periodic Review. At reasonable intervals based on the individual circumstances of the patient, the physician should review the course of treatment and any new information about the etiology of the pain. Continuation or modification of therapy should depend on the physician's evaluation of progress toward stated treatment objectives such as improvement in patient's pain intensity and improved physical and/or psychosocial function, i.e., ability to work, need of health care resources, activities of daily living, and quality of social life. If treatment goals are not being achieved, despite medication adjustments, the physician should reevaluate the appropriateness of continued treatment. The physician should monitor patient compliance in medication usage and related treatment plans.

(e) Consultation. The physician should be willing to refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention should be given to those pain patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder may require extra care, monitoring, documentation, and consultation with or referral to an expert in the management of such patients.

(f) Medical Records. The physician is required to keep accurate and complete records to include, but not be limited to:

1. the medical history and physical examination;
2. diagnostic, therapeutic, and laboratory results;
3. evaluations and consultations;
4. treatment objectives;
5. discussion of risks and benefits;
6. treatments;
7. medications (including date, type, dosage, and quantity prescribed);
8. instructions and agreements; and
9. periodic reviews.

Records must remain current and be maintained in an accessible manner and readily available for review.

(g) Compliance with Controlled Substances Laws and Regulations. To prescribe, dispense, or administer controlled substances, the physician must be licensed in the state and comply with applicable federal and state regulations. Physicians are referred to the Physicians Manual: An Informational Outline of the Controlled Substances Act of 1970, published by the U.S. Drug Enforcement Agency, for specific rules governing controlled substances as well as applicable state regulations.

Specific Authority 458.309(1) FS. Law Implemented 458.326, 458.331(1)(g) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 21, 1999

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE TITLE: Definitions

RULE NO.: 64B14-3.001

PURPOSE AND EFFECT: The purpose of the Rule 64B14-3.001 is to implement chapter 468, Part XIV.

SUMMARY: Definitions of terms used in implementing rules.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 468.802, 455.717(1) FS.

LAW IMPLEMENTED: 468.802, 468.803, 468.805, 468.807, 468.808, 468.809, 455.717(1) FS.

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

TIME AND DATE: 9:00 a.m., September 20, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL 32310

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 2020 Capital Circle, Southeast, Bin #C06, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-3.001 Definitions.

(1) Orthotics/Prosthetics – the entire practice of orthotics and prosthetics, to include pedorthics, but may apply to a single level of license where appropriate.

(2) ABC – American Board for Certification in Orthotics and Prosthetics, Inc.

(3) Actively Practicing – working in the field of orthotics/prosthetics at least 30 hours per week.

(4) Adjust – to modify or reposition components of a device to increase its function, fit, or comfort.

(5) Arch Support – a device used in the shoe to provide foot comfort by increasing support but does not apply therapeutic forces.

(6) Assemble – to join components, either prefabricated or custom made into a device to be applied to a patient.

(7) BCP – Board for Certification in Pedorthics, Inc.

(8) BOC – Board for Orthotist/Prosthetist Certification, Inc.

(9) CAAHEP – Commission on Accreditation of Allied Health Education Programs.

(10) Consultation – the offering of information aimed at the resolution of a perceived problem.

(11) Design – to conceive and plan the fabrication of a device, using components or materials, to achieve a specific function.

(12) Direct Supervision – supervision while the qualified supervisor is on the premises.

(13) Evaluate – to make observational, verbal, or manual determinations of the function of the musculoskeletal or neuromuscular system relative to orthotics and prosthetics, including, but not limited to, range of motion of a joint, motor power, postural attitudes, biomechanical function, locomotion, surgical interventions, or functional abilities, for the purpose of making recommendations for treatment.

(14) Fabricate – to modify or combine materials and components in their original or altered state to create an orthosis or prosthesis which will be applied to a patient.

(15) Fit – to modify or alter the contour, shape, volume, stiffness, or position of a device to change its function or comfort.

(16) General Supervision – supervision where the qualified supervisor is accessible at all times by two way communication, which enables the supervisor to respond to an inquiry when made and to be readily available for consultation during the delivery of care; and is within commuting distance in reasonable geographical proximity.

(17) Initial Training – instructing the patient in the use of orthotic or prosthetic devices.

(18) Internship – professional experience that meets the requirement of Rule 64B14-4.100.

(19) Measure – to capturing the image or dimensions of the body by any means, including optical, mechanical, radiographic, ultrasonic, magnetic, or electronic.

(20) Minor Modification – adjustment of prefabricated devices to increase patient comfort, but does not include changes to the design or contours of the device.

(21) NCOPE – National Commission on Orthotics and Prosthetics Education.

(22) One year of work experience – 1900 hours of work in the field of orthotics/prosthetics, completed in no less than 10 months.

(23) Prefabricated – made to a standard size or for a generalized model not based on a particular patient’s measurements or image.

(24) Prosthetic Fillers – soft inserts used in the shoe to replace the amputated portion of the forefoot for cosmesis and comfort but not for increased function.

(25) Residency – a training program that meets the requirements of Rule 64B14-4.100.

(26) Shoe Modification – additions to footwear that alter the forces applied to the foot, making the footwear therapeutic.

(27) Soft – composed of materials such as fabric or foams having a porous cellular structure without any rigid support either internal or external other than flexible supports used to maintain proper fit.

(28) Therapeutic – applying forces to the body to modify structural, alignment correct a deformity or alleviate pain.

Specific Authority 468.802, 455.717(1) FS. Law Implemented 468.802, 468.803, 468.805, 468.807, 468.808, 468.809, 455.717(1) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Orthotists and Prosthetists

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 10, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 5, 1999

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE TITLES:	RULE NOS.:
Approved Examinations	64B14-4.001
Requirements for Prosthetic or Orthotic Residency or Internship	64B14-4.100
Requirements for Orthotic Fitter, Orthotic Fitter Assistant and Pedorthic	64B14-4.110

PURPOSE AND EFFECT: The purpose of the rules are to implement 468.803 FS.

SUMMARY: The rules implement the requirements for licensure by examination, requirements for prosthetic or orthotic residency or intership, and requirements for orthotic fitter, orthotic fitter assistant and pedorthic licensure.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 455.574(1)(c), 468.802, 468.803(2), 468.805(3) FS.

LAW IMPLEMENTED: 455.574(1)(c), 468.803(2), 468.805(3), 468.803 FS.

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

TIME AND DATE: 9:00 a.m., September 20, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL 32310

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 2020 Capital Circle, Southeast, Bin #C06, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULES IS:

64B14-4.001 Approved Examinations.

(1) The board accepts the examination results of the following nations standards organization in lieu of administering a state examination:

(a) Orthotist, prosthetist, prosthetist/orthotist – the ABC examination

(b) Pedorthist – the BCP examination.

(c) Orthotic Fitter, Orthotic Fitter Assistant – Surgical Appliance Institute and CAMP Institute of Applied Technology examination.

(2) The board approves the following examinations for licensure pursuant to Section 468.805:

(a) Orthotist prosthetist, prosthetist/orthotist – the written and written simulation modules of the ABC examination.

(b) Pedorthist – the BCP examination

Specific Authority 455.574(1)(c), 468.802, 468.803(2), 468.805(3) FS. Law Implemented 455.574(1)(c), 468.803(2), 468.805(3) FS. History–New _____.

64B14-4.100 Requirements for Prosthetic or Orthotic Residency or Internship.

(1) To meet the requirements for licensure as an orthotist or prosthetist, the applicant must document an internship that meets the requirements of this rule, or must complete a residency program accredited by NCOPE. An applicant for combined licensure as a prosthetist/orthotist must document a discrete internship in each field.

(2) An internship must consist of 1900 hours of orthotic or prosthetic experience practicing under the supervision of a licensed or ABC-certified orthotist or prosthetist, respectively. The internship must be of sufficient variety and volume to afford the intern adequate educational experience in orthotics or prosthetics to include clinical assessment, patient management, technical implementation, practice management and professional responsibility in the acute, rehabilitative and chronic phases of the care of pediatric, adult and geriatric populations. This shall include experience in lower extremity, upper extremity and spinal orthoses, or upper and lower extremity prostheses. Each intern shall keep a daily patient log, subject to audit by the Board.

(3) Clinical experience in prosthetics and orthotics, to satisfy the requirements of internship or to satisfy the experience requirements of Section 468.803(4), F.S., may not be achieved concurrently.

Specific Authority 468.802, 468.803 FS. Law Implemented 458.803 FS. History–New _____.

64B14-4.110 Requirements for Orthotic Fitter, Orthotic Fitter Assistant and Pedorthic.

(1) Requirements for Licensure as an Orthotic Fitter. The applicant must demonstrate:

(a) Successful completion of the 32-hour CAMP Institute of Applied Technology or the 32-hour Surgical Appliance Industries orthotics course and examination, and completion of an approved eight hour course in custom-molded shoes.

(b) Two years experience as an orthotic fitter assistant under the direct supervision of a licensed orthotist, licensed fitter, or an orthotist certified by ABC.

(2) Requirements for Licensure as an Orthotic Fitter Assistant. The applicant must demonstrate successful completion of the 32-hour CAMP Institute of Applied Technology or the 32-hour Surgical Appliance Industries orthotics course and examination, and completion of an approved eight hour course in custom-molded shoes.

(3) Requirements for Licensure as a Pedorthist.

(a) The minimum 120 hours of training must meet the following requirements:

1. The training must take place in a program approved by BCP.

2. The training must include the five major domains: pedorthic assessment, techniques and applications, patient management, practice management and professional responsibility.

(b) The internship must consist of 80 hours of pedorthic work experience under the direct supervision of a licensed orthotist, licensed pedorthist, an orthotist certified by ABC, or a pedorthist certified by BCP.

Specific Authority 468.802, 468.803 FS. Law Implemented 458.803 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Orthotists and Prosthetists

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 10, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 5, 1999

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance – Midwifery

RULE TITLES:
Endorsement Fee

RULE NOS.:
64B24-3.004

Initial License Fee 64B24-3.005
 Active Biennial Renewal Fee 64B24-3.007
 Inactive Renewal Fee 64B24-3.016

PURPOSE AND EFFECT: To raise endorsement, initial license, active biennial and inactive renewal fees to the statutory maximum as directed by the Council of Licensed Midwifery.

SUMMARY: The rule establishes the fees necessary to implement Section 467.0135, Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 467.005, 467.0135, 455.711(3) FS.
 LAW IMPLEMENTED: 467.0135(6), 467.0135(2), 467.0135(3), 455.711 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE HEAD, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m., September 20, 1999
 PLACE: 1309 Winewood Boulevard, Building 6, Room 240, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: William Buckhalt, Department of Health, Medical Quality Assurance, 2020 Capital Circle, S. E., Bin #C06, Tallahassee, Florida 32399-1703, (850)488-6044

THE FULL TEXT OF THE PROPOSED RULE IS:

64B24-3.004 Endorsement Fee.

The endorsement fee shall be ~~\$500~~ \$250.

Specific Authority 467.005, 467.0135 FS. Law Implemented 467.0135(6) FS. History--New 1-26-94, Formerly 61E8-3.004, Amended 8-15-95, Formerly 59DD-3.004, Amended 12-23-97,_____.

64B24-3.005 Initial License Fee.

The initial license fee whether by examination or endorsement shall be ~~\$500~~ \$150.

Specific Authority 467.005 FS. Law Implemented 467.0135(2) FS. History--New 1-26-94, Formerly 61E8-3.005, Amended 8-15-95, Formerly 59DD-3.005, Amended _____.

64B24-3.007 Active Biennial Renewal Fee.

The active biennial renewal fee shall be ~~\$500~~ \$250.

Specific Authority 467.005, 467.0135 FS. Law Implemented 467.0135(3) FS. History--New 1-26-94, Formerly 61E8-3.007, Amended 8-15-95, Formerly 59DD-3.007, Amended 12-23-97,_____.

64B24-3.016 Inactive Renewal Fee.

The inactive renewal fee is ~~\$500~~ \$100.

Specific Authority ~~455.711(3)-455.271(5)~~ FS. Law Implemented 455.711-~~455.271~~ FS. History--New 8-15-95, Formerly 59DD-3.016, Amended 12-23-97,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: William Buckhalt, Executive Director on behalf of the Council on Licensed Midwifery

NAME OF PERSON OR SUPERVISOR WHO APPROVED PROPOSED RULE: Gloria Henderson, Director, Division of Medical Quality Assurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 1999

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.0996
 RULE TITLE: Graduation Requirements for Certain Exceptional Students
 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. 25, No. 27, dated July 9, 1999, issue of the Florida Administrative Weekly.

The rule has been transferred from Chapter 6A designated as State Board of Education to Chapter 6 designated as Commissioner of Education. The rule will be renumbered as 6-1.0996.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-7.042
 RULE TITLE: Responsibilities for the School Food Service Program
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 25, No. 27, dated July 9, 1999, issue of the Florida Administrative Weekly.

The rule has been transferred from Chapter 6A designated as State Board of Education to Chapter 6 designated as Commissioner of Education. The rule will be renumbered as 6-7.042.