

SPECIFIC AUTHORITY: 381.0011, 381.88, 383.19, 395.405, 401.251(2), 401.251(6), 401.35 FS.

LAW IMPLEMENTED: 381.001, 381.88, 383.15, 395.405, 401.24, 401.25, 401.251, 401.252, 401.26, 401.265, 401.27, 401.30, 401.31, 401.35, 401.41, 401.411, 401.414, 401.421 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 10:00 a.m., February 8, 2000

PLACE: Bureau of Emergency Medical Services, 4025 Esplanade Way, Building 3916, Room 301 A & B, Tallahassee, Florida 32399-1738

TIME AND DATE: 10:00 a.m., February 10, 2000

PLACE: Metro Dade Firefighters Memorial Building, 8000 N.W. 21st Ave., Suite 222, Miami, Florida

TIME AND DATE: 10:00 a.m., February 15, 2000

PLACE: Florida College of Emergency Physicians, 3717 S. Conway Road, Orlando, Florida 32812

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Pam Lesley, Senior Management Analyst, Bureau of Emergency Medical Services, Department of Health, 2020 Capital Circle, S. E., Bin C18, Tallahassee, Florida 32399-1738, (850)245-4440, extension 2733.

A DRAFT OF THE PROPOSED RULE WILL BE AVAILABLE UPON REQUEST ONE WEEK PRIOR TO THE WORKSHOP.

P.O. X00699

FISH AND WILDLIFE CONSERVATION COMMISSION

Division of Freshwater Fish and Wildlife

RULE TITLE: Possession of Wildlife in Captivity; Permits

RULE NO.: 68A-6.0022

PURPOSE AND EFFECT: The purpose and effect is to establish what constitutes an appropriate neighborhood for Class I and II carnivores, solving the problem of continued complaints from the public of these large carnivores in their neighborhoods. These changes will accomplish the objective of providing a sound, workable rule that protects the public, and provides a minimum land area requirement, to address complaints from the public of noise and odor.

SUBJECT AREA TO BE ADDRESSED: Possession of wildlife in captivity; permits.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const.

TIME AND DATES: 9:00 a.m., each day, March 29-31, 2000

PLACE: Jacksonville, FL. Specific location will be published in an upcoming Florida Administrative Weekly

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: The preliminary text of the proposed rule development will be available and can be obtained from James V. Antista, General Counsel, 620 South Meridian Street, Tallahassee, FL 32399-1600

**Section II
Proposed Rules**

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Educational Programs for Youth in Department of Juvenile Justice Detention, Commitment, Day Treatment, or Early Delinquency Intervention Programs

RULE NO.:

6A-6.05281

PURPOSE AND EFFECT: This rule provides the requirements for educational programs for students who do not attend their local public school due to their placement in a Department of Juvenile Justice (DJJ) detention, commitment, day treatment, or early delinquency intervention programs. The effect of the new rule will be to clarify the expectations and requirements for high quality education programs for these students.

SUMMARY: This rule provides the requirements for high quality education programs for student who do not attend a local public school because of their placement in a DJJ detention, commitment, day treatment, or early delinquency intervention program. The rule includes the requirements for student eligibility, student records, student assessment, individual academic plans, transition services, instructional program and academic expectations, qualifications and procedures for selection of instructional staff, funding, contracts with private providers, interventions and sanctions, and coordination with other 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: 228.081(2) FS.

LAW IMPLEMENTED: 228.081(2), 230.23161 FS.

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

TIME AND DATE: 9:00 a.m., February 7, 2000

PLACE: Polk County Administration Building, 300 West Church Street, Bartow, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Shan Goff, Chief, Bureau of Instructional Support and Community Services, Division of

Public Schools and Community Education, Department of Education, 325 West Gaines Street, Room 614, Tallahassee, Florida 32399-0400, (850)488-1570

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.05281 Educational Programs for Youth in Department of Juvenile Justice Detention, Commitment, Day Treatment, or Early Delinquency Intervention Programs.

School districts must provide instruction to prepare all students to demonstrate proficiency in the skills necessary for successful grade-to-grade progression and high school graduation. For students placed in Department of Juvenile Justice (DJJ) programs, collaboration between the DJJ, the Department of Education, school districts, and private providers is essential in order for these students to attain this goal and become productive members of the community.

(1) Student Eligibility.

(a) Students who do not attend a local public school due to their placement in a DJJ detention, commitment, day treatment, or early delinquency intervention program shall be provided high quality and effective educational programs by the local school district in which the DJJ facility is located or by a Juvenile Justice provider through a contract with the local school district.

(b) If any student in these DJJ facilities has filed an intent to terminate school enrollment, the local school district shall notify these students of the option of enrolling in a program to attain a general education diploma (GED).

(c) Exceptional Student Education. All students placed in a DJJ program, who meet the eligibility criteria for exceptional student education, shall be provided a free appropriate public education consistent with the requirements of Chapter 6A-6, FAC.

(d) Limited English Proficient Students. All limited English proficient students placed in a DJJ program shall have equal access to entitled services, including assessment and appropriate instructional strategies consistent with the requirements of Chapter 6A-6, FAC.

(2) Student Records.

(a) Content. Each school district shall maintain educational records for students in DJJ programs as required by Section 232.23, Florida Statutes. The content of these records shall be as defined in Rules 6A-1.0955(2)-(5) and 6A-1.0014(2), FAC., Section 228.081(3)(c)1-5, Florida Statutes, and paragraph (5)(c) of this rule.

(b) Transfer of Educational Records. Each school district shall transfer records of students entering or exiting DJJ programs as provided in Rules 6A-1.0955(7)(b) and 6A-1.0014(2), FAC. Beginning with the 2000-2001 school year, each school district shall provide these students' educational records no later than five (5) school days after the receipt of the request. Each school district shall make available

a copy of the student's transcript record, including pertinent exceptional student education information, to designated DJJ staff for inclusion in the discharge packet when the student exits the program. DJJ staff shall provide this information to the receiving school district.

(c) Protection of Privacy. The requirements of Section 228.093, Florida Statutes, and applicable rules of the State Board of Education apply to the Department of Juvenile Justice's maintenance and transfer of these records as described in paragraphs (2)(a) and (b) of this rule.

(3) Student Assessment.

(a) To ensure high quality and effective educational programs for youth in DJJ detention, commitment, day treatment, or early delinquency intervention programs, the school district shall provide for the review of the student's educational records and conduct assessments, consistent with the requirements of this subsection, in order to identify the students' functioning levels, provide appropriate educational programs, and report the learning gains of the student.

(b) All students in DJJ commitment, day treatment, or early delinquency intervention programs, who have not graduated from school, shall be assessed within seven (7) calendar days of the student's commitment. The entry assessments shall include:

1. Academic measures that provide proficiency levels in:

a. Reading.

b. Mathematics.

c. Writing.

2. Vocational interest and/or aptitude measures.

(c) For the students referenced in paragraph (3)(b) of this rule, exit assessments shall include, at a minimum, the academic measures.

(d) Students placed in a detention center and not transferring to a commitment program shall be assessed only upon entry for academic measures. Assessment information for students in detention centers, transferring to commitment programs, shall be sent directly to the commitment program with the transfer of the student.

(e) Entry and exit assessment measures shall be selected that are appropriate for the age, grade, and language proficiency, and program length of stay of the students and shall be non-discriminatory with respect to culture, disability, and socioeconomic status. Nothing in this rule shall be construed to limit a school district's or private provider's use of a commercially produced or locally developed assessment tool or instrument as long as it complies with the reporting requirements of paragraph (3)(g) of this rule.

(f) All students in DJJ detention, commitment, day treatment, or early delinquency intervention programs shall also participate in the state and district-wide assessments required by Sections 229.57, 232.245, 232.246 and 232.247, Florida Statutes.

(g) The results of the academic measures, as required by paragraphs (3)(b)-(d) of this rule shall be reported in the format prescribed by Rule 6A-1.0014, FAC., to the Department of Education via the Automated Student Data System. The format for the reporting of the results of the academic measures may include:

1. grade equivalent scores,
2. percentiles,
3. scaled scores.

(h) Beginning in the 2000-2001 school year, the Department of Education shall include the results of these assessments in applicable statewide and school reports.

(4) Individual Academic Plans.

(a) An individual plan for educational progress shall be developed within twenty-two (22) calendar days of student entry to DJJ detention programs and within fifteen (15) school days of entry to DJJ commitment, day treatment, or early delinquency intervention programs. This plan shall be based upon the student's entry assessments and past educational history and must address the areas of academic, literacy, and life skills. The plan shall include:

1. Specific and individualized long-term goals and short-term instructional academic and vocational/technical objectives;
2. Remedial strategies and/or tutorial instruction;
3. Evaluation procedures;
4. A schedule for determining progress toward meeting the goals and instructional and vocational/technical objectives.

(b) Academic improvement plans, required by Section 232.245, Florida Statutes, or individual educational plans (IEPs) developed for eligible exceptional students, or individual plans developed for limited English proficient students may incorporate the requirements of subsections (4) and (5) of this rule.

(5) Transition Services.

(a) For all students in DJJ commitment, day treatment, or early delinquency intervention programs, an individual transition plan based on the student's post-placement goals shall be developed cooperatively with the student, his/her parents, school district and/or contracted provider personnel and DJJ program staff. Re-entry counselors, probation officers, and personnel from the student's "home" school district shall be involved in the transition planning to the extent practicable.

(b) The transition plan must address, at a minimum:

1. Academic re-entry goals.
2. Career and employment goals.
3. The recommended educational placement for the student.

(c) Key personnel who must be involved in entry transition activities for students in juvenile justice programs shall include: appropriate personnel responsible for student assessment, a guidance counselor from the school district

and/or program personnel who are responsible for providing guidance services under the supervision of the school district's guidance counselor, a registrar or a designee of the school district who has access to the district's MIS system, and instructional personnel.

(d) Exit portfolios shall be created for each student prior to exit from a commitment, day treatment, or early delinquency intervention programs and provided to DJJ personnel for inclusion in the DJJ commitment files. DJJ shall provide this information to the home school district. The exit portfolio shall include the records required by Section 228.081(3)(c)1.-5., Florida Statutes, and include at a minimum:

1. Transition plan;
2. Results of district and state-wide assessments;
3. Individual academic plan and/or individual educational plan for exceptional students;
4. Academic record or transcript; and
5. Work and/or project samples.

(6) Instructional Program and Academic Expectations.

(a) School Day and Year. The instructional program shall consist of 250 days of instruction, ten (10) of which may be used for teacher planning, distributed over twelve (12) months as required by Section 228.041(43), Florida Statutes. Each school district shall collaborate with private providers and the DJJ, as appropriate, to develop a school calendar for these programs to be adopted by the local school board.

(b) Requirements. The instructional program shall meet the requirements of Sections 232.245, 232.246, 232.247, 232.248, 233.061 and 230.23161, Florida Statutes, and include:

1. Curricular offerings, consistent with the Florida Course Code Directory and Instructional Personnel Assignments as adopted in Rule 6A-1.09441, FAC, that reflect the students' assessed educational needs and meet the students' needs as identified by the individual plan as required by paragraph (4)(a) of this rule. Students shall receive vocational/technical training, workplace readiness training, or career awareness and exploration instruction while in the juvenile justice program.

2. GED preparation shall meet GED course requirements specified in Rules 6A-6.0571 and 6A-6.021, FAC., and adult education course descriptions and/or the school district's approved GED/HSCT Exit Option must meet the requirements specified by the Department of Education.

3. Tutorial activities that are based on the students' assessed academic needs. Such activities shall be designed to assist students in advancing to their age appropriate grade level or to assist students in meeting their goals for reentry into the public school system, alternative schools, adult education, vocational/technical education, employment, or post secondary education.

4. Instruction shall be individualized to address the academic and vocational/technical goals and objectives that are outlined in each student's individual academic plan.

5. Instruction shall be delivered through a variety of instructional techniques to address students' academic levels and learning styles.

(7) Qualifications and Procedures for Selection of Instructional Staff.

(a) The school district shall ensure that only qualified instructional staff members, consistent with the requirements of Rules 6A-1.0502 and 6A-1.0503, FAC., are employed to provide instruction to students in DJJ programs. Any use of non-certificated instructional staff must be approved by the school board.

(b) School districts shall recruit and train teachers who are interested, qualified, and experienced in educating students in DJJ programs as required by Section 230.23161(11), Florida Statutes. Teachers assigned to educational programs, operated by local school districts, in DJJ facilities shall be selected by the school district in consultation with director of the DJJ facility, as required by Section 230.23161(11), Florida Statutes.

(c) The school district's substitute teacher pool shall also be available for these educational programs.

(8) Funding.

(a) To implement the Full-Time Equivalent (FTE) funding for students in DJJ programs based on direct instructional time, as prescribed in Section 230.23161(13), Florida Statutes, and the 1999-2000 General Appropriations Act:

1. Student attendance shall be taken once per class period or during each course reported for FTE purposes.

2. Time students spend participating in school activities such as field trips, performances, or receiving school-based services such as counseling may be counted as direct instructional time.

3. Certain interruptions to the education program, over which the teacher and student have no control, do not have to be deducted from the direct instructional time reported for FTE. These include:

a. fire drills;

b. lockdowns of the classroom or program for security purposes;

c. bomb scares;

d. court hearings; and

e. meetings students have with law enforcement personnel during school hours.

4. Direct instructional time shall not be counted for students who choose not to attend class or who are not present at school due to injury, illness, or other non-school related activity other than those listed above.

(b) As required by Section 228.081(2)(g) and 237.34(3)(a), Florida Statutes, at least eighty (80) percent of the FEFP funds generated by students in DJJ programs must be spent on instructional costs for these students and one-hundred (100) percent of the formula-based categorical funds generated

by these students must be spent on appropriate categoricals such as instructional materials and public school technology for these students.

(c) Compliance with the above expenditure requirement for programs provided directly by local school boards shall be verified by the Department of Education through the review of the district's cost report as required by Section 237.34, Florida Statutes. If school districts enter into contracts with private providers for these educational programs, an accounting of the expenditures, as specified in paragraph (8)(a) of this rule shall be required by the local school board.

(9) Contracts with Private Providers.

(a) School districts may provide services directly or may enter into a contract with a private provider to provide educational services to these youth. Beginning in 2000-2001, such contracts with private providers shall address the responsibilities of the school district and the private provider for implementing the requirements of this rule. The private provider shall have, at a minimum:

1. Documented experience in providing high quality educational services or a detailed plan for providing high quality educational services that meets applicable state and federal requirements.

2. Sufficient financial stability and resources to hire an adequate number of certified or qualified instructional personnel.

(b) Prior to contracting with a private provider, the school district shall:

1. Review and consider the provider's past performance history, including the results of prior Quality Assurance Reviews.

2. Review the private provider's contract, if any, with DJJ for the care and custody of the youth in the commitment, detention, or prevention program to ensure that services and resources are coordinated and not duplicative.

(c) Contracts with private providers, as described above, shall be submitted to the Department of Education prior to the October FTE Reporting Survey for review to verify compliance with this rule.

(d) The local school district in which the DJJ facility is located shall be responsible for notifying the DJJ program of the appropriate entity that receives funding for Workforce Development programs. If the school district is the provider of the Workforce Development program, the DJJ program shall be notified of the requirements for enrollment and completion of these programs. The inclusion of DJJ students in the school district's workforce development program may be included in the contract referenced above and the cooperative agreement required by Section 230.23161 (14), Florida Statutes.

(10) Interventions and Sanctions.

(a) If the educational program in a DJJ detention, commitment, day treatment, or early delinquency intervention program has received an unsatisfactory rating on the

educational component of the Quality Assurance Review, does not meet the minimum standards for a designated priority indicator of the Educational Quality Assurance Review, or has demonstrated noncompliance with state and federal requirements, the Department of Education shall initiate a series of interventions and graduated sanctions. Sanctions shall be initiated against programs that have not taken appropriate corrective actions within six months.

(b) Interventions shall include:

1. The provision of technical assistance to the program.
2. The development of a corrective action plan with verification of the implementation of the corrective actions within ninety (90) days.
3. A follow-up review of the educational program.

(c) Sanctions shall include:

1. Public release of the unsatisfactory findings, the interventions, and/or corrective actions proposed.
2. Assignment of a monitor, master, or management team to address identified deficiencies paid for by the local school board or private provider if included in the contract.
3. Reduction in payment or withholding of state and/or federal funds.

(d) If the sanctions proposed in paragraph (10)(c) of this rule are determined by the Department of Education and DJJ to not be effective in correcting the deficiencies in the educational program and improving the quality of the program, the State Board of Education shall have the authority to require further actions, which shall include:

1. Requiring the school board to revoke the current contract with the private provider, if applicable;
2. Requiring the school board to contract with the private provider currently under contract with DJJ for the facility; or
3. Requiring the school board to transfer the responsibility and funding for the educational program to another school district.

(e) Each school district is responsible for ensuring that appropriate educational services are provided to students in the district's juvenile justice programs, regardless of whether the services are provided directly by the school district or through a contract with a private provider.

(11) Coordination. The cooperative agreement between the local school district and DJJ, required by Section 230.23161(14), Florida Statutes, shall be submitted to the Department of Education prior to the October, FTE Reporting Survey. The timelines and responsibilities, as required by Section 235.1975, Florida Statutes, for the notification by DJJ to the local school board of the siting of new facilities and the awarding of a contract for the construction or operation of such a facility shall be included in the agreement.

Specific Authority 228.051(2) FS. Law Implemented 228.051, 230.23161 FS. History--New.

NAME OF PERSON ORIGINATING PROPOSED RULE:
John A. Stewart, Deputy Commissioner for Educational Programs, 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: December 21, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 10, 1999 and October 8, 1999

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Criteria for Documentation of Disability
RULE NO.: 6A-20.111

PURPOSE AND EFFECT: This is a new rule to fulfill the requirement of Section 240.4041, Florida Statutes, that the State Board of Education "establish the necessary criteria" to document a student's disability for purposes of receiving financial aid while attending postsecondary school on a part-time basis. The effect of the rule is to delineate those criteria.

SUMMARY: This rule specifies and outlines the documentation necessary to establish a student's disability.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 229.053(1) FS.

LAW IMPLEMENTED: 240.4041 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:

TIME AND DATE: 9:00 a.m., February 7, 2000

PLACE: Polk County Administration Building, 300 West Church Street, Bartow, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Shan Goff, Chief, Bureau of Instructional Support and Community Services, Division of Public Schools and Community Services, Department of Education, 325 West Gaines Street, Suite 614, Tallahassee, Florida 32399-0400, (850)488-1570

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-20.111 Criteria for Documentation of Disability.

This rule is adopted to implement the requirements of Section 240.4041, Florida Statutes, to establish criteria for documentation of a postsecondary student's disability, as defined by the Americans with Disabilities Act, for financial aid eligibility as a part-time student.

(1) The professional who prepares documentation must have expertise in the area related to the disability in question and be a licensed physician; a licensed psychologist; a licensed school psychologist; a certified school psychologist; a licensed audiologist; a licensed speech-language pathologist; or, a certified school speech-language pathologist.

(2) The documentation must be sufficiently recent, as determined by the educational institution, and include a valid and reasonable assessment of the student's needs; be specific and conclusive, demonstrating that the student has physical, emotional or mental impairment(s) which substantially limit(s) one or more major life activities, as well as showing how the disability will substantially limit the student's ability to meet the minimum full-time load requirements.

(3) The educational institution shall notify the Bureau of Student Financial Assistance with each term's disbursement report of any student with disabilities for whom the part-time status is a necessary accommodation.

Specific Authority 229.053(1) FS. Law Implemented 240.4041 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Betty Coxe, Director, Division of Public Schools, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: John Stewart, Deputy Commissioner for Educational Programs, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 17, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 15, 1999

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Prompt Settlement or Legal Defense of Claims and Disqualification for Failure to Settle Claims
RULE CHAPTER NO.: 14-24

RULE TITLE: Provisions for Prompt Settlement or Legal Defense of Claims and Disqualification for Failure to Settle Claims
RULE NO.: 14-24.001

PURPOSE AND EFFECT: The form, commonly referred to as "Form 21-A," is revised. This rule amendment is to update the reference to this form, which actually is incorporated by reference under Rule 14-79.006.

SUMMARY: This amendment updates a reference to a form which is incorporated by reference under another rule.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 334.044(28), 337.141, 337.18 FS.

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 in writing within 21 days of this notice.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James C. Myers, Administrative and Management Support Level IV, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULE IS:

14-24.001 Provisions for Prompt Settlement or Legal Defense of Claims and Disqualification for Failure to Settle Claims.

Any surety which does not settle or provide defense for claims or actions in connection with liabilities arising under a contract promptly and satisfactorily shall be disqualified from issuing bonds for future contracts by the Department in accordance with this rule.

(1) Failure on the part of the surety to furnish an affidavit to the effect that these requirements have been met on Contractor's Affidavit and Surety Consent (Form 21-A), Florida Department of Transportation Form 700-050-21 600-030-24, Rev. 10/99 04/96, which is incorporated by reference under Rule 14-79.006, to the Department within 90 days of the Department's offer of final payment shall constitute grounds for disqualification. Preliminary notice of disqualification will be furnished to the surety 30 days prior to disqualification. Qualification will be reinstated upon receipt by the Department of the properly executed Form Contractor's Affidavit and Surety Consent (Form 21-A).

(2) Notice of the Department's intended action will be provided in accordance with Rule 28-106.111, F.A.C. The Department's action will become final unless a timely petition for a hearing is filed in accordance with Rules 28-106.104, 28-106.201, and 28-106.301, F.A.C. In order to be timely, the petition must be filed with the Department's Clerk of Agency Proceedings within 21 days after receipt of the Department's notice, in accordance with Rule 28-106.111, F.A.C.

Specific Authority 334.044(2) FS. Law Implemented 334.044(28), (27), 337.141, 337.18(1) FS. History--Formerly 14-10.01, F.A.C., Amended 3-21-64, 9-24-75, Formerly 14-24.01, Amended 10-30-96, 1-17-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kenneth Standley
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 1999
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 1999

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James C. Myers, Administrative and Management Support Level IV, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Construction Management Development Program and Bond Guarantee Program
 RULE CHAPTER NO.: 14-79
 RULE TITLE: Construction Management Development Program
 RULE NO.: 14-79.006

PURPOSE AND EFFECT: Form Number 600-030-21, commonly referred to as "Form 21-A," is revised and renumbered 700-050-2. This rule amendment is to update this form, which is incorporated by reference under Rule 14-79.006. A corresponding amendment to Rule 14-24.001 is being made to update a cross reference to this form as incorporated by reference in this rule.

SUMMARY: This amendment updates a reference to a form which is incorporated by reference under Rule 14-79.006. Specific amendments are to Rules 14-79.006(10)(a)2. and 14-79.006(14). Section 334.044(28) is being added to Law Implemented because the form is an affidavit.

SPECIFIC AUTHORITY: 334.044(2), 339.0805(1)(b) FS.
 LAW IMPLEMENTED: 334.044(28), 337.141, 339.0805(2) FS.

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 in writing within 21 days of this notice.

THE FULL TEXT OF THE PROPOSED RULE IS:

14-79.006 Construction Management Development Program.

This rule implements a voluntary comprehensive Construction Management Development Program (CMDP) for Disadvantaged Business Enterprises and other small businesses and establishes a program for providing financial assistance to Disadvantaged Business Enterprises through a Bond Guarantee Program (BGP).

- (1) through (9) No change.
- (10) Bond Guarantee Program.
- (a)1. No change.

2. As a condition of receiving a bond guarantee on a Department contract, the Department shall retain five percent of the total contract amount designated for the Disadvantaged Business Enterprise. This bond guarantee retainage shall be released upon final acceptance of the project and receipt of a Contractor's Affidavit and Surety Consent (Form 21-A), Florida Department of Transportation Form 700-050-21 600-030-21, Rev. 10/99 04/96, showing all subcontractors and suppliers have been paid.

- (b) through (13) No change.

(14) Forms. The following listed forms are hereby incorporated by reference and made a part of the rules of the Department:

Form Number	Form Title	Revision Date
275-030-070-a	Application for Construction Management Development Program (CMDP) and Bond Guarantee Program (BGP)	03/89
275-030-071-a	Application for Small Business Certification (SBC)	03/89
275-030-073-a	Technical Assistance Request	03/89
275-030-074-a	Justification for Bond Guarantee	03/89
<u>700-050-21 600-030-21</u>	<u>Contractor's Affidavit and Surety Consent (Form 21-A)</u>	<u>10/99 04/96</u>

Copies of these forms are to be obtained from the Florida Department of Transportation, Minority Programs Office, 605 Suwannee Street, Mail Station 65, Tallahassee, Florida 32399-0450.

Specific Authority 334.044(2), 339.0805(1)(b), (5) FS. Law Implemented 334.044(28), 337.141, 339.0805(2) FS. History--New 5-24-89, Amended 8-5-96, 10-30-96, 5-6-97, 1-17-99.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kenneth Standley

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 27, 1999

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

DEPARTMENT OF CORRECTIONS

RULE TITLE: Inmate Bank Trust Fund RULE NO.: 33-203.201

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to update written guidelines to reflect changes in inmate banking procedures.

SUMMARY: The proposed rule provides revised forms used in the maintenance of inmate bank accounts, requires that monthly statements be provided to inmates to enable them to track their account balances, and incorporates the use of service centers in the handling of inmate funds.

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 this notice.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09, 944.516 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. February 3, 2000

PLACE: Law Library Conference Room, Room B-404, 2601 Blair Stone Road, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-203.201 Inmate Bank Trust Fund.

(1) The following are the policies of the Department with respect to money received for the personal use or benefit of inmates:

(a) Inmates may establish a demand deposit account, hereinafter referred to as a checking account, through the Inmate Bank Trust Fund at institutions, ~~and~~ community facilities and service centers. If an inmate establishes a checking account through the Inmate Bank Trust Fund, such funds shall not accrue interest to him.

(b) through (f) No change.

(2) All monies (cashiers checks, money orders, or certified bank drafts only; no cash allowed) that are mailed to an inmate ~~or brought to the facility for an inmate~~ shall be initially deposited in the Inmate Bank Trust Fund. In order to deposit the funds the sender must complete Form DC2-303, Inmate Trust Fund Deposit Form. Form DC2-303 is hereby incorporated by reference. A copy of this form may be obtained from any institution, facility, service center, or the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. If forms are to be mailed the request must be accompanied by a self-addressed stamped envelope. The effective date of this form is _____. An inmate may, however, withdraw his funds from the Inmate Bank Trust Fund for deposit into a savings account with a private financial institution. If an inmate does not wish his monies to be deposited into the Inmate Bank Trust Fund, he must advise the donor of the funds to send them directly to the savings institution of his choice. This option shall not be available when an inmate is on work release or a similar paid work program. In this case, the provisions of rule 33-601.602, disbursement of earnings shall apply. All inmates on work release shall submit their full pay for deposit in the Inmate Bank Trust Fund so that subsistence and transportation costs, restitution, 10% savings hold, and court ordered payments, if applicable, may be deducted. The inmate may transfer any excess funds to a private account as defined in paragraph (1)(b) in accordance with the personalized program plan after complying with the Letter of Notice, ~~DC6-102 DC4-866~~. Form DC6-102 DC4-866 is hereby incorporated by reference. A copy of this form may be obtained from the Forms Control Administrator, Office of the General Counsel, Adult Services Program Office 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is August 25, 1992.

(3) Inmates on extended limits of confinement with sufficient balances in their individual inmate bank trust fund accounts shall be allowed to request a weekly draw of up to \$45 to be expended for personal use. In order to request an expenditure of funds in excess of the authorized weekly draw, the inmate shall complete Form DC2-304 ~~DC2-104~~, Special Withdrawal Form. Form DC2-304 ~~DC2-104~~ is hereby incorporated by reference. A copy of this form may be obtained from any institution or facility or from the Forms Control Administrator, Office of the General Counsel Management and Budget, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. If forms are to be mailed, the request must be accompanied by a stamped, self-addressed envelope. The effective date of this form is _____ January 27, 1986. If approved, these funds shall be paid to the inmate or his designated payee within 10 days after receipt of the written request for withdrawal. This maximum time limitation shall not delay the weekly draw process which is usually accomplished in a shorter period of time. If the withdrawal is for the purpose of making a deposit to a savings account in the inmate's name, the check drawn upon the inmate bank trust fund shall be made payable to ~~both the inmate and~~ the savings institution which has been chosen by the inmate, with the inmate as a reference, and shall be mailed to the savings institution given to the inmate for deposit by mail. ~~Institutions may secure the inmate's endorsement and mail the deposit through institutional mail if circumstances require it.~~

(4) Staff supervising inmates on extended limits of confinement shall require that a return receipt be attached to the Special Withdrawal Form as verification that the inmate used the funds provided for the items requested. Each facility which houses inmates on extended limits of confinement shall establish an inmate check cashing procedure with a local bank, business or other reputable establishment so that inmates can cash checks authorized by the facility or service center. Under no circumstances shall an employee countersign or endorse an inmate's check for the purpose of cashing such check.

(5) When an inmate is transferred from one Department of Corrections facility to another which is under the authority of another service center ~~within the Department of Corrections~~, his trust funds shall be transferred to the ~~business office at the~~ new service center facility within 10 days after the transfer. If it is impossible to meet this deadline due to circumstances beyond the control of the Department, a letter of explanation shall be placed with the inmate's withdrawal request setting forth these circumstances.

(6) When an inmate is released from the control of the department, the inmate's balance in the inmate bank trust fund at the time of discharge shall be mailed by the service center to an address of the inmate's choice ~~given directly to the inmate~~. However, if deposits of checks, money orders or other negotiable instruments have been made to the inmate's account

but have not cleared the account of the payor by the time the inmate is discharged, funds equal to the amount of the uncleared deposits shall be retained in the inmate's trust fund account. Immediately after the deposits have cleared, the balance due the inmate shall be forwarded by mail to the inmate.

(7) Upon the death of any inmate affected by the provisions of this section during the period of incarceration, any unclaimed money held for him in trust by the Department or by the State Treasurer shall be applied first to the payment of any unpaid claim against the inmate. Any remaining funds shall be transferred to the decedent's estate. In the event that the funds are ~~Any balance remaining~~ unclaimed ~~after~~ ~~for~~ a period of 1 year, the balance shall escheat to the state as unclaimed funds held by fiduciaries.

(8) When an inmate escapes and is not captured within 30 days, any balance in his Inmate Bank Trust Fund account shall be forwarded to the person designated on the inmate's notification record. If this person cannot be located after reasonable efforts, the funds shall be forwarded to Central Office for deposit in the Dormant Inmate Fund Account. If the escaped inmate is captured within 30 days, his funds shall be forwarded to the service center for the facility where the inmate is now incarcerated.

(9) Interest earned on investments of money from the Inmate Bank Trust Fund may be used to replace any funds belonging to an inmate which have been stolen, lost or otherwise misappropriated from the inmate's trust account through no fault of the Department or its employees and which cannot be replaced by appropriated funds, insurance payments, or other available resources. However, such use may only be made if, pursuant to a thorough investigation as part of the normal auditing process, the Department's Internal Auditor recommends in a written report that such use is appropriate. If the Internal Auditor concludes that a shortage in funds is attributable to the negligence of specific individuals, his report shall contain a recommendation that the shortage be recovered from the identified negligent individuals. The Internal Auditor's report may also recommend other action, including prosecution, with respect to any missing funds. If the Internal Auditor concludes that the Department is at fault, the shortage shall be recovered from the institution's or service center's ~~regional office's~~ operating funds.

(10) No change.

(11) Any cost judgment or other monetary judgment, order, or sanction imposed against an inmate as described in paragraph (10)(d) above, shall be paid by offsetting the amount of the judgment or monetary order or sanction against the inmate's funds in his inmate bank trust fund account in the following manner:

(a) The attorney representing the state in such civil action or appeal shall file with the Admission and Release Authority, Department of Corrections, 2601 Blair Stone Road,

Tallahassee, Florida 32399-2500, a true copy of the judgment or other monetary order or sanction which has been entered by the appropriate court, together with a cover letter stating the date and amount of the judgment, monetary order, or sanction, or the balance remaining if less than the face amount thereof, as well as the attorney's name, address and telephone number. The attorney shall also certify in the letter that:

1. He has been employed by the State to handle such action;
2. The enclosed copy of the judgment or other monetary order or sanction is a true and accurate copy thereof as actually entered by the court;
3. The judgement or relevant order is final; and
4. A copy of the letter, together with a copy of the judgment or relevant order has been furnished to the inmate at his last know address as indicated in the attorney's records.

(b) Upon receipt of the above documents, the Admission and Release Authority shall determine if the inmate is still in the custody of the department. If the inmate is not in the custody of the department, the Admission and Release Authority shall advise the attorney of that fact and, if known, advise the attorney of the last known forwarding address of the inmate. If the inmate is in the custody of the department, the Admission and Release Authority shall forward the letter and a copy of the judgement or relevant order to the service center for the institution where the inmate is presently incarcerated, specifically directed to the attention of the person who is in charge of or responsible for the inmate bank trust fund at that service center institution.

(c) Once the service center institution receives the letter and a copy of the judgment or relevant order, a hold shall immediately be placed on the inmate's account. The inmate shall be promptly advised of the hold and that the reason therefore is an unsatisfied judgment or other monetary order or sanction. A copy of the attorney's letter and a copy of the judgment or relevant order will be given to the inmate upon his request.

(d) If there are sufficient funds in the inmate's account to satisfy the amount shown as due or the remaining balance as stated by the attorney, the appropriate officer shall promptly cause a check to be issued payable to the "State of Florida" and shall return the check to the attorney. The check shall be drawn and credited against funds in the inmate's account. At such time, the hold shall be released on the inmate's account. It shall be the attorney's responsibility to see that the check is forwarded to the appropriate state agency or entity.

(e) If there are insufficient funds in the inmate's account to satisfy the amount shown as due or the balance remaining as stated by the attorney, a check shall be issued payable to the "State of Florida" for the amount contained in the inmate's account. Each time that the inmate receives funds in his account, payment shall be disbursed to the State of Florida until the debt is satisfied. The hold shall remain on the inmate's account until sufficient funds have been paid to satisfy the

amount shown as due on the balance remaining thereon. If the inmate is released from the custody of the department before he has paid the full amount of the judgment, upon his release, a notice shall be sent to the attorney advising the attorney of the inmate's release, the inmate's last forwarding address, if known, and the fact that the inmate has not paid the full amount of the judgment. A copy of this notice shall be placed in the inmate's file.

(f) If the inmate is transferred to another institution or facility under a different service center within the department during the time that there is an unsatisfied judgement or other monetary order or sanction and a hold placed on his inmate account by reason thereof, the hold, as well as the attorney's letter and copy of the judgment or other monetary order or sanction, shall be transferred with the inmate to the such new service center institution or facility and the procedures specified above shall continue to apply.

(12) Inmates shall be provided with monthly statements detailing the activity in their bank trust fund accounts.

~~(13)~~(12) When necessary for meeting state or federal requirements for demonstrating indigency to the courts, inmates shall be provided with copies of printouts of their trust fund activity for the previous six months upon request. Application of this provision is limited to those requests which specifically state that the printouts are necessary for this purpose. The printout shall be provided to the inmate by the service center business office within 5 working days of receipt of the request.

Specific Authority 944.09 FS. Law Implemented 944.09, 944.516 FS. History-- New 1-27-86, Amended 7-16-89, 5-1-90, 3-2-92, 6-2-92, 8-25-92, 10-19-92, 4-13-93, 5-28-96, 6-15-98, Formerly 33-3.018, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Bill Thurber
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 20, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 1999

DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Division of Vocational Rehabilitation

RULE TITLES:	RULE NOS.:
Definitions	38J-1.002
Right to Make Informed Choice	38J-1.003
Division Services – General	38J-1.004
Additional Requirements for Providing Certain Services	38J-1.005
Division Decisions and Appeal Procedures	38J-1.006
Case Closure due to individual's actions	38J-1.007
Destruction of Records	38J-1.008
Forms and Documents	38J-1.009

PURPOSE AND EFFECT: The proposed rules clarify the range of services delivered by the division consistent with Chapter 413, Part II, F.S.

SUMMARY: Rule Chapter 38J was previously noticed in 1997, was challenged, and later withdrawn. These rules are being promulgated pursuant to an Order of Administrative Law Judge Daniel J. Kilbride dated August 18, 1999, dismissing the rule challenge and returning the matter to the Department for rule promulgation. Rule 38J-1.002 defines certain terms used in Chapter 38J. Rule 38J-1.003 explains the right of applicants and recipients to make informed choices regarding their vocational rehabilitation. Rule 38J-1.004 states the services the Division supplies. Rule 38J-1.005 states requirements for Division delivery of certain services. Rule 38J-1.006 states procedures for appeal of Division decisions. Rule 38J-1.007 states grounds for case closure. Rule 38J-1.008 states how long the Division must keep its records of services provided. Rule 38J-1.009 incorporates by reference various forms of the Division.

SPECIFIC AUTHORITY: 413.22 FS.

LAW IMPLEMENTED: 413.24, 413.28, 413.30, 413.32, 413.731 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE NOTICED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Louise T. Sadler, Senior Attorney, Department of Labor and Employment Security, Office of the General Counsel, 2012 Capital Circle, S. E., The Hartman Building, Suite 307, Tallahassee, Florida 32399-2189, Telephone number: (850)488-9370

THE FULL TEXT OF THE PROPOSED RULES IS:

38J-1.002 Definitions.

(1) “Administrative Review” is the informal, internal review process to contest a Division Decision.

(2) “Division” is the Florida Division of Vocational Rehabilitation.

(3) “Division Decision” is any decision that affects the provision of vocational rehabilitation services to applicants or Eligible Individuals.

(4) “Eligible Individual” is an individual who meets the eligibility requirements established under applicable federal and state law and regulation for Division services.

(5) “EEP” or “Extended Evaluation Program” is a program of services to determine eligibility used only when eligibility is questioned due to the significance of a disability and the applicant cannot take advantage of trial work experiences.

(6) “IPE” is an individualized plan for employment.

(7) “Meaningful Employment Outcome” means employment consistent with an Eligible Individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.

(8) “Necessary Vocational Rehabilitation Services” are those goods and services required to determine eligibility or required, due to an Eligible Individual's disability(ies), to prepare for, secure, retain or regain a Meaningful Employment Outcome.

Specific Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30 FS. History–New

38J-1.003 Right to Make Informed Choice.

(1) The Division shall provide information and services necessary for each Eligible Individual or Applicant to make informed choices regarding:

(a) Meaningful Employment Outcomes;

(b) Necessary Vocational Rehabilitation Services; and

(c) Providers of Necessary Vocational Rehabilitation Services.

(2) Service Providers.

(a) An Eligible Individual or Applicant may choose to receive Necessary Vocational Rehabilitation Services from any qualified or licensed provider.

(b) The Division's highest allowable fee for health care services is the amount payable for such services in Florida under the Medicare Part B system or, for hospital per diem payments, the amount payable under the Medicaid system. In setting its highest allowable fee for all other services, the Division shall ensure such fee is not set so low as to deny individuals the right to make informed choices among service providers.

(c) If an individual chooses a service provider that charges in excess of the Division's highest permitted fee, the individual shall be responsible to fully pay such excess.

(3) The Eligible Individual's or Applicant's informed choice must be consistent with the comparable services and benefits provisions of 34 CFR 361.53.

Specific Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30, 413.731 FS. History–New

38J-1.004 Division Services – General.

The Division shall not pay for goods or services unless such goods or services are listed in the IPE or EEP (or amendment thereto) or part of the assessment for determining eligibility and vocational rehabilitation needs and:

(1) The goods or services were authorized in writing by the Division prior to the time they were provided; or

(2) The goods or services were provided under emergency circumstances subsequent to verbal authorization by the Division.

Specific Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30, 413.73 FS. History–New

38J-1.005 Additional Requirements for Providing Certain Services.

(1) Training and Education Services.

(a) The Division shall not continue payment for training or educational programs for Eligible Individuals who fail to maintain institution standards for both satisfactory academic performance and a full academic load unless such failure is due to circumstances beyond the Eligible Individual's control such as personal illness, physical limitation, the need for part-time employment or to care for children or other family members and other similar circumstances.

(b) When providing training or education services, the Division shall pay only the amount charged by Florida's public colleges or universities (less the amount the Eligible Individual is eligible to receive in grants) unless attendance at an out of state or private college or university or private training program is:

(i) The most cost effective option when taking in account transportation and maintenance due to location;

(ii) Necessary due to its unduplicated educational resources to prepare for, secure, retain or regain the Meaningful Employment Outcome; or

(iii) Necessary due to circumstances beyond the Eligible Individual's control such as personal illness, physical limitation, the need for part-time employment or to care for children or other family members and other similar circumstances.

(c) Training materials or occupational equipment purchased by the Division shall become the property of the Eligible Individual upon purchase. However, such property reverts to the Division upon written demand if the Division determines such property will not result in the Eligible Individual achieving a Meaningful Employment Outcome.

(2) Vehicle Modification Services. The Division shall not fund the modification of a vehicle to facilitate the entry, exit and operation of that vehicle unless, in addition to the requirements of §103(a)(8) of the Rehabilitation Act of 1973, as amended (29 U.S.C. §723(a)(8)):

(a) A qualified mechanic's inspection determines the vehicle is in satisfactory mechanical and structural condition; and

(b) The Eligible Individual (and all other owners of the vehicle) execute(s) the Division's Vehicle Modification Owner Acknowledgment.

(3) Self-Employment or Establishment of Small Business. The Division shall not fund the establishment of a small business unless the small business would constitute a Meaningful Employment Outcome and the Eligible Individual, with the cooperation of the Division, prepares an accurate, detailed and comprehensive business plan demonstrating expected success.

(4) Post-Employment Services. Post-employment services shall not be provided unless records are available to verify the original impairment and services provided, the Eligible Individual has been successfully rehabilitated and the services necessary are not so involved as to require a redetermination of eligibility.

Specific Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30, 413.32, 413.731 FS. History–New _____.

38J-1.006 Division Decisions and Appeal Procedures.

(1) If an individual files a petition for an Administrative Hearing, and upon the agreement of both the individual and the Division, the dispute shall be mediated by a Florida Supreme Court certified family or circuit civil mediator. Such mediation shall be paid for by the Division. The Division shall propose the names of three qualified mediators from the district in which the petitioner resides. The petitioner shall select from such list one individual to act as the mediator in the dispute.

(2) A list of qualified mediators may be obtained by contacting: The Division of Vocational Rehabilitation, 801 W. Bay Drive, Suite 434, Largo, Florida.

Specific Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30, 413.731 FS. History–New _____.

38J-1.007 Case Closure due to individual's actions.

An individual's case shall be closed when, despite provision of any and all necessary reasonable accommodations, the individual's actions or non-actions materially interfere with providing services including:

(1) Unreasonable failure to sign an IPE or an amendment to an IPE, or violations of the IPE;

(2) Continued unavailability or continued failure to keep scheduled appointments;

(3) Repeated failure to comply with reasonable requests for diagnostic assessments; or

(4) Threatening bodily harm to Division employees or destruction of Division property.

Closure on this basis shall not be substituted for the Division's duty under 102(a)(2) or (3) of the Rehabilitation Act of 1973, as amended (1998)(29 U.S.C. §722(a)(2) or (3)).

Specific Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30, 413.731 FS. History–New _____.

38J-1.008 Destruction of Records.

The Division may destroy records of services provided to individuals three (3) years after the most recent case closure date.

Specific Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.32 FS. History–New _____.

38J-1.009 Forms and Documents.

The following forms and documents are incorporated by reference into Chapter 38J and may be obtained from the Division of Vocational Rehabilitation, 2002 Old St. Augustine Road, Building A, Tallahassee, FL 32399-0696:

(1) State of Florida, Division of Vocational Rehabilitation, Vehicle Modification Consumer Acknowledgment, LES Form DVR/BCL-4000 (10/99);

(2) State of Florida, Division of Vocational Rehabilitation, Vehicle Modification Vendor Acknowledgment, LES Form DVR/BCL-4001 (10/99);

(3) State of Florida, Division of Vocational Rehabilitation, Home Modification Consumer Acknowledgment, LES Form DVR/BCL-4025 (10/99);

(4) State of Florida, Division of Vocational Rehabilitation, Home Modification Vendor Acknowledgment, LES Form DVR/BCL-4026 (10/99);

(5) Division of Vocational Rehabilitation, Florida Department of Labor and Employment Security, Referral/Application for Vocational Rehabilitation Services, LES Form DVR/BCL-1007 (10/97);

(6) Division of Vocational Rehabilitation, Florida Department of Labor and Employment Security, Referral/Application for Vocational Rehabilitation Services, Spanish, LES Form DVR/BCL-1007-S (1/98);

(7) Handbook of Services, LES Form DVR/BCL-5000 (5/99);

(8) Handbook of Services, Spanish, LES Form DVR/BCL-5000-S(5/99);

(9) On-The-Job Training Agreement, LES Form DVR/BCL-3030 (Rev. 11/87);

(10) On-The-Job Training Agreement, Spanish Version, LES Formulario DVR/BCL-3030-S (12/93);

(11) Florida Department of Labor and Employment Security, Division of Vocational Rehabilitation, Receipt for Equipment Issued for Items Over \$1,000, LES Form DVR/BCL-1295 (6/97);

(12) Florida Department of Labor and Employment Security, Division of Vocational Rehabilitation, Receipt for Equipment Issued for Items Over \$1,000, Spanish Version, LES Formulario DVR/BCL-1295-S (12/93); and

(13) Florida Department of Labor and Employment Security, Division of Vocational Rehabilitation, Consumer Budget Worksheet, LES Form DVR/BCL-3071 (rev. 8/13/96).

Specific Authority 413.22 FS. Law Implemented 413.24, 413.28, 413.30, 413.32, 413.731 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Michael Moore, Acting Director, Division of Vocational Rehabilitation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael Moore, Acting Director, Division of Vocational Rehabilitation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 1999

DATE, VOLUME AND PAGE NUMBER WHERE NOTICE OF PROPOSED RULE DEVELOPMENT WAS PUBLISHED IN FAW: December 3, 1999, Vol. 25, No. 48, pages 5519-5522

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: Practice of Pharmacy
RULE NO.: 64B16-27.400

PURPOSE AND EFFECT: The Board finds it necessary to amend this rule to include text which will further clarify the practice of a pharmacist.

SUMMARY: The Board is amending this rule to update the rule text to describe when it is appropriate for a pharmacist to take a meal break.

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: 465.005, 465.0155 FS.

LAW IMPLEMENTED: 465.003(12), 465.026 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 2020 Capital Circle, S. E., Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-27.400 Practice of Pharmacy.

Those functions within the definition of the practice of the profession of pharmacy as defined by Section 465.003(12), F.S., are specifically reserved to a licensed pharmacist or a duly registered intern in this state acting under the direct and immediate personal supervision of a licensed pharmacist. The following subjects come solely within the purview of the licensed pharmacist.

(1) through (5) No change.

(6) A pharmacist may take a meal break, not to exceed thirty minutes in length, during which the pharmacy department of a permittee shall not be considered closed, under the following conditions:

(a) the pharmacist shall be considered present and on duty during any such meal break if a sign has been prominently posted in the pharmacy indicating the specific hours of the day

during which meal breaks may be taken by the pharmacist and assuring patients that a pharmacist is available on premises for consultation upon request during a meal break;

(b) the pharmacist shall be considered directly and immediately available to patients during such meal breaks if patients to whom medications are delivered during the meal break are verbally informed that they may request that a pharmacist contact them at the pharmacist’s earliest convenience after the meal break, and if a pharmacist is available on premises during the meal break for consultation regarding emergency matters; only prescriptions with final certification by the pharmacist may be delivered;

(c) the activities of pharmacy technicians during such a meal break shall be considered to be under the direct and immediate personal supervision of a pharmacist if the pharmacist is available on premises during the meal break to respond to questions by the technicians, and if at the end of the meal break the pharmacist certifies all prescriptions prepared by pharmacy technicians during the meal break.

Specific Authority 465.005, 465.0155 FS. Law Implemented 465.003(12), 465.026 FS. History–New 2-14-77, Formerly 21S-4.01, 21S-4.001, Amended 7-30-91, Formerly 21S-27.400, 61F10-27.400, Amended 1-30-96, 10-1-96, Formerly 59X-27.400, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Pharmacy
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 7, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 1999

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: Standards of Practice – Drug Therapy Management
RULE NO.: 64B16-27.830

PURPOSE AND EFFECT: The Board has determined that a new rule should be promulgated to address the standards of practice for drug therapy management.

SUMMARY: A new rule is being created by the Board which will provide language for the standards of practice for drug therapy management.

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: 465.005, 465.0155 FS.
LAW IMPLEMENTED: 465.003(5),(7),(9),(12),(13), 465.0155, 465.0276, 465.186 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy/M.A., 2020 Capital Circle, S. E., Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-27.830 Standards of Practice – Drug Therapy Management.

(1) “Drug Therapy Management” means any act or service by a pharmacist in compliance with orders in a Prescribe Care Plan issued by a practitioner authorized by the laws of the state to prescribe medicinal drugs, in which the practitioner has specified the conditions under which a pharmacist shall order laboratory tests and interpret laboratory values ordered for a patient, or execute drug therapy orders for a patient.

(2) “Prescribe Care Plan” means an individualized assessment of a patient and orders for drugs and other pharmaceutical services intended to be dispensed or executed by a pharmacist, written or transmitted by any means of communication by a practitioner authorized by the laws of the state to prescribe medicinal drugs.

(3) A pharmacist may provide Drug Therapy Management services for a patient, incidental to the dispensing of medicinal drugs or as a part of consulting concerning therapeutic values of medicinal drugs or as part of managing and monitoring the patient’s drug therapy. A pharmacist who provides Drug Therapy Management services for a patient shall comply with orders in a Prescribe Care Plan, issued by a duly licensed practitioner authorized by the laws of the state to prescribe medicinal drugs. The pharmacist shall comply with such orders insofar as they specify:

(a) drug therapy to be initially dispensed to the patient by the pharmacist; or

(b) laboratory values or tests to be ordered, monitored and interpreted by the pharmacist, or

(c) the conditions under which the duly licensed practitioner authorizes the execution of subsequent orders concerning the drug therapy for the patient.

(4)(a) A pharmacist who provides Drug Therapy Management services shall do so only under the auspices of a pharmacy permit that provides the following:

(b) a transferrable patient care record that includes:

- 1. a Prescribe Care Plan that includes a section noted as “orders” from a duly licensed practitioner for each patient for whom a pharmacist provides Drug Therapy Management services; and
- (2) progress notes; and

2. a pharmaceutical care area that is private, distinct, and partitioned from any area in which activities other than patient care activities occur, and in which the pharmacist and patient may sit down during the provision of Drug Therapy Management services; and

3. a continuous quality improvement program that includes standards and procedures to identify, evaluate, and constantly improve Drug Therapy Management services provided by a pharmacist.

Specific Authority 465.005, 465.0155 FS. Law Implemented 465.003(13), 465.0155 FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Pharmacy

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 15, 1999

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: Change of Ownership
RULE NO.: 64B16-28.1135

PURPOSE AND EFFECT: The Board has determined that a new rule should be promulgated to provide language for change in ownership.

SUMMARY: A new rule is being created by the Board which will provide language for the change in ownership of a pharmacy.

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: 465.005, 465.022 FS.

LAW IMPLEMENTED: 465.003(11)(a), 465.018, 465.019, 465.0193, 465.0196 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy/MA, 2020 Capital Circle, S. E., Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-28.1135 Change of Ownership.

A pharmacy permit is not transferable. Upon the sale of an existing pharmacy, a new application must be filed. In those cases where the permit is held by a corporation, the transfer of all the stock of said corporation to another person or entity does not constitute a change of ownership, provided that the initial corporation holding the permit continues to exist.

Specific Authority 465.005, 465.022 FS. Law Implemented 465.003(11)(a), 465.018, 465.019, 465.0193, 465.0196 FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Pharmacy

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

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

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

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: Special Parenteral/Enteral Compounding
RULE NO.: 64B16-28.820

PURPOSE AND EFFECT: The Board is amending this rule to delete unnecessary rule text and adding new language to further clarify special parenteral/enteral compounding.

SUMMARY: Amendments are necessary to delete certain rule text from Subsection (3)(d) that is no longer needed and new language is being added to clarify the Quality Assurance Program in compliance with recommended standards published by the American Society of Health-System Pharmacies and the United States Pharmacopeial Convention.

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: 465.005, 465.007 FS.

LAW IMPLEMENTED: 465.007, 465.018 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy/M.A., 2020 Capital Circle, S. E., Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-28.820 Special Parenteral/Enteral Compounding.

(1) through (2) No change.

(3) General Requirements

(a) through (c) No change.

(d) A Policy and Procedure Manual shall be prepared and maintained at each special parenteral/enteral compounding pharmacy, and be available for inspection by authorized agents of the Board of Pharmacy and the Agency. The Policy and Procedure Manual shall set forth in detail the objectives and operational guidelines of the permittee. The Policy and Procedure Manual shall include a Quality Assurance Program which monitors personnel qualifications, training and performance, equipment facilities, and process validation in compliance with recommended standards published by the American Society of Health-System Pharmacies and the United States Pharmacopeial Convention. random production sampling consistent with recommended standards for compounding and dispensing intravenous admixtures as set forth by the Joint Commission on Accreditation of Health Organizations, the National Coordinating Committee and Large Volume Parenteral, and as provided by the Florida Board of Pharmacy.

(e) through (h) No change.

(4) through (6) No change.

Specific Authority 465.005, 465.007 FS. Law Implemented 465.007, 465.018 FS. History--New 4-26-84, Formerly 21S-1.40, Amended 7-27-86, Formerly 21S-1.040, Amended 7-31-91, 10-14-91, Formerly 21S-28.820, 61F10-28.820, Amended 3-10-96, 6-4-97, Formerly 59X-28.820, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 15, 1999

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLES: Disciplinary Guidelines; Range of Penalties;

RULE NOS.:

Aggravating and Mitigating Circumstances 64B16-30.001 Citations 64B16-30.003

PURPOSE AND EFFECT: The Board has determined that amendments are necessary for Rule 64B16-30.001 to address the range of penalties in the disciplinary guidelines, and amendments are necessary to address citation violations for Rule 64B16-30.003.

SUMMARY: The Board is amending the disciplinary guidelines; range of penalties and mitigating circumstances for Rule 64B16-30.001, and Rule 64B16-30.003 is being amended to update the rule text for citations.

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: 455.617, 455.621, 455.624, 455.627, 465.005 FS.

LAW IMPLEMENTED: 455.617, 455.624, 455.627 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 2020 Capital Circle, S. E., Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULES IS:

64B16-30.001 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) The board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners guilty of violating Chapter 465, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of Chapter 465. The disciplinary guidelines are based upon a single count violation of each provision listed. Multiple counts of violations of the same provision of Chapter 465 or the rules promulgated thereto, or other unrelated violations contained in the same administrative complaint will be grounds for enhancement of penalties. All penalties at the upper range of the sanctions set forth in the guidelines, i.e., suspension, revocation, etc., include lesser penalties, i.e., fine, probation or reprimand which may be included in the final penalty at the board's discretion.

(2) The following disciplinary guidelines shall be followed by the board in imposing disciplinary penalties upon licensees and permittees for violation of the below mentioned statutes and rules:

VIOLATION	PENALTY RANGE	
	MINIMUM	MAXIMUM
(a) Obtaining a license or permit by misrepresentation fraud or error (465.016(1)(a), F.S.) (465.023(1)(a), F.S.)	Revocation	

(b) Procuring a license or permit through false representation (465.016(1)(b), F.S.) (465.023(1)(b), F.S.)	Revocation		i. Failure to comply with required substitution of legend drug requirements (465.025, F.S.)	\$1,000 fine Letter of guidance	\$2,500 \$1,000 fine
(c) Permitting unlicensed persons to practice pharmacy (465.016(1)(c), F.S.)	\$2,500 \$1,000 fine	\$5,000 and one (1) year suspension	j. Failure to follow negative formulary requirements (465.025(6), F.S.) 64B16-27.500, F.A.C.	Reprimand	\$2,500 \$1,000 fine and one (1) year probation
(d) No change.			k. No change.		
(e) Violating laws governing the practice of pharmacy (465.016(1)(e), F.S.) (465.023(1)(c), F.S.)			l. Engage in prohibited rebate scheme (465.185, F.S.)	\$1,500 \$500 fine	\$5,000 \$1,000 fine and one (1) year probation
1. Chapter 465:			m. No change.		
a. Failure to supervise pharmacy technician (465.014, F.S.)	\$1,500 \$500 fine and one (1) year probation	\$5,000 and one (1) year suspension	2. Chapter 499		
b. Operating a pharmacy without a permit (465.015(1)(a), F.S.)	\$500 \$300 per month to maximum of \$5,000 \$1,000 (penalty will require permittee to renew permit or cease practice)	Revocation (if no permit exists, refer to State's Attorney)	a. Adulteration of a drug (499.005(2)(3), F.S.) (499.006, F.S.)	\$2,000 fine and one (1) year probation	Revocation
c. Operating a pharmacy where an unlicensed and unsupervised person practices pharmacy (465.015(1)(b), F.S.)	\$5,000 \$1,000 fine and one (1) year probation	\$5,000 and one (1) year suspension	b. Misbranding a drug (499.005(2), (3), F.S.) (499.007, F.S.)		
d. No change.			(i) Incomplete or inaccurate labeling (499.007, F.S.) 64B16-28.108, F.A.C.	\$1,000 \$500 fine	\$2,500 \$1,000 fine and one (1) year probation
e. Practicing pharmacy as an inactive licensee (465.015(2)(b), F.S.)			(ii) Fraudulent misbranding of legend drugs (499.007, F.S.)	One (1) year suspension	Revocation
f. Selling or dispensing drugs without a prescription (465.015(2)(c), F.S.)			3. Chapter 893 (Controlled substances)		
(i) Non-scheduled legend drugs	\$1,500 \$500 fine	\$5,000 and one (1) year suspension	a. Filling a prescription not appropriately signed (893.04(1)(b), F.S.)	\$1,500 \$500 fine	\$5,000 fine and one (1) year suspension
(ii) Scheduled (controlled substances) legend drugs	\$5,000 \$1,000 fine and one (1) year probation	Revocation	b. Filling an improper prescription (other 64B16-30.001(2)(e)3. above) (893.04(1)(b), (c), F.S.)	\$1,500 \$500 fine	\$5,000 \$1,000 fine and one (1) year probation
g. No change.			c. Failing to retain prescription records for two (2) years (893.04(1)(d), F.S.)	\$1,000 \$500 fine	\$2,500 \$1,000 fine and one (1) year probation
h. Failure to notify the board of or not to have a prescription department manager or consultant pharmacist (465.022(4), F.S.)			d. Failing to appropriately label (893.04(1)(e), F.S.)	\$500 \$250 fine	\$1,000 fine and one (1) year probation
(i) Failure to notify			e. Dispensing a Schedule II drug inappropriately with a non-written prescription (893.04(1)(f), F.S.)	\$2,500 \$1,000 fine	\$5,000 \$1,000 fine and one (1) year probation (for dispensing without a prescription see Rule 64B16-30.001(2)(e)1.f. above)
(ii) Failure to have prescription department manager or consultant pharmacist	\$2,500 fine and one (1) year probation	Revocation of permit	f. Inappropriate refilling of Schedule III, IV, or V drugs (893.04(1)(g), F.S.)	\$1,750 \$750 fine and one (1) year probation	One (1) year suspension

g. Receiving controlled substances without an appropriate order form (893.06(1), F.S.)	\$1,500 \$500 fine	\$5,000 \$1,000 fine and one (1) year probation	1. Rules of Board of Pharmacy a. 64B16-28.101 to 64B16-28.104 64B16-27.100 64B16-28.106 64B16-28.107 64B16-28.109 64B16-27.103 64B16-28.111 64B16-27.104 64B16-26.400 64B16-26.401 64B16-28.404 64B16-26.301 64B16-28.114 64B16-27.105	\$1,000 \$500 fine	One (1) year probation and \$2,000 \$1,000 fine
h. Unlawful possession of controlled substances (893.06(2), F.S.)	\$2,500 \$1,000 fine and one (1) year probation	Revocation	b. through c. No change.		
i. Failure to take a biennial inventory (893.07(1)(a), (2), (3), (4), (5), F.S.)	\$1,000 \$250 fine	\$2,500 \$1,000 fine and one (1) year probation	d. 64B16-28.110 (outdated pharmaceuticals)	\$500 fine	One (1) year probation and \$2,000 \$1,000 fine (if drugs dispensed, One (1) year suspension)
j. No change.			e. No change.		
k. Dispensing controlled substances in other than good faith (893.08(3)(b), F.S.)	\$2,500 \$1,000 fine and one (1) year probation	Revocation	f. 64B16-26.300(1) (Serving as consultant pharmacist without being licensed as a consultant pharmacist)	\$500 per month up to a \$5,000 maximum	One (1) year suspension of pharmacist license
l. Inappropriate selling of Schedule V controlled substance (893.08(3)(c), F.S.)	\$1,500 \$1,000 fine and one (1) year probation	One (1) year suspension	g. 64B16-28.140 and 64B16-28.150 64B16-28.119 (Data processing systems)	\$1,000 \$500 fine and one (1) year probation	\$5,000 fine and two (2) years probation Revocation
m. Unlawful possession of controlled substance (893.13, F.S.)	\$2,500 \$1,000 fine and one (1) year probation	Revocation	h. 64B16-28.120 (Location of legend drugs)	\$1,000 \$500 fine	\$5,000 fine and two (2) years probation One (1) year suspension
4. Violation of Federal Drug Abuse Act 21 U.S.C. 821 et seq.	\$1,000 fine and one (1) year probation Reprimand	\$5,000 fine and one (1) year suspension probation	i. No change.		
(f) Criminal conviction related to pharmacy (465.016(1)(f), F.S.) (465.023(1)(d), F.S.)	Misdemeanor: \$1,000 fine Felony: One (1) year suspension two (2) year probation & \$5,000 \$1,000 fine	\$5,000 \$1,000 fine, one (1) year suspension and two (2) year probation Revocation and \$1,000 fine	j. 64B16-28.202 and 64B16-28.203 (transfer of prescription files and drugs)	\$1,500 fine	Revocation of permit
(g) No change.			2. Violation of orders of Board or Department	\$2,500 fine and one One (1) year probation suspension	Revocation
(h) Filing a false report or failing to file a report required by law			(l) No change.		
1. Knowing violation	\$2,000 \$1,000 fine and one (1) year probation	Revocation	(m) Failure to comply with Board's rule on patient counseling. (64B16-27.800, 64B16-27.810, 64B16-27.820, FAC.)	\$750 fine Letter of Guidance	\$2,500 \$1,000 fine and, one year suspension ; one year probation.
2. Negligent violation	Reprimand	One (1) year probation and \$1,000 fine	(n) No change.		
(i) No change.			(o) Violating 455.624, F.S.		
(j) Improperly placing returned drugs into the stock of a pharmacy (465.016(1)(l), F.S.)	\$1,500 \$500 fine	\$3,000 \$1,000 fine and one (1) year probation	1. Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.	\$2,500 \$1,000 fine and one (1) year probation	\$5,000 fine and one One (1) year suspension
(k) Violating a rule or order of the board or Department (465.016(1)(n), F.S.)					

<p>2. Intentionally violating any rule adopted by the Board or the Department, as appropriate.</p>	<p>\$1,500 \$500 fine</p>	<p>\$2,500 \$1,000 fine and one (1) year probation</p>	<p>15. Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them.</p>	<p>\$2,000 \$1,000 fine and two (2) years probation</p> <p>One (1) year suspension</p>
<p>3. Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.</p>	<p>Misdemeanor: \$1,000 fine Felony: \$3,000 fine and one (1) year probation suspension</p>	<p>\$5,000 fine and one (1) year suspension Revocation</p>	<p>16. Violating any provision of this part, the applicable professional practice act, a rule of the Department or the Board, or a lawful order of the Department or the Board, or failing to comply with a lawfully issued subpoena of the Department.</p>	<p>\$1,000 fine</p> <p>\$5,000 \$1,000 fine and two (2) years probation</p>
<p>4. through 5. No change.</p>			<p>17. Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.</p>	<p>\$2,500 \$1,000 fine and two (2) years probation</p> <p>\$5,000 fine and one (1) year suspension</p>
<p>6. Having been found liable civil proceeding for knowingly filing a false report or complaint with the Department against another licensee.</p>	<p>\$3,000 \$1,000 fine</p>	<p>\$5,000 fine and six (6) month suspension</p>	<p>(3) through (4) No change.</p>	
<p>7. through 8. No change.</p>			<p>Specific Authority 455.624, 455.627, 465.005 FS. Law Implemented 455.624, 455.627 FS. History—New 3-1-87, Amended 5-11-88, Formerly 21S-17.001, 21S-30.001, 61F10-30.001, Amended 6-26-95, 1-30-96., Formerly 59X-30.001, Amended 12-3-97, 11-15-98,_____.</p>	
<p>9. Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this part, the chapter regulating the profession, or the rules of the Department or the Board.</p>	<p>\$2,000 \$1,000 fine</p>	<p>\$5,000 fine and one (1) year suspension</p>	<p>64B16-30.003 Citations.</p>	
<p>10. Failing to perform any statutory or legal obligation placed upon a licensee.</p>	<p>\$2,000 \$1,000 fine</p>	<p>\$5,000 \$1,000 fine and one (1) year probation</p>	<p>(1) through (2) No change.</p>	
<p>11. Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.</p>	<p>\$3,000 \$1,000 fine and two (2) years probation</p>	<p>\$5,000 fine and One (1) year suspension</p>	<p>(3) The following violations with accompanying fines may be disposed of by citation:</p>	
<p>12. Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.</p>	<p>\$3,000 \$1,000 fine and two (2) years probation</p>	<p>\$5,000 fine and one (1) year suspension</p>	<p>(a) Practicing pharmacy as an inactive licensee (465.015(2)(b), F.S.)</p> <p>(b) Operating a pharmacy <u>with an inactive without a permit</u> (465.015(1)(a), F.S.)</p> <p>(c) <u>First time failure to complete the required continuing education during the biennial licensure period.</u> (455.624(3), F.S.)</p>	<p>Fine based on length of time in practice while inactive; \$200 \$100/month or \$5,000 \$1,000 maximum (penalty will require licensee to renew license or cease practice).</p> <p>\$500 \$150 per month to a maximum of \$5,000 \$1,000 (penalty will require permittee to renew permit or cease practice).</p>
<p>13. Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.</p>	<p>\$3,000 \$1,000 fine and two (2) years probation</p>	<p>\$5,000 fine and one (1) year suspension</p>	<p><u>Failure to complete less than 10 hours</u> \$500</p> <p><u>Failure to complete 10 or more hours</u> \$1000</p>	
<p>14. Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.</p>	<p>\$2,000 \$1,000 fine and two (2) years probation</p>	<p>\$5,000 fine and one (1) year suspension</p>	<p><u>In addition, licensees shall take two additional hours of continuing education for each of the continuing education deficiencies. Said hours shall not count for continuing education renewal requirements for the next biennium.</u></p>	

(4) through (5) No change.

Specific Authority 455.617, 455.621, 465.005 FS. Law Implemented 455.617 FS. History--New 12-22-91, Formerly 21S-30.003, 61F10-30.003, 59X-30.003, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Pharmacy
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 7, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 15, 1999

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE CHAPTER NO.: 5C-25
RULE NOS.: 5C-25.001, 5C-25.002, 5C-25.003, 5C-25.004
RULE CHAPTER TITLE: Humane Euthanasia of Livestock
RULE TITLES: Definitions, Humane Killing of Livestock, Development of a Training Program, Penalties for Violation

NOTICE OF WITHDRAWAL

Notice is hereby given that the proposed Rule 5C-25, F.A.C., published in the Florida Administrative Weekly, Volume 25, Number 40, October 8, 1999, has been changed to reflect comments received from the Joint Administrative Procedures Committee; to wit, withdrawal of 5C-25.003 and 5C-25.004.

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

RULE NO.: 64B-1.009
RULE TITLE: Requesting a Pre-hearing Review

NOTICE OF CHANGE

Notice is hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 25, No. 39, October 1, 1999, issue of the Florida Administrative Weekly. The change is in response to comments provided by the Joint Administrative Procedures Committee.

64B-1.009 Requesting a Pre-hearing Review.

In paragraph (1), reference to Rule 60Q-2.004 has been changed to reference Rule 28-106.201. In addition, Section 455.647, F.S. was added under Specific Authority and Law Implemented.

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

RULE CHAPTER NO.: 64E-2
RULE CHAPTER TITLE: Emergency Medical Services

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to proposed rule 64E-2, FAC., in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Florida Administrative Weekly, Vol. 25, No. 44 on November 5, 1999. The changes reflect comments received during the public hearing process and upon comments received from the Joint Administrative Procedures Committee. The changes are as follows:

64E-2.013(3)(e) – After the word “signature” add “or identification number”.

64E-2.013(5) – Replace paragraph with: “Transporting vehicle personnel shall provide recorded information to the receiving hospital personnel at the time the patient is transferred that contains all known pertinent incident, patient identification and patient care information.”

64E-2.013(14)(c) – Replace “64E-2.103” with “64E-2.013”.

64E-2.024(1)(d)1. – Renumber “(d)1.” to “(d)”.

64E-2.024(2) – Renumber “(2)” to “2.”

64E-2.024(3) – Renumber “(3)” to “3.”

64E-2.024(3)(d) – (Now 64E-2.024(1)(d)). Replace the words “critical standards” with “standards of critical elements”.

64E-2.024(3)(d)1. – Replace “critical standards” with “standards of critical elements” and move all language into paragraph 64E-2.024(1)(d).

64E-2.031(1)(a) – Replace “October 1999,” with “February 2000.”

64E-2.031(3) – After the word “proxy” add “as defined in section 765.101, F.S.”. After the word “guardian” add “or person acting pursuant to a durable power of attorney established pursuant to section 709.08, F.S.”

64E-2.031(6) – After the word “guardian” add “or person acting pursuant to a durable power of attorney established pursuant to section 709.08, F.S. Pursuant to section 765.104, F.S.” Replace “The” with “the”.

64E-2.031 Law Implemented – After “401.45” add “, 765.401”.

INCORPORATIONS:

DHP 150-9 – Page 2.15 – 3.a.(1) – Second paragraph – delete the word “surgical”.

DHP 150-9 – Page 2.16 First Sentence – delete the word “surgical”.

DHP 150-9 – Page 3.13 – a.(1) – Second paragraph – delete the word “surgical”.

DHP 150-9 – Page 4.15 – 3.(1) – Second paragraph – delete the word “surgical”.

DHP 150-445 – Table of Contents – Item 10. Replace with “Total Number of Active Staff Hours Worked”