

(3) “Epilepsy Services Program provider” is an agency that under contract with the Department of Health provides services to persons with epilepsy as outlined in Section 385.207, F.S.

(4) “Poverty guidelines” mean the guidelines defined by subsection 64F-16.001(7), F.A.C.

(5) “Self declaration” means a statement regarding assets, income, family size, medical diagnosis, or residency made by a person applying for services. Self-declaration does not include any documentation other than the signature of the person making the statement.

(6) “Valid prescription” means a prescription written by a licensed health care practitioner who is authorized by law to prescribe medicine and is presented within 12 months of the date the prescription was written, except for controlled substances which must be presented within six months of the date written.

Specific Authority 385.204 FS. Law Implemented 385.204 FS. History—New

64F-19.002 Procedure.

(1) A person wishing to participate in the Antiepileptic Drug Program may apply at any county health department. The applicant will submit to the county health department a valid prescription or a completed Epilepsy Medication Request DH2007 (dated 6/01), incorporated herein by reference. An Epilepsy Medication Request may be obtained from any county health department or Epilepsy Services Program provider. In accordance to the eligibility criteria set forth in this rule, form DH2007 must be completed in its entirety prior to the Department’s acceptance of the applicant into the program.

(2) Clients of Children’s Medical Services who are diagnosed as having epilepsy are automatically eligible for the program.

(3) Additionally, the county health department will accept into the program persons who meet all the following eligibility criteria:

- (a) Have a diagnosis of epilepsy;
- (b) Are a bona fide Florida resident;
- (c) Have no coverage for medication through Medicaid or other health insurance;

(d) Have a gross family income at or below 110 percent of the current federal poverty level guidelines, as defined in subsection 64F-16.001(7), F.A.C.; and

(e) Have no more than \$2,500 per family in private funds, bank accounts or liquid assets not including their homestead or personal vehicle.

(4) The department may establish a limited access program to provide antiepileptic medications not available through the Antiepileptic Drug Program. Persons who are eligible for the Antiepileptic Drug Program and who have a valid prescription may apply to participate in this program as

provided in paragraph one. Antiepileptic medications available through this limited access program may vary and are determined by the Department’s Health State Health Officer or designee. A list of available medications are available through the limited access program is available from the DOH Central Pharmacy. Availability of these medications is limited and is based on need as evidenced by a valid prescription and the availability of funds.

(5) A person who does not meet the eligibility criteria as defined above who is temporarily without financial resources to purchase antiepileptic medication may receive a one month supply of medication once annually.

(6) Every 12 months a client must be determined eligible for the program.

(7) If at any time the client experiences a change in status which could affect his or her eligibility, the client must report this change to the county health department within 30 days.

(8) If a client is determined ineligible for the Antiepileptic Drug Program, the county health department will continue to provide medication through the Antiepileptic Drug Program to the client for up to six months after the determination of ineligibility unless another source for medication is found.

Specific Authority 385.207 FS. Law Implemented 385.207 FS. History—New

## Section II Proposed Rules

### DEPARTMENT OF BANKING AND FINANCE

#### Division of Finance

RULE TITLE: RULE NO.:

Proof of Ownership and Entitlement to 3D-20.0022  
Unclaimed Property

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment is to specify what must be filed with the Department when filing a claim for unclaimed property owned by a dissolved corporation.

SUMMARY: The proposed amendment provides that as an alternative to filing a certified copy of the last corporate filing reflecting the officers and directors of the corporation, the claimant may provide the Department with a state’s web site address if the same information is available on the Internet site. As an alternative to a bankruptcy search, the claimant may provide the Department with the results of either a Case Management/Electronic Case Files (CM/ECF) search, if available, or a Public Access to Court Electronic Records (PACER) search in the bankruptcy court of the state and district of incorporation and where the main office is located, if different. The rule amendments also require bankruptcy information to be provided if the dissolved corporation has

been a debtor in bankruptcy. If the bankruptcy estate is open or if the bankruptcy estate is reopened, the unclaimed property will be remitted to the bankruptcy estate.

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.

SPECIFIC AUTHORITY: 717.138 FS.

LAW IMPLEMENTED: 92.525, 717.124, 717.126 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., June 26, 2002

PLACE: Suite 547, The Fletcher Building, 101 E. Gaines St., Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Paul C. Stadler, Jr., Assistant General Counsel, Department of Banking and Finance, Suite 526, The Fletcher Building, 101 E. Gaines St., Tallahassee, Florida 32399-0350, (850)410-9896

THE FULL TEXT OF THE PROPOSED RULE IS:

3D-20.0022 Proof of Ownership and Entitlement to Unclaimed Property.

(1) through (5)(b) No change.

(c)1. If the unclaimed business account is for a dissolved corporation, the claimant shall specify the corporation's state of incorporation and last principal place of business address. The claimant shall provide a certified copy of the last corporate filing reflecting the officers and directors of the corporation, which shall be obtained ~~If the unclaimed business account is for a dissolved corporation, then certification from an appropriate state official of the state of incorporation, certified within one (1) year of the filing of the claim, shall be provided to the Department to reflect the last corporate filing. The certified copy of the last corporate filing shall not be required if:~~

a. The officers and directors of the dissolved corporation are identified in the last corporate filing on the Internet site for the Florida Department of State, or

b. The claimant has provided the web address of a free Internet site operated by the state of incorporation of the dissolved corporation that maintains the last corporate filing identifying the officers and directors of the dissolved corporation.

c. If a. or b. is applicable, the claimant shall provide a printout from the Internet site which identifies the officers and directors of the dissolved corporation.

2. Appropriate evidence shall be provided to reflect that the dissolved corporation is the same corporation as on the Department's records and appropriate evidence shall be provided to reflect the claimant is entitled to all or a proportional share of the dissolved corporation or that the claimant is an officer or director of the corporation.

3. A claim for an unclaimed business account for a dissolved corporation shall include the personal identification of the officer, director or shareholder filing the claim.

4. A claim for an unclaimed business account for a dissolved corporation shall state if the dissolved corporation has ever been a debtor in bankruptcy. If the dissolved corporation has ever been a debtor in bankruptcy, the claimant shall identify the bankruptcy chapter that the case proceeded under. The claimant shall also state the location of the bankruptcy court, the case number, and the address and telephone number of the Office of the U.S. Trustee in that jurisdiction. If no bankruptcy proceedings of the dissolved corporation are known, the claimant shall so state and shall either provide the results of a bankruptcy court web site Case Management/Electronic Case Files (CM/ECF) search, if available, or a Public Access to Court Electronic Records (PACER) search. The CM/ECF or PACER search shall be conducted in the bankruptcy court of the state and district of incorporation and where the main office is located, if different. As an alternative to the CM/ECF or PACER search, the claimant may provide a completed United States Bankruptcy Court Application for Search of Bankruptcy Records ~~shall be provided to the Department~~ from the state and district of incorporation, and from the district where the main office is located, if different. ~~Personal identification shall be provided as specified in subsection (2) of this rule.~~

5. The Office of the U.S. Trustee will be contacted by the Department if the dissolved corporation was a debtor in a closed Chapter 7 bankruptcy case if the aggregate value of the unclaimed property is greater than \$500.00. If the bankruptcy case is reopened, the unclaimed property shall be remitted to the bankruptcy trustee.

6. The unclaimed property shall be remitted to the bankruptcy trustee if one has been appointed and the dissolved corporation is a debtor in a pending bankruptcy case.

Specific Authority 717.138 FS. Law Implemented 92.525, 717.124, 717.126 FS. History--New 3-20-91, Amended 3-13-96, 8-18-96, 1-28-97, 1-18-99, 4-16-02, \_\_\_\_\_, cf. 11 U.S.C. s. 542.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Clay, Senior Mgt. Analyst II, Unclaimed Property

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Pete DeVries, Chief, Unclaimed Property

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 21, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 26, 2002

**DEPARTMENT OF BANKING AND FINANCE**

**Board of Funeral and Cemetery Services**

RULE TITLE: Inactive Certificates of Authority  
 RULE NO.: 3F-5.0025

PURPOSE AND EFFECT: The Board proposes to adopt this rule to set forth the criteria for inactive certificates of authority, setting forth what is considered an inactive certificate and what must be done when a licensee becomes inactive.

SUMMARY: When a certificateholder becomes inactive either by surrender of its certificate of authority to the Board, or failure to submit renewal application and/or fees, or upon final expiration or denial of renewal by the Board, the inactive certificateholder must meet specific requirements in order to fulfill its obligations prior to being placed on inactive status. Additionally, an inactive certificateholder continues to be subject to examination by the Department until such time as all outstanding preneed contracts are fulfilled or assigned to another certificateholder.

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: 497.103, 497.437 FS.

LAW IMPLEMENTED: 497.437 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW (IF NOT REQUESTED, A HEARING WILL NOT BE HELD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diana Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, Tallahassee, FL 32399-0350

THE FULL TEXT OF THE PROPOSED RULE IS:

3F-5.0025 Inactive Certificates of Authority.

(1) A certificateholder shall be considered inactive upon acceptance by the Board of the surrender of the certificate of authority, if the certificateholder fails to submit a renewal application and fees or upon the final expiration of the certificate of authority after denial of renewal by the Board.

(2) Upon becoming inactive, the certificateholder shall do the following:

(a) Cease the sale of preneed contracts.

(b) Deposit into trust 100% of the funds collected as payments or made on outstanding preneed contracts.

(c) Notify the Department of the certificateholder's compliance with this rule.

(3) The licenses of all preneed sales agents registered with an inactive certificateholder shall expire immediately upon the certificateholder becoming inactive.

(4) If an inactive certificateholder intends to cease providing at-need services, the inactive certificateholder shall, prior to ending such services, assign all preneed contracts to a certificateholder for fulfillment. The Department and all preneed purchasers shall be notified of the assignment.

(5) As provided by Section 497.436(7), F.S., in order for the Board to exercise its jurisdiction as provided therein, an inactive certificateholder shall, at the same time as is required for renewing certificateholders, submit a certificate of authority renewal form and financial statement. Additionally, an inactive certificateholder shall continue to be subject to examination by the Department until all outstanding preneed contracts have been fulfilled or assigned to another certificateholder.

(6) To ensure compliance with this rule, the Department is authorized to request additional information as needed, including but not limited to trust reports, bank statements, workpapers and statements of accounts receivable.

Specific Authority 497.103(1) FS. Law Implemented 497.437 FS. History—  
 New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Board of Funeral and Cemetery Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral and Cemetery Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 8, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 8, 2002

**DEPARTMENT OF INSURANCE**

RULE TITLES: Filing, Approval of Subscriber Contract and Related Forms 4-203.042  
 Rates 4-203.045  
 Prescribed Forms 4-203.100

PURPOSE AND EFFECT: The primary purpose of the proposed rule amendments is to require Prepaid Limited Health Service Organizations to submit the standardized data letter that all insurers are required to submit with every rate and form filing made with the Department of Insurance. The proposed changes also set forth the materials that must be included with each rate and form filing. Finally, the changes correct addresses to be used in submitting filings.

SUMMARY: Adopts the standard cover letter for insurance rate and form filings for use by Prepaid Limited Health Service Organizations and sets forth other filing requirements.

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.

SPECIFIC AUTHORITY: 636.067 FS.

LAW IMPLEMENTED: 624.321(1)(a), 636.005, 636.008, 636.009, 636.012, 636.016, 636.017, 636.043 FS.

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

TIME AND DATE: 1:00 p.m., Tuesday, June 25, 2002

PLACE: Room 143, Larson Building, 200 E. Gaines St., Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Frank Dino, Chief Actuary, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 E. Gaines Street, Room 312-D, Larson Building, Tallahassee, FL 32399-0328, (850)413-5014

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

THE FULL TEXT OF THE PROPOSED RULES IS:

4-203.042 Filing, Approval of Subscriber Contract and Related Forms.

(1) Every group or individual subscriber contract and every rider, endorsement, certificate, application, or other form to be used or issued in connection with any subscriber contract shall be filed by the PLHSO for approval by the Department before it may be delivered in this state, pursuant to the criteria in Section 636.0186(1)(a), Florida Statutes. ~~The form may be used immediately but is subject to disapproval by the Department. If disapproved, use of the form shall be discontinued immediately.~~

(2) Every form required to be filed by the PLHSO shall be identified by a unique form number, placed in the lower left hand corner of each form.

(3) Filing Format for All Forms. Two copies of each filing shall be submitted at the time of filing. PLHSOs in possession of a Certificate of Authority shall mail submit all contract filings to: the Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, Post Office Box 8040, Tallahassee, Florida 32301-8040 99-0328; submit filings electronically to lhfrbureau@doi.state.fl.us; or submit filings to the Department by Federal Express or any other form of special delivery by delivery to: Bureau of Life

and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 1st Floor, Larson Building, 200 East Gaines Street, Tallahassee, FL 32399-0328. A filing shall consist of one copy of each of the following items:

(a) A brief letter explaining the type and nature of the filing. The letter shall indicate if the filing is for a new product, or a resubmission. If the filing is a resubmission, the letter shall indicate when the previous filing was submitted, the Florida filing number, and the date of the disapproval.

(b) Form DI4-1507, "The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter," completely filled out in accordance with Form DI4-1507A, "The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter Instruction Sheet.

(c) The form being submitted by the PLHSO for approval.

(d) An actuarial memorandum consistent with the requirements of Rule 4-203.045, F.A.C.

(e) Rate pages that define all proposed rates, rating factors, and methodologies for determining rates applicable in the state.

Specific Authority 636.067 FS. Law Implemented 636.016, 636.017, 636.018 FS. History--New 11-15-94, Amended.

4-203.045 Rates.

(1) through (7) No change.

(8) Filing Format for All Rate Filings. A filing shall consist of one copy of each of the following:

(a) A brief letter explaining the type and nature of the filing. The letter shall indicate if the filing is for a new product, a rate revision, or a resubmission. If the filing is a resubmission, the letter shall indicate when the previous filing was submitted, the Florida filing number, and the date of the disapproval.

(b) Form DI4-1507, "The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter," completely filled out in accordance with Form DI4-1507A, "The Florida Department of Insurance, Treasurer and Fire Marshal Life and health Forms and Rates Universal Standardized Data Letter Instruction Sheet."

(c) An actuarial memorandum, consistent with the requirements of Rule 4-203.045, F.A.C.

(d) Rate pages that define all proposed rates, rating factors, and methodologies for determining rates applicable in the state. The PLHSO shall submit two copies of each rate filing to the Department of Insurance, Life and Health Rate and Reserve Analysis, Tallahassee, Florida 32399-0300.

(9) Filings shall be mailed to: Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, Post Office Box 8040, Tallahassee, FL 32301-8040; submitted electronically to lhfrbureau@doi.state.fl.us.; or submitted to the Department by Federal Express or any other

form of special delivery by delivery to: Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 1st Floor, Larson Building, 200 East Gaines Street, Tallahassee, FL 32399-0328.

Specific Authority 636.067 FS. Law Implemented 636.017, 636.018, 636.043 FS. History—New 11-15-94, Amended.

4-203.100 Prescribed Forms.

The forms listed below are incorporated herein, and made a part of, these rules by reference:

Title	Form Number
(1) through (13) No change.	
<u>(14) The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter</u>	<u>DI4-1507 (1/02)</u>
<u>(15) The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter Instruction Sheet</u>	<u>DI4-1507A (1/02)</u>

Application forms may be obtained from the Application Coordinator, Insurer Services Support, Tallahassee, FL 32399-0327. All other forms may be obtained from the Department of Insurance, Bureau of Life and Health Insurer Solvency, Larson Building, Tallahassee, FL 32399-0327.

Specific Authority 636.067 FS. Law Implemented 624.321(1)(a), 636.005, 636.008, 636.009, 636.012, 636.043 FS. History—New 11-15-94, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Frank Dino, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rich Robleto, Chief, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 16, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 26, 2002

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Standards**

RULE TITLE: Guidelines for Imposing Administrative Penalties  
PURPOSE AND EFFECT: The purpose of amending 5F-2.016 is to update a value in a table that reflects the adoption of the most recent Annual Book of ASTM Standards, the accepted standard for implementation of Chapter 525, F.S.

RULE NO.: 5F-2.016

SUMMARY: Rule 5F-2.016, F.A.C., specifies guidelines when administrative fines are imposed pursuant to Section 525.16, F.S. This amendment updates a value in the table that reflects the adoption of the most recent Annual Book of ASTM Standards, the accepted standard for implementation of Chapter 525, F.S.

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: 525.14 FS.

LAWS IMPLEMENTED: 525.16 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: 10:00 a.m., Monday, June 17, 2002

PLACE: Division of Standards' Conference Room, Suite E, Room 135, Doyle Conner Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eric Hamilton, Bureau Chief, Bureau of Petroleum Inspection, 3125 Conner Blvd., Bldg. #1, Tallahassee, FL 32399-1650, Phone (850)488-9740

THE FULL TEXT OF THE PROPOSED RULE IS:

5F-2.016 Guidelines for Imposing Administrative Penalties.

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

The administrative fine will be a sum of the assigned monetary amounts of these factors. These factors will be assigned monetary amounts in the following manner:

1. The degree of harm is determined by the severity and nature of the violation and the extent of harm will be determined by the amount of substandard product sold.

a. Severity and Nature of the Violation

Gasoline

Fine	\$100	\$250	\$500
Distillation: End Point, EF	450-475	476-500	>500
Distillation: 10, 50 & 90% evaporated temperature, EF		all violations	
Vapor Pressure, psi	April-October: >maximum but # 11.5	November-March: >13.5 April-October: >11.5	
Antiknock Index			>2.0 below displayed value
Sulfur			all violations

Gum			all violations
Alcohol/Oxygenates		>maximum but #20%	>20%

Diesel, Kerosene and Fuel Oils

Fine	\$100	\$250	\$500
Flash Point, EF	diesel & fuel oils: 80-93. kerosene: 80-91	diesel, kerosene & fuel oils: 60-79	diesel, kerosene & fuel oils: <60
Distillation		diesel, kerosene & fuel oils: all violations	

Specific Authority 525.14 FS. Law Implemented 525.16 FS. History—New 2-24-00, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Eric Hamilton

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ben Faulk, Director, Division of Standards

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 23, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 3, 2002

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DOCKET NO.: 01-43R

RULE CHAPTER TITLE: State Buffer Preserves  
RULE CHAPTER NO.: 18-23

RULE TITLES: Scope and Intent 18-23.002  
Limitations on Activities 18-23.007  
Determination and Applicability of Fines 18-23.010

PURPOSE AND EFFECT: To clarify language in this chapter, especially within the prohibitions section; to remove obsolete language from this chapter, such as references to the Division of Marine Resources; to change the title of the chapter to address other lands managed by the Office of Coastal and Aquatic Managed Areas (OCAMA); to add a section to the chapter specifying fines for violations of the chapter on lands managed by OCAMA, including buffer preserves; to include in the chapter all uplands managed by OCAMA, adding uplands leased to OCAMA by the Board of Trustees, spoil islands and natural state-owned islands in aquatic preserves to buffer preserves; to add and specify amounts of fines for violations of this chapter; and to make any changes to this chapter that will assist in implementing Section 253.86, Florida Statutes, enacted in 2001.

SUMMARY: The rule includes language clarifications, especially within the prohibition section, and removing obsolete language from this chapter, such as references to the Division of Marine Resources, which no longer exists in the Department. Title of the rule is being changed to reflect the management of other lands managed by CAMA such as uplands leased to by the Board of Trustees, spoil and natural state-owned islands in aquatic preserves. A section is being

added to the chapter to implement new Section 253.86, F.S., specifying fines, including amounts of fines, for violations of rules in this chapter. Any other changes to this chapter will assist with the implementation of Section 253.86, F.S., enacted in 2001.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None has been prepared.

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

SPECIFIC AUTHORITY: 253.03(7)(a), 253.86(1), 258.43(1) FS.

LAW IMPLEMENTED: 253.03, 253.034, 253.04, 253.05, 253.12, 253.127, 253.86(1), 253.86(2), 258.397(2)(b), 258.40(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED, PURSUANT TO SEC. 120.551, F.S., ANNOUNCED IN THE DEPARTMENT’S INTERNET OFFICIAL NOTICE SITE AT WWW.DEP.STATE.FL.US UNDER THE LINK TITLED “OFFICIAL NOTICES”, IN THE FAW.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours before the workshop by contacting the Bureau of Personnel Services, (850)488-2996. If you are hearing or speech impaired, please contact the Florida Relay Service by calling 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Alex M. Cordero, Office of Coastal and Aquatic Managed Areas, 3900 Commonwealth Blvd., Mail Station 235, Tallahassee, Florida 32399-3000, (850)488-3456

THE FULL TEXT OF THE PROPOSED RULES IS:

STATE BUFFER PRESERVES  
COASTAL AND AQUATIC MANAGED AREAS –  
UPLAND MANAGEMENT

18-23.002 Scope and Intent.

(1) Any lands above the mean or ordinary high water line that ~~are within the state buffer preserve boundary and are leased to or~~ managed by the Office of Coastal and Aquatic Managed Areas (OCAMA), for conservation purposes, including all state-owned natural islands and spoil islands within aquatic preserves shall be managed in accordance with this chapter rule.

(2) The policies, standards and criteria in this rule are supplemental to chapter 18-2; F.A.C. (Management of Uplands Vested in the Board of Trustees) and that chapter and this chapter shall be utilized in the management of all lands subject to this chapter ~~state buffer preserve properties~~.

(3) The management goals of the preserves are:

(a) To conserve and protect and preserve natural ecological values and systems;

(b) To protect and conserve preserve wetlands, natural and water resources and water quality of adjacent coastal resources, aquatic preserves, parks and other special management areas, administered by either the Department or other local, state or federal authorities;

(c) To protect and conserve preserve native species and natural communities, particularly any that are endangered or threatened;

(d) To restore or enhance natural communities and original ecosystem functions which have been historically degraded, to the greatest extent possible;

(e) To protect, identify and conserve archaeological and historical resources;

(f) To enhance public appreciation for elements of natural and cultural diversity; and

(g) To provide low impact public visitation and recreational opportunities, and other uses consistent and compatible with the above goals.

(4)(a) Persons interested in obtaining information about details or legal descriptions of a particular preserve lands subject to this chapter or managed by OCAMA should contact the Office of Coastal and Aquatic Managed Areas, Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station 235, Tallahassee, FL 32399-3000; (telephone (850)488-3456 or Sun Com 278-3456) or by accessing the Department's website at [www.dep.state.fl.us/](http://www.dep.state.fl.us/).

(b) The preserves are described as follows:

1. Charlotte Harbor State Buffer Preserve, as described in the Official Records of Lee County in Book 1050, pages 1656-1660 and 1672-1678; Book 1067, pages 1989-1995; Book 1161, pages 305-307; Book 1268, pages 1972-1994; Book 1685, pages 3863 and 3864; Book 1763, page 46; Book 1791, pages 4492-4494; Book 1794, pages 940-948; Book 2348, pages 1843-1847; and in the Official Records of Charlotte County in Book 565, pages 1096, 1168, and 1723-1765; Book 567, pages 1183-1191; Book 569, pages 535, and 520-530; Book 571, pages 1778-1809; Book 597, pages 1490.

2. 1498; Book 616, page 771; Book 715, pages 406 and 407; Book 886, pages 2046 and 2047; Book 951, pages 2138-2143; and Book 953, pages 1384-1386.

3. Coupon Bight State Buffer Preserve, as described in the Official Records of Monroe County in Book 997, page 999; Book 1078, pages 1094, 1095, 1153, 1425, 1462, and 2098; Book 1082, page 1818; Book 1084, page 2156; Book 1085, page 1483; Book 1092, page 878; Book 1097, page 2299; Book 1104, pages 578 and 579; Book 1116, page 1649; Book 1117, pages 1113 and 1134; Book 1119, page 1785; Book 1120, pages 1642 and 1645; Book 1123, page 743; Book 1131, pages 1377, 1730, and 1731; Book 1145, pages 1007, 1008,

and 1336; Book 1151, page 1301; Book 1155, page 720; Book 1225, pages 1236 and 1237; and Book 1229, pages 962 and 963.

4. Estero Bay State Buffer Preserve, as described in the Official Records of Lee County in Book 1924, pages 2148-2150; Book 2125, pages 84-86; and Book 2207, pages 4418-4439.

Specific Authority 253.03(7)(a), 253.86(1), 258.43(1) FS. Law Implemented 253.03, 259.032(4), 253.86(1), 253.86(2), 258.397(2)(b), 258.40(1) FS. History—New 8-7-94, Amended 5-8-96.

#### 18-23.007 Limitations on Activities.

In order to conserve, protect preserve and restore the natural resources of the preserves and ensure the safety and enjoyment of their visitors, the following uses or activities are may be limited or prohibited within the preserves. The preserve manager shall authorize such activities only except in the case of a life-threatening emergency or as part of a natural resource management program. Activities referenced in this section may not be available on all lands, as determined by each management plan or so posted on the site.

(1) The lands preserves shall be open from 8:00 AM sunrise to sunset every day unless otherwise posted. Visitors are required to acquire written permission from notify the OCAMA at the address provided in subsection 18-23.002(4), F.A.C., preserve manager of their intent to access occupy the lands preserve during closed hours unless otherwise posted. The Department OCAMA, in accordance with furtherance of the policy and intent of Chapter 253, F.S., shall close any lands preserve or section thereof to the public at any time or for any interval of time, when necessary in order to protect the public's health, safety or welfare, to protect natural resources, or conduct management activities due to causes such as fire, severe weather conditions, natural hazards, management activities or environmental conditions.

(2) Possession or and consumption of alcoholic beverages is prohibited.

(3) Motor vehicles may not be used on areas other than designated vehicular preserve roads. The speed limit is 25 miles per hour unless otherwise posted.

(4) Hunting and fishing.

(a) Hunting or trapping of wildlife is prohibited except as specifically authorized by the Florida Fish and Wildlife Commission (FWC) under Chapter 68A, F.A.C. All persons who are present in established hunting areas are subject to all rules established by the FWC. Shooting into OCAMA managed lands from beyond their boundaries is prohibited.

(b) Fishing is allowed with the appropriate state-fishing license and in accordance with FWC rules unless specifically prohibited by posting.

(5) Harassing, including feeding, trapping, or taking of wildlife, or possession of trapping devices is prohibited. No person shall otherwise possess, trap, harass or hunt any animal without authorization.

~~(6)~~ Also prohibited are all trapping devices and the erection of any structure for the purpose of concealment. Shooting into preserve areas from beyond preserve boundaries is prohibited.

~~(6)~~~~(7)~~ The use or possession of firearms of any type or weapons potentially dangerous to wildlife and human safety are prohibited except as part of a hunting activity allowed under paragraph (4)(a).

~~(7)~~~~(8)~~ Unleashed domestic animals are prohibited, except those assisting the handicapped unless otherwise posted.

~~(8)~~~~(9)~~ Hiking, horseback riding, and bicycle riding shall be restricted to trails or ~~preserve~~ roads specifically designated for each such recreational activity.

~~(9)~~~~(10)~~ Camping may be conducted only at designated areas. Registration with OCAMA prior to camping is required unless otherwise posted. Registration information is provided in subsection 18-23.002(4), F.A.C.

~~(10)~~~~(11)~~ Fires are allowed in designated areas only. All fires must be completely extinguished prior to leaving the site unattended.

~~(11)~~~~(12)~~ All waste water, refuse and trash shall be disposed of properly by placing it in designated containers, if provided, or removed to an off-site disposal facility or receptacle.

~~(12)~~~~(13)~~ The introduction, transplantation or removal of any plant or animal life-(living or dead) ~~from any preserve~~ is prohibited, except as allowed by subsection (4) of this rule provided herein. Any person, upon being convicted of a violation of this rule, shall be accountable for all costs in reparation to the area of violation which shall be determined by biological assessment.

~~(13)~~~~(14)~~ Solicitation or distribution of commercial materials and advertising of any commercial or business event, other than department materials or announcements of OCAMA preserve-sponsored or sanctioned events and gatherings are prohibited.

~~(14)~~~~(15)~~ The Personal watercraft operation of motor vessels in interior water bodies, wetlands, or low lying areas completely surrounded by conservation lands is prohibited unless otherwise authorized in the currently approved management plan for such lands so designated with signs and referenced on the base map of the preserve.

~~(16) Aquaculture.~~

~~(15)~~~~(17)~~ Any removal, disturbance, pollution or destruction of property, or natural, historic, or cultural resources is prohibited. No person shall, regardless of intent, destroy, dig, or remove from any OCAMA managed lands preserve area or the waters thereof any plant, animal, artifact, or other material unless it is part of an approved management activity at that site. ~~The mutilation, displacement, or breaking off of any water bottom formation or growth is also prohibited.~~

Such person, upon being convicted of a violation of this rule shall be accountable for all costs in reparation to the area of violation which shall be determined by biological assessment.

(16) Construction or placement of temporary or permanent structures is prohibited.

(17) Prohibited activities shall not apply to Department staff or the cooperating management agencies, volunteers or contractors when conducting management activities consistent with an approved management plan, Chapter 18-2, F.A.C., and approved in writing by OCAMA at the address provided in subsection 18-23.002(4), F.A.C.

~~(18)~~ Authorizations for any prohibited activity shall be obtained by submitting a written request to OCAMA at the address provided in subsection 18-23.002(4), F.A.C. ~~the Department of Environmental Protection, Office of Coastal and Aquatic Managed Areas, 3900 Commonwealth Boulevard, Mail Station 235, Tallahassee, FL 32399.~~ Authorizations shall only be granted if OCAMA the Department determines that the proposed activity would not unfavorably affect or damage areas of the natural resources preserve and are consistent with the management plan and the management goals of the Board of Trustees of the Internal Improvement Trust Fund and OCAMA. Authorizations shall include restrictions based on resource protection concerns and shall contain conditions for revocation. The number of authorizations issued shall be limited by the Department based on cumulative impacts or public safety concerns. OCAMA The Office of Coastal and Aquatic Managed Areas shall respond to all requests for authorizations within 60 days of the date of receipt of the written request.

Specific Authority 253.03, 253.86(1), 258.43(1)FS. Law Implemented 253.03, 253.034, 253.04, 253.05, 253.12, 253.127, 253.86(1), 253.86(2)FS. History- New 8-7-94, Amended 5-8-96, \_\_\_\_\_.

18-23.010 Determination and Applicability of Fines.

(1) All violations are non-criminal infractions punishable by the following fines: It shall be a violation of Section 253.86, F.S., for any person to fail or refuse to comply with the provisions of this chapter. All such violations are punishable by fines as follows:

(a) Non-Destructive Violations. Violations of subsections 18-23.007(1), (2), (11), or (13), F.A.C., are punishable by a fine of \$100.00.

(b) Resource Damage Violations. Violations of subsections 18-23.007(3), (4)(b), (5), (7), (8), (9), (12), (14), (15) or (16), F.A.C., are punishable by a fine of \$250.00.

(c) Public Danger Violation. Violations of subsections 18-23.007(4)(a), (6), or (10), F.A.C. are punishable by a fine of \$500.

(2) Violators shall be notified of their violation and the amount of the fine by issuance of a non-criminal citation. Fines shall be paid to the county in which the violation occurred within 30 days, or the violator shall attend court on the date indicated on the citation.



Specific Authority 253.86(1) FS. Law Implemented 253.86(1), 253.86(2) FS.  
 History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Alex M. Cordero  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Eva Armstrong, Acting Director  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: May 21, 2002  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 AND SUMMARY PUBLISHED, PURSUANT TO SEC.  
 120.551, F.S., IN THE DEPARTMENT’S OFFICIAL  
 NOTICE INTERNET SITE AT WWW.DEP.STATE.FL.US  
 UNDER THE LINK TITLED “OFFICIAL NOTICES,” AND  
 IN FAW: March 15, 2002 (original) and April 19, 2002  
 (amended)

**DEPARTMENT OF ELDER AFFAIRS**

**Federal Aging Programs**

RULE CHAPTER TITLE: Hospice  
 RULE TITLES: Administration of the Hospice  
 Comprehensive Emergency Management Plan  
 RULE CHAPTER NO.: 58A-2  
 RULE NOS.: 58A-2.005  
 58A-2.026

PURPOSE AND EFFECT: Proposed amendment to sub-subparagraph 58A-2.005(1)(c)1.d., F.A.C., and proposed Rule 58A-2.026, F.A.C., provides for comprehensive emergency management plans for hospices as specified in paragraph (j) of Section 400.605, Florida Statutes.

SUMMARY: Proposed amendment to sub subparagraph 58A-2.005(1)(c)1.d., F.A.C., revises the term “disaster preparedness plan” to “comprehensive emergency management plan”. Proposed Rule 58A-2.026, F.A.C., describes the components of a comprehensive emergency management plan for hospices. The proposed amendment to sub subparagraph 58A-2.005(1)(c)1.d., F.A.C., and proposed Rule 58A-2.026, F.A.C., were developed, in consultation with the Department of Health, the Department of Community Affairs, and the Agency for Health Care Administration.

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.

SPECIFIC AUTHORITY: 400.605 FS.

LAW IMPLEMENTED: 400.605 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: 9:30 a.m. – 11:30 a.m., June 17, 2002

PLACE: 4040 Esplanade Way, Conference Room 309, Tallahassee, Florida 32399-7000

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Linda Macdonald, Office of General Counsel, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000, telephone (850)414-2000

THE FULL TEXT OF THE PROPOSED RULES IS:

58A-2.005 Administration of the Hospice.

(1) Governing Body – There shall be a governing body established by written bylaws of the hospice with autonomous authority for the conduct of the hospice program and which shall satisfy the following requirements:

(a) through (b) No change.

(c) Duties of the governing body shall include:

1.a. through b. No change.

d. A comprehensive emergency management disaster preparedness plan for all administrative, residential, and free-standing inpatient facilities, and hospice services designed to protect the safety of patients and their families and hospice staff;

Specific Authority 400.605 FS. Law Implemented Ch. 400, Part VI FS. History—New 5-6-82, Formerly 10A-12.05, 10A-12.005, Amended 4-27-94, Formerly 59A-2.005, Amended 6-5-97, \_\_\_\_\_.

58A-2.026 Comprehensive Emergency Management Plan.

(1) Pursuant to section 400.610(1)(b), F.S., each hospice shall prepare and maintain a comprehensive emergency management plan, hereinafter referred to as “the plan,” in accordance with the “Comprehensive Emergency Management Planning Criteria for Hospices,” DOEA Form 001H, October 2001, which is incorporated by reference. This document is available through the Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308, and shall be included as part of the hospice’s comprehensive emergency management plan.

(2) The plan shall be submitted for review to the local County Health Department or by the Department of Health, pursuant to Section 400.610(1)(b), F.S., in those counties where the Department of Health receives funding for such reviews, pursuant to Section 381.0303(7), F.S.

(a) Upon approval of the plan by the local County Health Department or the Department of Health, in counties where the Department has authority to approve the plan, the hospice shall provide a copy of the plan to the local emergency management agency in each county served by the hospice.

(3) Changes in the after-hours emergency telephone number and address of those staff who are coordinating the hospice’s emergency response shall be reported by the hospice to the hospice’s local emergency management agency. The telephone numbers must include all numbers where the coordinating staff can be contacted outside the hospice’s

regular office hours. All hospices must report these changes, whether the plan has been previously reviewed or not, as defined in subsection (2) above.

(4) Upon a change of ownership, the new owner shall submit a new plan identifying any substantive changes, including facility renovations and changes noted in subsection (3) above. Those hospices which previously have had the plan reviewed by the local County Health Department or by the Department of Health, as defined in subsection (2) above, shall report any substantive changes to the reviewing entity.

(5) The plan shall describe:

(a) Procedures to ensure adequate preparation of hospice patients for potential or imminent emergencies and disasters.

(b) Procedures for annual review of the plan and for making substantive changes by the governing body.

(6) In the event of an emergency the hospice shall implement the hospice's plan in accordance with Section 400.610, F.S.

(7) On admission, each hospice patient and, where applicable, home hospice caregiver shall be informed of the hospice plan and of the special needs registry maintained by the local emergency management agency, pursuant to Section 252.355, F.S. The hospice shall document in the patient's file:

(a) If the patient plans to evacuate the patient's home or the hospice facility;

(b) If during the emergency the caregiver can take responsibility for services normally provided by the hospice to the home patient; or

(c) If the hospice needs to arrange for alternative caregiver services for the patient.

(8) Upon imminent threat of an emergency or disaster, the hospice shall confirm each patient's plan during and immediately following an emergency.

(9) When the hospice is unable to provide services during an emergency, the hospice shall make all reasonable efforts to inform, where applicable, those facility and home patients whose services will be interrupted during the emergency, including patients sheltering in place, and shall inform when services are anticipated to be restored.

(10) Each hospice shall contact the local emergency management agency in each county served by that hospice to determine procedures for registration of special-needs registrants as referenced in Section 252.355, F.S.

(11) Each hospice shall collect upon admission registration information for special-needs registrants who will require continuing care or services during a disaster or emergency, consistent with Section 252.355, F.S. This registration information shall be submitted, when collected, to the local emergency management agency, or on a periodic basis as determined by the local emergency management agency.

(12) The hospice shall educate patients registered with the special-needs registry that special-needs shelters are an option of last resort and that services may not be equal to those received in the hospice programs.

(13) The hospice shall maintain a current list of clients who are special-needs registrants, and shall forward this list to the local emergency management agency upon imminent threat of disaster or emergency and in accordance with the local emergency management agency procedures.

(14) Each hospice patient record for patients who are listed in the registry established pursuant to Section 252.355, F.S., shall include a description of how care or services will be continued in the event of an emergency or disaster. The hospice shall discuss the emergency provisions with the patient and the patient's caregiver, including where and how the patient is to evacuate, procedures for notifying the hospice in the event that the patient evacuates to a location other than the shelter identified in the patient record and advance directives, and the hospice shall make arrangements to make the list of medications, supplies, and equipment available to each patient in the event of an evacuation.

(15) The hospice shall maintain for each patient who is a special-needs registrant a list of client-specific medications, supplies, and equipment required for continuing care and service, should the patient be evacuated. If the hospice provides services to home patients, the hospice shall make arrangements to make the list of medications, supplies, and equipment available to each special-needs registrant in the event of an evacuation. The hospice shall notify the registrant that the registrant is responsible for maintaining a supply of medications in the home. The list of medication shall include the names of all medications, dose, frequency, times and any other special considerations for administration, any allergies, names of physicians and telephone numbers, and name and telephone number of the patient's pharmacy. If the patient gives consent, the list may also include the patient's diagnosis.

Specific Authority 400.605 FS. Law Implemented 400.605 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Linda Macdonald

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Terry F. White, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: May 13, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: September 28, 2001, February 1, 2002  
and March 15, 2002

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Commission**

RULE TITLE: Inactive Renewal  
RULE NO.: 61J2-1.014

PURPOSE AND EFFECT: The purpose of the proposed rule is to comply with the statute giving the Department the authority to perform these functions rather than the Division.

SUMMARY: The proposed rule change affects rule provisions relating to the license renewal process for inactive licensees.

SUMMARY OF STATEMENT OF ESTIMATE OF REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

Any person who wishes to provide information regarding the Statement of Estimated Regulatory Costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this Notice.

SPECIFIC AUTHORITY: 120.53, 475.05, 475.183 FS.

LAW IMPLEMENTED: 475.183 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: 8:30 a.m., or as soon thereafter as possible, June 19, 2002

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-1.014 Inactive Renewal.

(1) A voluntarily inactive licensee may elect to renew as inactive every two years by submitting a request to the Department of Business and Professional Regulation (DBPR), satisfying the required proof of continuing education, as required in Rule 61J2-3.015, Florida Administrative Code, and submitting the fee established in Rule 61J2-1.011, Florida Administrative Code.

(2) A renewal notice will be sent to the last known address of the licensee. If a licensee does not elect to renew, the status automatically shall revert to involuntarily inactive.

(3) An involuntarily inactive licensee may renew by submitting a request to the DBPR, proof of continuing or reactivation education, complying with as required in Rules 61J2-3.010, and 61J2-3.015, Florida Administrative Code, and submitting the current renewal fee in addition to any applicable late fee as established in Rule 61J2-1.011, Florida Administrative Code. When the total period of involuntary inactivity exceeds 2 years, the license shall automatically

expire per s. 475.183(2), Florida Statutes. Ninety days prior to the expiration, the Department of Business and Professional Regulation (DBPR) shall give notice to the involuntarily inactive licensee.

Specific Authority 120.53, 475.05, 475.183 FS. Law Implemented 475.183 FS. History—New 11-12-81, Formerly 21V-1.14, Amended 10-13-88, 6-28-93, Formerly 21V-1.014, Amended 10-25-98.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 15, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 26, 2002

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Commission**

RULE TITLE: Applications by Individuals  
RULE NO.: 61J2-2.027

PURPOSE AND EFFECT: The purpose of the proposed rule is to comply with the statute giving Department the authority to perform these functions rather than the Division.

SUMMARY: The proposed rule change affects rule provisions relating to the application process for real estate licensure.

SUMMARY OF STATEMENT OF ESTIMATED OF REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

Any person who wishes to provide information regarding the Statement of Estimated Regulatory Costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this Notice.

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.17, 475.175, 475.451 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: 8:30 a.m., or as soon thereafter as possible, June 19, 2002

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-2.027 Applications by Individuals.

The application of a natural person for active licensure, whether the applicant expects to operate alone, or as a partner, or with a corporation, or as a salesperson, is governed by substantially the same rules and forms.

(1) The applicant must meet necessary personal qualifications as follows:

- (a) Is 18 years of age or older.
- (b) If the application is for broker:

1. Has been registered as an active salesperson for at least 12 months during the preceding 5 years under one or more brokers;

2. Has held a current and valid real estate salesperson's license for at least 12 months during the preceding 5 years in the employ of a governmental agency for a salary and performing the duties authorized in Chapter 475, Florida Statutes; or

3. Has held a current and valid real estate broker's license for at least 12 months during the preceding 5 years in any other state, territory, or jurisdiction of the United States, or in any foreign national jurisdiction.

- (c) Hold a high school diploma or its equivalent.

(2) The applicant must make it possible to immediately begin the inquiry as to whether the applicant is honest, truthful, trustworthy, of good character, and bears a good reputation for fair dealings, and will likely make transactions and conduct negotiations with safety to investors and to those with whom the applicant may undertake a relation of trust and confidence. The applicant is required to disclose:

(a) If ever convicted of a crime, or if any judgment or decree has been rendered against the applicant for fraud or dishonest dealings, or

(b) If now a patient of a mental health facility or similar institution for the treatment of mental disabilities, or

(c) If ever called by, or done business under any other name, or alias, than the name signed on the application, with sufficient information to enable the Commission to investigate the circumstances, or

(d) If ever had a broker's or salesperson's license revoked, suspended, or otherwise acted against, or had an application for such licensure denied, by the real estate licensing agency of another state, territory, or country.

(3) Each application shall be accompanied by a completed FBI fingerprint card for processing, and

~~(4) Each application shall be accompanied by two photographs of the applicant 2'' x 2'' in size and taken within a period of one year preceding the filing of the application.~~

~~(4)(5)~~ All applicants for permits to instruct or be a permitholder for a real estate school must comply with ss. 475.451(2)(a) and (c), Florida Statutes.

Specific Authority 475.05 FS. Law Implemented 475.17, 475.175, 475.451 FS., Georgia Association of Realtors, Inc., et al. v. Florida Real Estate Commission, et al., Civil Case No. 87-15-Orl-Civ-18 (M.D. Fla. 1987). History—New 1-1-80, Formerly 21V-2.27, Amended 4-10-88, 5-20-90, 1-13-91, 7-15-92, 7-20-93, Formerly 21V-2.027, Amended 11-10-97, 1-18-00.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 15, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 26, 2002

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Commission**

RULE TITLE: Where to Apply

RULE NO.: 61J2-2.031

PURPOSE AND EFFECT: The purpose of the proposed rule is to comply with the statute giving Department the authority to perform these functions rather than the Division.

SUMMARY: The proposed rule change affects rule provisions relating to the application process for real estate licensure.

SUMMARY OF STATEMENT OF ESTIMATE OF REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

Any person who wishes to provide information regarding the Statement of Estimated Regulatory Costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this Notice.

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.175 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: 8:30 a.m., or as soon thereafter as possible, June 19, 2002

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-2.031 Where to Apply.

Completed applications for licensure shall be submitted to the DBPR online or at the address listed on the application. ~~Division of Real Estate, 400 West Robinson Street, N308, Orlando, Florida 32801-1772.~~

Specific Authority 475.05 FS. Law Implemented 475.175 FS. History—New 9-16-84, Formerly 21V-2.31, Amended 7-20-93, Formerly 21V-2.031, Amended 1-19-99.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Florida Real Estate Commission  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Florida Real Estate Commission  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: May 15, 2002  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: April 26, 2002

**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
 REGULATION**

**Florida Real Estate Commission**

RULE TITLE: Notices of Satisfactory Course Completion  
 RULE NO.: 61J2-3.015

PURPOSE AND EFFECT: The purpose of the proposed rule is to amend the rule to better comply with statutory changes.

SUMMARY: The proposed rule change affects rule provisions relating to record keeping affection course completion.

SUMMARY OF STATEMENT OF ESTIMATE OF REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

Any person who wishes to provide information regarding the Statement of Estimated Regulatory Costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this Notice.

SPECIFIC AUTHORITY: 455.2123, 475.05 FS.

LAW IMPLEMENTED: 455.2123, 475.04, 475.17, 475.182, 475.183, 475.451 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: 8:30 a.m. or as soon thereafter as possible, June 19, 2002

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-3.015 Notices of Satisfactory Course Completion.

(1) Applicants for initial licensure as a broker or salesperson must provide the course completion report with the application or at the individual's individuals scheduled examination site as proof of satisfactory completion of that they have satisfactorily completed the applicable Commission prescribed course.

(2) An application for renewal or reactivation of an existing status as a broker, broker-salesperson, salesperson or instructor shall contain an affirmation by the individual of having satisfactorily completed the applicable Commission prescribed, conducted or approved course(s). The DBPR BPR may shall perform random audits of up to 25% of the licensees and instructor permit-holders to verify compliance with continuing ~~education~~ or post-license education requirements. Each licensee and instructor permit-holder shall retain the course completion report as proof of successful completion of continuing ~~education~~ or post-license education requirements for at least 5 2 years following the end of the renewal period for which the licensee is claiming the education is claimed. Failing to provide evidence of compliance with continuing ~~education~~ or post-license education requirements, pursuant to request by the Department and/or the furnishing of false or misleading information regarding compliance with said requirements shall be grounds for disciplinary action against the licensee or instructor.

(3) Accredited Florida universities, colleges, community colleges and area technical centers offering Commission approved equivalent courses offered by accredited Florida universities, colleges, community colleges and area technical centers shall provide students with the applicable course completion report (notice) described below. The course completion report for these equivalent courses must contain the college equivalent course identifying number.

(4) An official transcript must accompany a All requests for equivalency for credit courses taken at universities, colleges and community colleges outside of Florida ~~must be accompanied by an official transcript~~. An official transcript must contain the seal of the institution and the signature of the registrar.

(5) The institution, school or sponsor certifying successful course completion must completely fill out the course completion report by must be typed or printed it in ink and must be completely filled out by the institution, school or sponsor certifying successful course completion.

(6)(a) All providers of continuing education and post-licensing courses shall provide to all licensees who successfully complete the relevant course a certificate of completion which shall indicate the course title and number, the provider's name and number, the licensee's or registrant's name and license or registration number, the course dates, and total number of hours the student successfully completed by specifying the number of core law and specialty course hours and listing each subject which the course covered.

(b) Each continuing and post-licensing education provider must electronically provide to the Department the list of students who successfully completed each of its offered courses within 5 business days of course completion. For home study courses, the provider must electronically supply the list of those individuals who successfully completed the course by

the 5th of the month, following the calendar month in which the provider received documentation and was able to determine the student successfully completed the course. This list shall include the provider's name and provider number, the name and license or registration number of the students who successfully complete the course, the course completion date, and course number.

(c) The provider must electronically submit all documents to the Department in the manner set forth by the Department. The provider's failure to comply with the Department's time and form requirements may result in disciplinary action against the provider.

(d) Each continuing and post licensing education provider must maintain its attendance records for at least five years for each course as of the date of completion of the course or the receipt of documentation of completion of a home study course. Upon request, the provider must make these records available for inspection by the Department or the Department's agent at a reasonable time and location.

(e) The Commission shall approve the continuing education providers and courses. Such approval shall be contingent upon the provider meeting the requirements of this rule.

(f) The Department may initiate disciplinary action against a continuing education provider for failure to comply with its duties under this section.

(7)(6) All The course completion reports shall contain the following information: for the type of course being completed. Name and address of the school; course title and number of hours; start, completion and exam date; student's name, address, social security number, and where applicable, student's license number; and the authorized signature for the school; and the following language:

(a) Pre-licensing Course for Salesperson

- ~~Name of School~~
- ~~Address of School~~
- ~~Course Title: Course I~~
- ~~Start Date~~
- ~~Finish Date~~
- ~~Exam Date~~
- ~~Social Security Number~~
- ~~Student Name~~
- ~~Student Address~~
- ~~Authorized Signature for the School~~

(b) Pre-licensing Course for Broker

- ~~Name of School~~
- ~~Address of School~~
- ~~Course Title: Course II~~
- ~~Start Date~~
- ~~Finish Date~~
- ~~Exam Date~~
- ~~Salesperson License Number~~

- ~~Social Security Number~~
- ~~Student Name~~
- ~~Student Address~~
- ~~Authorized Signature for the School~~

(c) Broker and Salesperson Continuing Education and Reactivation Education

- ~~Name of School~~
- ~~Address of School~~
- ~~Course Title~~
- ~~Course Hours~~
- ~~Start Date~~
- ~~Finish Date~~
- ~~License Number~~

- ~~Student Name~~
- ~~Student Address~~
- ~~Authorized Signature for the School~~

(d) Post-licensing Education for Broker and Salesperson

- ~~Name of School~~
- ~~Address of School~~
- ~~Course Title~~
- ~~Course Hours~~
- ~~Start Date~~
- ~~Finish Date~~
- ~~License Number~~

- ~~Student Name~~
- ~~Student Address~~
- ~~Authorized Signature for the School~~

(e) Instructor Continuing Education

- ~~Name of School~~
- ~~Address of School~~
- ~~Course Title~~
- ~~Course Hours~~
- ~~Start Date~~
- ~~Finish Date~~
- ~~Permit Number~~

- ~~Student Name~~
- ~~Student Address~~
- ~~Authorized Signature for the School~~

(f) Each course completion report shall contain the following information:

The student named in this report has completed the referenced course in accordance with the requirements of the Florida Real Estate Commission. The school must give the student the original course completion report is to be given to the student and both the student and the school must retain a copy for at least five years retained by the school.

Specific Authority 455.2123, 475.05 FS. Law Implemented 455.2123, 475.04, 475.17, 475.182, 475.183, 475.451 FS. History—New 1-1-80, Amended 8-24-80, 9-16-84, Formerly 21V-3.15, Amended 10-13-88, 12-29-91, 6-7-92, 6-28-93, Formerly 21V-3.015, Amended 9-11-94, 12-30-97, 1-18-00, 10-15-00,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Florida Real Estate Commission  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Florida Real Estate Commission  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: May 15, 2002  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: April 26, 2002

**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
 REGULATION**

**Florida Real Estate Commission**

RULE TITLE: License Status of Active Officers and Directors  
 RULE NO.: 61J2-5.016

PURPOSE AND EFFECT: The purpose of the proposed rule is to amend provisions relating to salespersons or broker-salespersons ability to be an officer of a real estate entity.

SUMMARY: The proposed rule change affects rule provisions relating to whether an active real estate salesperson or broker-salesperson can be an officer of a real estate brokerage.

SUMMARY OF STATEMENT OF ESTIMATE OF REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

Any person who wishes to provide information regarding the Statement of Estimated Regulatory Costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this Notice.

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.01, 475.15 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: 8:30 a.m., or as soon thereafter as possible, June 19, 2002

PLACE: Division of Real Estate, Commission Meeting Room 301, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N308, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-5.016 License Status of Active Officers and Directors.

Officers and directors who expect to be active must qualify and become licensed in the same manner and procedure as any other applicant for active license. No registration shall be issued to the corporation or partnership unless every broker licensed with the corporation or partnership is registered as an officer, director or partner of the corporation or partnership. No

active salesperson or active broker-salesperson may be registered as an officer, director of a brokerage corporation or general partner of a brokerage partnership.

Specific Authority 475.05 FS. Law Implemented 475.01, 475.15 FS. History—New 1-1-80, Amended 7-15-84, 6-9-85, Formerly 21V-5.16, Amended 6-28-93, Formerly 21V-5.016, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Florida Real Estate Commission  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Florida Real Estate Commission  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: May 15, 2002  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: April 26, 2002

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: Medical Errors  
 RULE NO.: 64B3-5.001

PURPOSE AND EFFECT: The Board proposes to add a new rule with regard to medical error prevention.

SUMMARY: The Board proposes to require all applicants and licensees to submit to the Board proof of completion of a 2-hour course relating to the prevention of medical errors. The course shall cover root-cause analysis, error reduction and prevention, and patient safety.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.013(7) FS.

LAW IMPLEMENTED: 456.013(7) 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 SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Board Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-5.001 Medical Errors.

All applicants for initial licensure and renewal shall be required to take a Board approved 2-hour course relating to the prevention of medical errors, which shall include root-cause analysis, error reduction and prevention, and patient safety.

Specific Authority 456.013(7) FS. Law Implemented 456.013(7) FS. History—New.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Clinical Laboratory Personnel  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Board of Clinical Laboratory  
Personnel  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: October 19, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: December 21, 2001

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Examination Requirements  
RULE NO.: 64B7-25.001  
PURPOSE AND EFFECT: The Board proposes to update the  
existing rule text.  
SUMMARY: The Board proposes to update Examination  
Requirements.  
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 provide a proposal for a lower  
cost regulatory alternative must do so in writing within 21 days  
of this notice.

SPECIFIC AUTHORITY: 456.013(7), 456.017(1)(c),  
456.034, 480.035(7), 480.041(2), 480.042(1) FS.

LAW IMPLEMENTED: 456.013(7), 456.017(1)(c), 456.034,  
480.041, 480.042 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE  
PROPOSED RULE IS: Karen Eaton, Executive Director,  
Board of Massage Therapy, 4052 Bald Cypress Way, Bin  
#C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-25.001 Examination Requirements.

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

(e) Completes a course relating to the prevention of  
medical errors as required by subsection 456.013(7), F.S.

(2) The Board approves ~~the national examination  
developed by the Psychological Corporation working in  
conjunction with~~ the National Certification Board for  
Therapeutic Massage and Bodywork examination.

Specific Authority 456.013(7), 456.017(1)(c), 456.034, 480.035(7),  
480.041(2), 480.042(1) FS. Law Implemented 456.013(7), 456.017(1)(c),  
456.034, 480.041, 480.042 FS. History—New 11-27-79, Amended 9-2-80,  
10-9-85, Formerly 21L-25.01, Amended 12-22-92, 3-24-93, 5-20-93, Formerly  
21L-25.001, Amended 8-12-93, 6-28-94, 8-18-96, Formerly 61G11-25.001,  
Amended 5-20-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Massage Therapy  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Board of Massage Therapy  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: January 24-25, 2002  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Definitions  
RULE NO.: 64B7-26.001  
PURPOSE AND EFFECT: The Board proposes to update the  
existing rule text.  
SUMMARY: The Board proposes to update the existing rule  
text for Definitions.  
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 provide a proposal for a lower  
cost regulatory alternative must do so in writing within 21 days  
of this notice.

SPECIFIC AUTHORITY: 480.035(7) FS.

LAW IMPLEMENTED: 480.043(7) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE  
PROPOSED RULE IS: Karen Eaton, Executive Director,  
Board of Massage Therapy, 4052 Bald Cypress Way, Bin  
#C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-26.001 Definitions.

(1) The term “owner” means the sole proprietor,  
partnership, limited partnership, school of massage therapy, or  
corporation that operates the licensed massage establishment.

(2) The term “establishment” means the physical location  
of the massage facility, establishment whether the location is  
owned or leased by the “owner” or is otherwise used by the  
owner for the practice of massage therapy. The term includes  
teaching facilities which provide massages to non-students for  
a fee. The term “establishment” ~~does not include~~ the office of a  
physician licensed under Chapter 458, Florida Statutes or 459,  
Florida Statutes, a chiropractic physician licensed under  
Chapter 460, Florida Statutes, an acupuncturist licensed under  
Chapter 457, Florida Statutes, a podiatrist licensed under  
Chapter 461, Florida Statutes, a dentist licensed under Chapter  
466, Florida Statutes, or a physical therapist licensed under  
Chapter 486, Florida Statutes, if massage therapy is provided



by the persons licensed under Chapter 480, Florida Statutes only to patients of the licensed physician, chiropractic physician, acupuncturist, podiatrist, dentist, or physical therapist, are exempt from the requirement for a massage establishment license.

(3) No change.

Specific Authority 480.035(7) FS. Law Implemented 480.043(7) FS. History–New 7-16-98, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Massage Establishment RULE NO.: 64B7-27.003

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board proposes to update the existing rule text for Massage Establishments.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 480.035(7), 480.044(1) FS.

LAW IMPLEMENTED: 480.043(7), 480.044(1)(c) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-27.003 Massage Establishment.

(1) The application fee for licensure of an establishment shall be \$150.00 ~~100.00~~.

(2) No change.

(3) The application and inspection fee for transfer of an establishment from one location to another shall be \$125.00 ~~100~~.

Specific Authority 480.035(7), 480.044(1) FS. Law Implemented 480.043(7), 480.044(1)(c) FS. History–New 11-27-79, Amended 7-9-80, 11-20-84, Formerly 21L-27.03, Amended 1-7-86, Formerly 21L-27.003, Amended 1-9-95, Formerly 61G11-27.003, Amended 6-15-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Re-examination RULE NO.: 64B7-27.004

PURPOSE AND EFFECT: The Board proposes to repeal the existing rule text.

SUMMARY: The Board proposes to repeal the existing rule text for Re-examination.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 480.035(7), 480.044(1) FS.

LAW IMPLEMENTED: 480.044(1)(g) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-27.004 Re-examination.

~~The re-examination fees shall be:~~

~~(1) \$190 to retake the Board approved national examination which includes a \$25 non-refundable application fee.~~

~~(2) \$75 to retake the colonics examination which includes a \$25 non-refundable application fee.~~

Specific Authority 480.035(7), 480.044(1) FS. Law Implemented 480.044(1)(g) FS. History–New 11-27-79, Formerly 21L-27.04, Amended 6-17-86, 5-17-90, Formerly 21L-27.004, Amended 12-12-94, 9-18-95, 9-9-96, Formerly 61G11-27.004, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Biennial Renewal Fee for Massage Therapist  
 RULE NO.: 64B7-27.006  
 PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board proposes to update the existing rule text for Biennial Renewal Fee for Massage Therapist  
 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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 480.035(7), 480.044(1) FS.

LAW IMPLEMENTED: 480.044(1)(f) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-27.006 Biennial Renewal Fee for Massage Therapist.

The fee for biennial renewal of a massage therapist's license shall be ~~\$150.00 one hundred dollars (\$100)~~.

Specific Authority 480.035(7), 480.044(1) FS. Law Implemented 480.044(1)(f) FS. History--New 11-27-79, Amended 11-20-84, Formerly 21L-27.06, Amended 12-18-88, Formerly 21L-27.006, 61G11-27.006, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Biennial Renewal Fee for  
 Massage Establishments  
 RULE NO.: 64B7-27.007

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board proposes to update the existing rule text for Biennial Renewal Fees for Massage Establishments.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 480.035(7), 480.044(1) FS.

LAW IMPLEMENTED: 480.044(1)(e) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-27.007 Biennial Renewal Fee for Massage Establishments.

The fee for biennial renewal of a massage establishment license shall be ~~\$150.00 one hundred dollars (\$100)~~.

Specific Authority 480.035(7), 480.044(1) FS. Law Implemented 480.044(1)(e) FS. History--New 11-27-79, Amended 7-9-80, Formerly 21L-27.07, Amended 12-18-88, Formerly 21L-27.007, 61G11-27.007, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Initial Fee for Licensure  
 RULE NO.: 64B7-27.008

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board proposes to update the existing rule text for Initial Fee for Licensure.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.013(2), 456.025(1), 480.035(7), 480.044(1) FS.

LAW IMPLEMENTED: 456.013(2), 456.025(1), 480.044(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-27.008 Initial Fee for Licensure.

(1) Any person who is initially licensed pursuant to Rule 64B7-25.001, F.A.C. shall pay a fee of \$150.00 ~~400~~.

(2) No change.

Specific Authority 456.013(2), 456.025(1), 480.035(7), 480.044(1) FS. Law Implemented 456.013(2), 456.025(1), 480.044(1) FS. History--New 5-13-82, Amended 11-11-82, 1-7-86, Formerly 21L-27.08, Amended 12-18-88, Formerly 21L-27.008, Amended 1-29-97, Formerly 61G11-27.008, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Renewal Fee for Inactive License RULE NO.: 64B7-27.010

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board proposes to update the existing rule text for renewal fees for inactive licenses.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 480.0425, 480.044(1) FS.

LAW IMPLEMENTED: 480.044(1),(1)(I) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-27.010 Renewal Fee for Inactive License.

The fee for renewal of an inactive license shall be \$150.00 ~~fifty dollars (\$50.00)~~.

Specific Authority 480.0425, 480.044(1) FS. Law Implemented 480.044(1)(I) FS. History--New 12-18-84, Formerly 21L-27.10, 21L-27.010, 61G11-27.010, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Licensure of Establishment Fee RULE NO.: 64B7-27.012

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board proposes to update the existing rule text for licensure of establishment fees.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.013(2), 480.035(7), 480.044(1) FS.

LAW IMPLEMENTED: 456.013(2), 480.044(1)(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-27.012 Licensure of Establishment Fee.

The fee for licensure of an establishment shall be \$150.00 ~~50.00~~.

Specific Authority 456.013(2), 480.035(7), 480.044(1) FS. Law Implemented 456.013(2), 480.044(1)(d) FS. History--New 2-6-85, Formerly 21L-27.12, 21L-27.012, 61G11-27.012, Amended 8-16-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Delinquency Fee

RULE NO.: 64B7-27.015

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board proposes to update the existing rule text for delinquency fees.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.036(7) FS.

LAW IMPLMENTED: 456.036(7) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-27.015 Delinquency Fee.

The delinquency fee shall be \$150.00 ~~one hundred dollars (\$100)~~.

Specific Authority 456.036(7) FS. Law Implemented 456.036(7) FS. History--New 12-12-94, Formerly 61G11-27.015, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Change in Status Fee

RULE NO.: 64B7-27.016

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board proposes to update the existing rule text for change in status fees.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.036(8) FS.

LAW IMPLMENTED: 456.036(8) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-27.016 Change in Status Fee.

The change in status fee shall be \$50.00 ~~five dollars (\$5.00)~~.

Specific Authority 456.036(8) FS. Law Implemented 456.036(8) FS. History--New 12-12-94, Formerly 61G11-27.016, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Unlicensed Activity Fee  
RULE NO.: 64B7-27.017

PURPOSE AND EFFECT: The Board proposes to add a rule with regards to unlicensed activity fee.

SUMMARY: The Board proposes to add a rule with regards to unlicensed activity fee.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.065(3) FS.

LAW IMPLMENTED: 456.065(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-27.017 Unlicensed Activity Fee.

In addition to the initial license fee and in addition to the license renewal fee, a fee of \$5.00 shall be collected from each applicant or licensee as applicable to fund efforts to combat unlicensed activity.

Specific Authority 456.065(3) FS. Law Implemented 456.065(3) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Biennial Renewal of Massage  
RULE NO.: 64B7-28.001

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board proposes to update the existing rule text with regards to biennial renewal of Massage Therapist's license.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.034, 480.035(7), 480.0415, 480.044 FS.

LAW IMPLMENTED: 456.034, 480.0415, 480.044(1)(f),(m) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-28.001 Biennial Renewal of Massage Therapist's License.

(1) All license renewals of massage therapists shall met the requirements as set forth in Chapter 456 and 480, F.S., these rules and the rules of the Department of Health. All massage therapists shall renew their licenses on or before August 31 ~~January 31~~, of each biennial year, according to the fee schedule as set forth in Rule Chapter 64B7-27.006, F.A.C.

(2) No change.

(3) No license shall be renewed unless the licensee submits confirmation in writing to the Florida Board of Massage Therapy that the licensee has completed an education course of at least 2 hours relating to prevention of medical errors as part of the licensure and renewal process. The course must include a study of root-cause analysis, error reduction and prevention, and patient safety. The 2-hour course shall count toward the total number of continuing education hours required for renewal.

Specific Authority 456.013(7), 456.034, 480.035(7), 480.0415, 480.044 FS. Law Implemented 456.013(7), 456.034, 480.0415, 480.044(1)(f),(m) FS. History--New 11-27-79, Amended 12-18-84, Formerly 21L-28.01, Amended 3-12-90, 1-3-91, Formerly 21L-28.001, Amended 9-30-93, 6-12-95, 9-25-95, 7-17-97, Formerly 61G11-28.001, Amended 4-28-99.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Biennial Period, Year Defined

RULE NO.: 64B7-28.003

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board proposes to update the existing rule text with regards to biennial period and year defined.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 480.035(7), 480.0415, 480.043(8) FS.

LAW IMPLMENTED: 480.0415, 480.043(8) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-28.003 Biennial Period, Year Defined.

Biennial period shall mean ~~September 1 February 1~~ of each odd-numbered year and ending ~~August 31 January 31~~ of each odd-numbered year. Biennial year shall mean every odd-numbered year.

Specific Authority 480.035(7), 480.0415, 480.043(8) FS. Law Implemented 480.0415, 480.043(8) FS. History--New 11-27-79, Formerly 21L-28.03, Amended 1-7-86, 1-3-91, Formerly 21L-28.003, 61G11-28.003, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Display of Licenses

RULE NO.: 64B7-28.008

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board proposes to update the existing rule text with regards to display of licenses.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 480.035(7), 480.043(1),(2) FS.

LAW IMPLMENTED: 480.043(1),(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-28.008 Display of Licenses.

(1) Each licensed practitioner shall conspicuously display his or her a current license issued by the Department, or photo copy thereof, at each location at which he or she practices.

(2) No change.

(3) The owner of each massage establishment shall conspicuously display a current establishment license and a current massage therapist license issued by the Department for each massage therapist providing massage therapy on the premises. For the purpose of complying with this rule, a photocopy of the massage therapist's license is acceptable.

(4) For the purpose of this rule conspicuously means displayed in a location within the massage establishment in such a manner that it can be open to the view of the public and is accessible to the public so that the public may view the licenses.

Specific Authority 480.035(7), 480.043(1),(2),(9) FS. Law Implemented 480.043(1),(2),(9), 456.013(2) FS. History--New 4-21-86, Formerly 21L-28.008, 61G11-28.008, Amended 1-26-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Continuing Education RULE NO.: 64B7-28.009

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board proposes to update the existing rule text with regards to continuing education.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.013(7),(8), 480.035(7), 480.0415 FS.

LAW IMPLMENTED: 456.013(7),(8), 480.0415 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-28.009 Continuing Education.

(1) Every massage practitioner licensed pursuant to Chapter 480, F.S., shall be required for renewal to complete one continuing education hour for each month or part of a month that shall have elapsed since the issuance of the license for which renewal is sought 20 contact hours of continuing education each biennium, except, when the initial license is issued in the last six months of any biennium, the licensee is required for renewal to complete 6 hours of continuing education in any approved category. Such courses shall have been approved for continuing education credit administered by providers approved by the Board pursuant to Rule 64B7-28.010, F.A.C., and shall have been completed within the 24 months preceding the date renewal is due. Every massage practitioner must obtain the continuing education required for biennial renewal of the massage therapist's license as set forth in Rule 64B7-28.001, F.A.C. Graduates of a Board approved massage school who received two hours education in a course relating to the prevention of medical error, and, two hours of education in Chapter 480 and 456, Florida Statutes

and Rule Chapter 64B7, F.A.C., prior to initial licensure shall not be required to complete additional continuing education in the same for initial renewal of the license.

(2) No change.

(3) Effective for biennium beginning September 1, 2001, February 1, 1999 the continuing education contact hours shall be in the following areas:

(a) At least 12 continuing education contact hours shall be relevant to and focus on massage therapy techniques, which may include history of massage therapy, human anatomy, physiology, kinesiology, and/or pathology.

(b) Two hours must cover instruction in professional ethics, two hours must in a course relating to the prevention of medical errors, and two hours must cover instruction in Chapter 480 and 456, Part II, Florida Statutes, and Rule Chapter 64B7, F.A.C.

(c) No change.

(4) No change.

(5) At the end of each biennium, the Board will audit a number of randomly selected licensees to assure that the continuing education requirements have been met. Within 21 days of a request from the Board or Department, the licensee must provide written documentation that the continuing education requirements have been met evidence of completion of the continuing education requirements by submission of certificates which meet the requirements of Rule 64B7-28.010(1)(b)3., F.A.C. verifying the licensee's attendance at programs given by providers who had a valid provider number at the time of attendance.

Specific Authority 456.013(7),(8), 480.035(7), 480.0415 FS. Law Implemented 456.013(7),(8), 480.0415 FS. History-New 4-21-86, Amended 2-25-88, 8-29-88, 1-30-90, 10-2-90, Formerly 21L-28.009, Amended 8-16-94, 6-5-95, 2-12-97, Formerly 61G11-28.009, Amended 8-16-98, 3-15-99, 9-20-99.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Apprenticeship Training Program RULE NO.: 64B7-29.003

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board proposes to update the existing rule text with regards to apprenticeship training program.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 480.041(5)(a) FS.

LAW IMPLMENTED: 480.041(1)(b),(4),(5)(a) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-29.003 Apprenticeship Training Program.

(1) through (4) No change.

(5) The sponsoring massage therapist shall submit to the Department, quarterly, on a form furnished by the Department, the number of hours of each subject listed above taught to his apprentice. A copy of the Massage Apprenticeship Quarterly Report Hours of Training Completed Form prepared and furnished by the Department of Health can be obtained by writing to: Department of Health, Board of Massage, 4052 Bald Cypress Way, 2020 S. E. Capital Circle, BIN C06, Tallahassee, FL 32399-3256. If quarterly reports are not submitted to the Department as required herein, the Board will review the apprenticeship and the apprenticeship is subject to termination.

(6) No change.

Specific Authority 480.035(7), 480.041(1)(b),(4), 480.041(5)(a) FS. Law Implemented 480.041(1)(b),(4), ~~(5)(a)~~ FS. History—New 11-27-79, Amended 11-25-80, 12-18-84, Formerly 21L-29.03, Amended 4-7-86, 11-4-86, 12-22-92, Formerly 21L-29.003, Amended 6-5-95, Formerly 61G11-29.003, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Termination  
RULE NO.: 64B7-29.004

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board proposes to update the existing rule text with regards to termination.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 480.035(7), 480.041(5)(a) FS.

LAW IMPLMENTED: 480.041(1)(b),(5)(a) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-29.004 Termination.

(1) If an apprentice terminates his apprenticeship, the sponsoring massage therapist shall so notify the Department, on a form furnished by the Department, within ten (10) days.

(2) If any violation of Chapter 480 or 456, F.S., or rules set forth in Chapter 64B7, F.A.C., is found subsequent to department inspection of the “qualified massage establishment” as defined under Rule 64B7-29.001, F.A.C., the apprenticeship shall be tolled until such time the violation(s) is corrected or disposition in the case is made. If the disposition of the case resulted in disciplinary action by the Board the Board may require that the “sponsor” and the “apprentice” appear before the Board for the purpose of determining if the apprenticeship may continue or be terminated.

Specific Authority 480.035(7), 480.041(1)(b),(4), ~~(5)(a)~~ FS. Law Implemented 480.041(1)(b),(4), ~~(5)(a)~~ FS. History—New 11-27-79, Formerly 21L-29.04, 21L-29.004, 61G11-29.004, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Probationary Conditions and Definitions  
RULE NO.: 64B7-30.008

PURPOSE AND EFFECT: The Board proposes to add rule with regards to probationary conditions and definitions.



SUMMARY: The Board proposes to add rule with regards to probationary conditions and definitions.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 480.035(7), 480.046, 456.072(3) FS.

LAW IMPLMENTED: 480.046, 456.072(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-30.008 Probationary Conditions and Definitions.

(1) Indirect Supervision. Whenever a license is placed on probation or otherwise restricted in such a manner as to require the respondent to practice under indirect supervision, the term indirect supervision does not require that the monitoring practitioner, practice on the same premises as the respondent; however the monitor shall practice within a reasonable geographic proximity to the respondent, which shall be within 20 miles unless otherwise authorized by the Board, and shall be readily available for consultation.

(2) Direct Supervision. Whenever a license is placed on probation or otherwise restricted in such a manner as to require the respondent to practice under direct supervision, the term direct supervision requires that the respondent practice only if the supervisor is on the premises.

(3) Provisions governing all supervised or monitored practitioners.

(a) The supervisor/monitor shall be furnished with copies of the Administrative Complaint, Final Order, Stipulation (if applicable), and other relevant orders.

(b) The respondent shall not practice without a supervisor/monitor unless otherwise ordered. The respondent shall appear at the next meeting of the Board with his proposed supervisor/monitor unless otherwise ordered.

(c) After the next meeting of the Board, the respondent shall only practice under the supervision of the supervisor/monitor. If for any reason the approved supervisor/monitor is unwilling or unable to serve, the respondent and the supervisor/monitor shall immediately notify the Executive Director of the Board, and the respondent shall cease practice until a temporary supervisor/monitor is

approved. The Chairman of the Board may approve a temporary supervisor/monitor who may serve in that capacity until the next meeting of the Board at which time the Board shall accept or reject a new proposed supervisor/monitor. If the Board rejects the proposed supervisor, the respondent shall cease practice until the Board approves a new supervisor/monitor.

(d) The supervisor/monitor must be a licensee under Chapter 480 Florida Statutes, in good standing and without restriction or limitation on his license. In addition, the Board may reject any proposed supervisor/monitor on the basis that he or she has previously been subject to any disciplinary action against his/her license. The supervisor/monitor must be actively engaged in the same or similar specialty areas area unless otherwise provided by the Board. The Board may also reject any proposed supervisor/monitor for good cause shown.

(4) For purpose of determining the dates when reports are due, the date the Final Order is filed shall constitute the beginning of the quarter.

(a) All quarterly reports shall be provided to the Board office no later than three months from the filing date of the Final Order.

(b) All semiannual reports shall be provided to the Board office no later than six months from the filing date of the Final Order.

(c) All annual reports shall be provided to the Board office no later than twelve months from the filing date of the Final Order.

Specific Authority 480.035(7), 480.046, 456.072(3) FS. Law Implemented 480.046, 456.072(3) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Massage Therapy  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE TITLE: Advertisement  
RULE NO.: 64B7-33.001

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board proposes to update the existing rule text with regards to advertisement.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 480.035(7) FS.

LAW IMPLMENTED: 480.046(1)(d),(f), 480.0465 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-33.001 Advertisement.

(1) No change.

(2) For purposes of this rule, "advertising medium" means: any newspaper, airwave, ~~wave~~ or computer transmission, telephone directory listing other than a listing for which no additional advertising charge is made, business card, handbill, flier, sign other than a building directory listing all building tenants and their room or suite numbers, or other form of written advertising.

Specific Authority 480.035(7) FS. Law Implemented 480.046(1)(d),(f), 480.0465 FS. History--New 12-7-92, Formerly 21L-33.001, Amended 2-13-95, 7-13-97, Formerly 61G11-33.001, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24-25, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 19, 2002

**DEPARTMENT OF HEALTH**

**Board of Physical Therapy Practice**

RULE TITLE: Licensure as a Physical Therapist

RULE NO.:

by Examination 64B17-3.001

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: This rule eliminates information redundant of statute and information not needed when relying on national accreditation standards. This rule establishes Federation standards and a Federation report as the basis for establishing equivalency and also requires English language proficiency.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 486.025(1), 486.031(3) FS.

LAW IMPLEMENTED: 456.017, 486.031 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-3.001 Licensure as a Physical Therapist by Examination.

Every applicant for examination for licensure as a physical therapist shall demonstrate to the Board that the applicant ~~he~~ satisfies the following qualifications:

~~(1) That he is eighteen years old.~~

~~(2) That he possesses a good moral character.~~

~~(1)(3) That the applicant ~~he~~ has received a bachelor's degree, or its equivalent, in physical therapy, which course of study has been approved for the training of physical therapists by the Commission on Accreditation for Physical Therapy Education (CAPTE), or its successor American Physical Therapy Association, the appropriate accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation, at the time of his graduation.~~

~~(2) For foreign graduates a; and, if a foreign graduate, determination that the his credentials are as being deemed equivalent to education a bachelor's degree in physical therapy in the United States is required. Educational credentials ~~deemed~~ equivalent to those required for the education and preparation of physical therapists in this country shall be determined by using the guidelines of utilizing the National Council on Evaluation of Foreign Educational Credentials' materials published by the American Association of College Registrars and Admissions Officers and the guidelines of the Federation of State Boards of Physical Therapy (FSBPT) or its successor. ~~When the Federation of State Boards of Physical Therapy guidelines are utilized, a minimum of 25 general education credits shall be required.~~~~

~~(3)(4) In order to permit the Board to determine whether the foreign graduate actually met the FSBPT guidelines, ~~received an equivalent education in physical therapy, each applicant must demonstrate equivalency to the Board's Education Committee will consider and shall submit the following:~~~~

(a) ~~Successful passage of a Board approved English proficiency examination if English was not the language of instruction. A certified or notarized photocopy of the original diploma evidencing the degree in physical therapy. A certified translation is required for any diploma which is not in English.~~

(b) ~~An original sealed transcript or a certified or notarized photocopy of the original transcript and seal for all education evidencing equivalency of a United States bachelor's of science degree in physical therapy. A certified translation is required for each transcript which is not in English.~~

(b)(c) ~~A report from the FSBPT or its successor, an appropriate credentialing agency, in which the educational expert or physical therapist evaluator is not affiliated with the institutions or individuals under review, interpreting the foreign credentials in terms of the approximately comparable level of educational achievement in the United States. Upon submission of the report, the agency will also present documentation to the committee evidencing that the individual or team conducting the evaluation and offering comments contained in the report is competent to conduct foreign credentials evaluations. This competency shall be demonstrated upon showing that the individual or team conducting the evaluation consist of:~~

- ~~1. A physical therapist with a license in good standing in any state or territory of the United States who has at least 2 years experience with accredited United States physical therapy education and curriculum design; and~~
- ~~2. An evaluator with at least 5 years experience in evaluating education and curriculum design and foreign academic credentials for the purpose of determining academic equivalency to a United States education.~~

(d) ~~At a minimum, the report shall contain the following information:~~

- ~~1. Whether the total hours necessary to obtain a diploma in physical therapy is consistent with the requirements for diplomas from other programs offered by that institution.~~
- ~~2. Whether the institution is accredited by any governmental agency and, if so, which agency.~~
- ~~3. A list of courses in general education and professional education with the United States post-secondary equivalent course indicated.~~
- ~~4. A detailed description of the meaning of the grading system and the method for converting numerical grades to letter grades.~~
- ~~5. All opinions contained in the report shall be substantiated by reference to the source materials which form the basis for the opinion.~~

(e) ~~The Committee shall recommend to the Board that it decline to consider any report which fails to meet the above criteria.~~

Specific Authority 486.025(1), 486.031(3) FS. Law Implemented 456.017, 486.031 FS. History—New 8-6-84, Amended 6-2-85, Formerly 21M-7.20, Amended 5-18-86, Formerly 21M-7.020, 21MM-3.001, Amended 3-1-94, Formerly 61F11-3.001, Amended 12-22-94, 4-10-96, Formerly 59Y-3.001, Amended 12-30-98,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Physical Therapy Practice  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 3, 2002  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 24, 2002

**DEPARTMENT OF HEALTH**

**Board of Physical Therapy Practice**

RULE TITLE: Licensure as a Physical Therapist Assistant  
RULE NO.: 64B17-4.001  
by Examination

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: This rule eliminates information redundant of statute and information not needed when relying on national accreditation standards. This rule establishes Federation standards and a Federation report as the basis for establishing equivalency and also requires English language proficiency.

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 provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 486.025, 486.102 FS.  
LAW IMPLEMENTED: 456.017, 486.102(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-4.001 Licensure as a Physical Therapist Assistant by Examination.

Every applicant for examination for licensure as a physical therapist assistant shall demonstrate to the Board that the applicant he satisfies the following qualifications:

- (1) That he is eighteen years old.
- (2) That he possess a good moral character.

~~(1)(3) That the applicant he has received a an associate's degree as a physical therapist assistant or its equivalent, for physical therapist assistants, which course of study has been approved for the training of physical therapist assistants by the Commission on Accreditation for Physical Therapy Education (CAPTE), or its successor American Physical Therapy Association, the appropriate accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation, at the time of his graduation.~~

~~(2) For foreign graduates, a; and, if a foreign graduate, determination that the his credentials are as being deemed equivalent to education an associate's degree for physical therapist assistants in the United States is required.~~

~~(3)(4) In order to permit the Board to determine whether the foreign graduate actually met Federation of State Boards of Physical Therapy (FSBPT) guidelines, received an equivalent education as a physical therapist assistant, each applicant must demonstrate equivalency to the Board's Education Committee will consider and shall submit the following:~~

~~(a) Successful passage of a Board approved English proficiency examination if English was not the language of instruction. A certified or notarized photocopy of the original diploma evidencing the associate degree as a physical therapist assistant. A certified translation is required for any diploma which is not in English.~~

~~(b) An original sealed transcript or a certified or notarized photocopy of the original transcript and seal for all education evidencing equivalency of a United States associate of science degree as a physical therapist assistant. A certified translation is required for each transcript which is not in English.~~

~~(b)(e) A report from the FSBPT or its successor, an appropriate credentialing agency, in which the educational expert or physical therapist evaluator is not affiliated with the institutions or individuals under review, interpreting the foreign credentials in terms of the approximately comparable level of educational achievement in the United States. Upon submission of the report, the agency will also present documentation to the committee evidencing that the individual or team conducting the evaluation and offering comments contained in the report is competent to conduct foreign credentials evaluation. This competency shall be demonstrated upon showing that the individual or team conducting the evaluation consist of:~~

~~1. A physical therapist with a license in good standing in any state or territory of the United States who has at least 2 years experience with accredited United States physical therapy education and curriculum design; and~~

~~2. An evaluator with at least 5 years experience in evaluating education and curriculum design and foreign academic credentials for the purpose of determining academic equivalency to a United States education.~~

~~(d) At a minimum, the report shall contain the following information:~~

~~1. Whether the total hours necessary to obtain a diploma as a physical therapist assistant is consistent with the requirements for diplomas from other programs offered by that institution.~~

~~2. Whether the institution is accredited by any governmental agency and, if so, which agency.~~

~~3. A list of courses in general education and professional education with the United States post-secondary equivalent course indicated.~~

~~4. A detailed description of the meaning of the grading system and the method for converting numerical grades to letter grades.~~

~~5. All opinions contained in the report shall be substantiated by reference to the source materials which form the basis for the opinion.~~

~~(e) The Committee shall recommend to the Board that it decline to consider any report which fails to meet the above criteria.~~

Specific Authority 486.025, 486.102 FS. Law Implemented 456.017, 486.102(3) FS. History--New 8-6-84, Amended 6-2-85, Formerly 21M-10.20, Amended 5-18-86, Formerly 21M-10.020, 21MM-4.001, Amended 3-1-94, Formerly 61F11-4.001, Amended 12-22-94, 4-10-96, Formerly 59Y-4.001, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 3, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 24, 2002

**DEPARTMENT OF HEALTH**

**Division of Family Health Services**

RULE CHAPTER TITLE: Volunteer Health Care Provider Program      RULE CHAPTER NO.: 64F-11

RULE TITLES: Emergency Care      RULE NOS.: 64F-11.007

Notice of Agency Relationship      64F-11.008

PURPOSE AND EFFECT: The purpose is to repeal rules that repeat provisions of a statute and are, therefore, redundant.

SUMMARY: Rule 64F-11.007 discussed how volunteer health care providers may be covered by the Good Samaritan Act, which is already covered by s. 768.13, F.S. Rule 64F-11.008, F.A.C., covered the relationship between voluntary providers and the state, which is already covered by s. 766.1115(5), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: There are no regulatory costs.

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: 766.1115(10) FS.  
 LAW IMPLEMENTED: 766.1115 FS.  
 IF REQUESTED WITHIN 21 DAYS OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):  
 TIME AND DATE: 10:00 a.m., June 26, 2002  
 PLACE: Department of Health, 4025 Esplanade Way, Room 125-N, Tallahassee, FL  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bob Peck, Bin #A-13 (HSFFM), 4052 Bald Cypress Way, Tallahassee, FL 32399-1723, telephone (850)245-4444, Ext. 2965

THE FULL TEXT OF THE PROPOSED RULE IS:

64F-11.007 Emergency Care.

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History-New 1-20-93, Formerly 10D-122.008, Repealed.

64F-11.008 Notice of Agency Relationship.

Specific Authority 766.1115(10) FS. Law Implemented 766.1115 FS. History-New 1-20-93, Formerly 10D-122.010, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Bob Peck, Bin A-13 (HSFFM), 4052 Bald Cypress Way, Tallahassee, FL 32399-1723, telephone (850)245-4444, Ext. 2965

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Annette Phelps, Director, Family Health Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 1, 2002

**FLORIDA HOUSING FINANCE CORPORATION**

RULE TITLE: Applicant Administrative Appeal Procedures  
RULE NO.: 67-21.0035

PURPOSE AND EFFECT: The purpose of this Rule is to outline the procedures by which the Corporation handles appeals from applicants regarding the scoring of applications.

SUMMARY: The proposed amendments revise the appeal process for Applicants.

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: 420.507, 420.508 FS.  
LAW IMPLEMENTED: 420.502, 420.503, 420.507, 420.508, 420.509 FS.

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

DATE AND TIME: Immediately following adjournment of the Board Meeting, June 21, 2002

PLACE: Tallahassee City Hall, Commission Chambers, 891 South Adams Street, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: David Westcott, Multifamily Bond Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULE IS:

67-21.0035 Applicant Administrative Appeal Procedures.

(1) At the conclusion of the review and scoring process established by Section 67-21.003, eEach Applicant will be provided with its final score and notice of rights, which shall constitute the sole point of entry to contest any issue related to the Applicant's Application for the Program, a statement that Applicants who wish to contest the decision relative to their own Application must petition the Corporation for review of the decision in writing within 21 Calendar Days of the date of receipt of the notice. Only petitions Received by the deadline set forth herein will be considered. The petition must specify in detail each issue and score sought to be reviewed. Unless the appeal involves disputed issues of material fact, the appeal will be conducted on an informal basis. If the appeal raises disputed issues of material fact, a formal administrative hearing will be conducted pursuant to section 120.57(1), Florida Statutes. Failure to timely file a petition shall constitute a waiver of the right of the Applicant to such an appeal. Written notifications, petitions or requests for review will NOT be accepted via telefax or other electronic means. No Applicant or other person or entity will be allowed to intervene in the appeal of another Applicant.

(2) Each Applicant that wishes to contest its final score must file a petition with the Corporation on or before the 21st calendar day after the date Applicant receives its notice of rights. The petition must conform to Rules 28-106.201(2) or 28-106.301(2), F.A.C., as applicable, and specify in detail each issue and score sought to be challenged. Submission by facsimile or other electronic means will not be accepted. If the petition does not raise a disputed issue of material fact, the challenge will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered by the designated hearing officer which will then be considered by the Board. All parties have the right to submit written arguments in response to a recommended order entered as a result of an informal administrative proceeding pursuant to section 120.57(2), Florida Statutes, regarding its own Application for consideration by the Board. Any written argument should be typed, double-spaced with

margins no less than one inch, in either Times New Roman 14-point or Courier New 12-point font, and may not exceed five pages. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m. on the date contained in the recommended order. Submission by facsimile or other electronic means will not be accepted. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to recommended orders.

(3) Any Applicant who wishes to challenge the findings and conclusions of the recommended order entered pursuant to a Section 120.57(2), F.S., proceeding concerning its own Application shall be allowed the opportunity to submit written arguments to the Board. Any written argument should be typed and double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five pages. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m., Eastern Time, on the date contained in the recommended order. Submission by facsimile or other electronic means will not be accepted. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to recommended orders. The Board shall consider all recommended orders and written arguments and enter the appropriate final orders. For those Applicants with section 120.57(1), Florida Statutes, appeals that have not yet had final orders entered as of the date of the ranking, the Corporation shall, if any such Applicant ultimately obtains a final order that would have put its Application in the funding range had it been entered prior to the ranking, provide the requested funding and/or allocation from the next available funding and/or allocation, whether in the current year or a subsequent year. Nothing contained herein shall affect any applicable credit underwriting requirements.

(4) Following the entry of final orders in all petitions filed pursuant to Section 120.57(2), F.S., and in accordance with Rule Chapter 67-21, F.A.C., the Corporation shall issue final rankings. For an Applicant that filed a petition pursuant to Section 120.57(1), F.S., which challenged the scoring of its own Application but has not had a final order entered as of the date the final rankings are approved by the Board, the Corporation shall, if any such Applicant ultimately obtains a final order that modifies the score so that its Application would have been in the funding range of the applicable final ranking had it been entered prior to the date the final rankings were presented to the Board, provide the requested allocation from

the next available allocation, whether in the current year or a subsequent year. Nothing contained herein shall affect any applicable credit underwriting requirements.

(5) Each Applicant will be provided with a final ranking of all Applications and notice of rights, which shall constitute the sole point of entry to contest any ranking or scoring issue related to any other Applications for the Program. An Applicant that wishes to contest the final ranking or score of another Applicant may do so only if:

(a) The competing Applicant files a petition on or before the 21st Calendar Day after the receipt of the notice of rights pursuant to this paragraph (5). Submission by facsimile or other electronic means will not be accepted. The petition must conform to Rules 28-106.201(2) or 28-106.301(2), F.A.C., as applicable, and specify in detail each issue, score or ranking sought to be challenged.

(b) If the contested issue involves an error in scoring, the contested issue must either (i) be one that could not have been cured pursuant to subsection 67-21.003(14), F.A.C. and been raised in a NOPSE containing a concise statement of the alleged scoring error and/or scoring deficiency or (ii) have been raised in a NOAD filed by the competing Applicant containing a concise statement of the alleged scoring error and/or scoring deficiency, and in the case of either (i) or (ii) the Corporation determines there is no need to reject the Application or reduce points for the reason stated in the NOPSE or NOAD, as applicable. A competing Applicant that files a NOPSE or NOAD that incorporates by reference issues raised in another NOPSE or NOAD will not be permitted to file a petition.

(c) The competing Applicant alleges facts in its petition sufficient to demonstrate that, but for the specifically identified threshold, scoring or ranking errors, its Application would have been in the funding range at the time Florida Housing provided the Applicant with its final ranking.

(d) If the petition does not raise a disputed issue of material fact, the appeal will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered which will then be considered by the Board.

(6) Any Applicant who wishes to challenge the findings and conclusions of the recommended order entered pursuant to a Section 120.57(2), F.S., proceeding as described in paragraph (5) above concerning the final ranking of another Application shall be allowed the opportunity to submit written arguments to the Board. Any written arguments should be typed and double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five pages. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227



to submit written arguments in response to a recommended order entered as a result of an informal administrative proceeding pursuant to Section 120.57(2), F.S., regarding its own Application for consideration by the Board. Any written argument should be typed, double-spaced with margins no less than one inch, in either Times New Roman 14-point or Courier New 12-point font, and may not exceed five pages. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m. on the date contained in the recommended order. Submission by facsimile or other electronic means will not be accepted. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to recommended orders.

(3) Any Applicant who wishes to challenge the findings and conclusions of the recommended order entered pursuant to a Section 120.57(2), F.S., proceeding concerning its own Application shall be allowed the opportunity to submit written arguments to the Board. Any written argument should be typed and double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five pages. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m., Eastern Time, on the date contained in the recommended order. Submission by facsimile or other electronic means will not be accepted. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to recommended orders. The Board shall consider all recommended orders and written arguments and enter the appropriate final orders. For those Applicants with Section 120.57(1), F.S., appeals that have not yet had final orders entered as of the date of the ranking, the Corporation shall, if any such Applicant ultimately obtains a final order that would have put its Application in the funding range had it been entered prior to the ranking, provide the requested funding and/or allocation from the next available funding and/or allocation, whether in the current year or a subsequent year. Nothing contained herein shall affect any applicable credit underwriting requirements.

(4) Following the entry of final orders in all petitions filed pursuant to Section 120.57(2), F.S., and in accordance with the prioritization of the QAP and Rule Chapter 67-48, F.A.C., the Corporation shall issue final rankings. For an Applicant that filed a petition pursuant to Section 120.57(1), F.S., which challenged the scoring of its own Application but has not had a final order entered as of the date the final rankings are approved by the Board, the Corporation shall, if any such Applicant ultimately obtains a final order that modifies the score so that its Application would have been in the funding

range of the applicable final ranking had it been entered prior to the date the final rankings were presented to the Board, provide the requested funding and/or allocation (as applicable) from the next available funding and/or allocation (as applicable), whether in the current year or a subsequent year. Nothing contained herein shall affect any applicable credit underwriting requirements.

(5) Each Applicant will be provided with a final ranking of all Applications and notice of rights, which shall constitute the sole point of entry to contest any ranking or scoring issue related to any other Applications for the State Apartment Incentive Loan (SAIL) Program, the HOME Investment Partnerships (HOME) Program or the Housing Credit (HC) Program. An Applicant that wishes to contest the final ranking or score of another Applicant may do so only if:

(a) The competing Applicant files a petition on or before the 21st Calendar Day after the receipt of the notice of rights pursuant to this subsection (5). Submission by facsimile or other electronic means will not be accepted. The petition must conform to subsection 28-106.201(2) or 28-106.301(2), F.A.C., as applicable, and specify in detail each issue, score or ranking sought to be challenged.

(b) If the contested issue involves an error in scoring, the contested issue must either (i) be one that could not have been cured pursuant to subsection 67-48.004(14), F.A.C., and been raised in a NOPSE containing a concise statement of the alleged scoring error and/or scoring deficiency or (ii) have been raised in a NOAD filed by the competing Applicant containing a concise statement of the alleged scoring error and/or scoring deficiency, and in the case of either (i) or (ii) the Corporation determines there is no need to reject the Application or reduce points for the reason stated in the NOPSE or NOAD, as applicable. A competing Applicant that files a NOPSE or NOAD that incorporates by reference issues raised in another NOPSE or NOAD will not be permitted to file a petition.

(c) The competing Applicant alleges facts in its petition sufficient to demonstrate that, but for the specifically identified threshold, scoring or ranking errors, its Application would have been in the funding range at the time Florida Housing provided the Applicant with its final ranking.

(d) If the petition does not raise a disputed issue of material fact, the appeal will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered which will then be considered by the Board.

(6) Any Applicant who wishes to challenge the findings and conclusions of the recommended order entered pursuant to a Section 120.57(2), F.S., proceeding as described in subsection (5) above concerning the final ranking of another



Application, shall be allowed the opportunity to submit written arguments to the Board. Any written arguments should be typed and double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five pages. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m., Eastern Time, on the date contained in the recommended order. Submission by facsimile or other electronic means will not be accepted. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to recommended orders. The Board shall consider all recommended orders and written arguments and enter the appropriate final orders.

(7) For those Applicants that have filed a petition pursuant to subsection (5) above, the Corporation shall, if any such Applicant ultimately obtains a final order that demonstrates that its Application would have been in the funding range of the applicable final ranking, provide the requested funding and/or allocation (as applicable) from the next available funding and/or allocation (as applicable), whether in the current year or a subsequent year. Nothing contained herein shall affect any applicable credit underwriting requirements. The filing of a petition pursuant to subsection (5) above shall not stay the Corporation's provision of funding to Applicants per the final rankings referenced in subsection (4) above.

Specific Authority 420.507 FS. Law Implemented 120.57, 420.5087, 420.5089(1), 420.5099 FS. History—New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 91-48.005, Amended 4-7-98, 11-9-98, 2-24-00, 2-22-01, 3-17-02,

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerey Carpenter, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mark Kaplan, Executive Director, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 22, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 15, 2002, Vol. 28, No. 7

**FLORIDA HOUSING FINANCE CORPORATION**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Purpose and Intent	67-50.001
Definitions	67-50.005
Fees	67-50.010
Notice of Funding Availability (NOFA)	67-50.020
General Program Eligible Activities	67-50.030

General Program Restrictions	67-50.040
HAP Program Restrictions	67-50.050
HOME Program Restrictions	67-50.060
Application and Selection Procedures	67-50.070
Credit Underwriting Procedures	67-50.080
Disbursement of Funds, Draw Requests, and Loan Servicing	67-50.090
Compliance and Monitoring	67-50.100
PURPOSE, EFFECT AND SUMMARY: The purpose of this Rule Chapter is to establish the procedures by which the Corporation shall:	

(1) Administer the Application process, determine loan amounts, and service loans to Developers for the construction of affordable housing under the Florida Homeownership Assistance Program (HAP)/Construction Loan Program and provide purchase assistance to Eligible Homebuyers under the HAP Permanent Loan Program, authorized by Chapters 420.507 and 420.5088, Florida Statutes (F.S.); and

(2) Administer the Application process, determine loan amounts, and service loans to Developers for the construction of affordable housing and provide purchase assistance to Eligible Homebuyers under the HOME Investment Partnerships (HOME) Homeownership Loan Program, authorized by Chapter 420.5089, F.S., and HUD regulations, 24 CFR § 92, which is adopted and incorporated herein by reference.

(3) Prior to the opening of an Application Cycle, the Corporation researches the market need for affordable housing throughout the State of Florida and evaluates prior Application Cycles to determine the necessary changes or additions to the existing rules and applications. This proposed new Rule and adopted reference materials establishes the procedures by which the Florida Housing Finance Corporation shall administer the Homeownership Loan Program, which combines funding from the HAP Construction, HAP Permanent, and HOME Homeownership Loan Programs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 420.507(12),(14),(23) FS.

LAW IMPLEMENTED: 420.5088, 420.5089 FS.

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

TIME AND DATE: 10:00 a.m., June 24, 2002

PLACE: Florida Housing Finance Corporation, Sixth Floor Conference Room, 227 North Bronough Street, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bridget E. Warring, HAP Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida 32301, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULES IS:

67-50.001 Purpose and Intent.

The purpose of this Rule Chapter is to establish the procedures by which the Corporation shall:

(1) Administer the Application process, determine loan amounts, and service loans to Developers for the construction of affordable housing under the Florida Homeownership Assistance Program (HAP)/Construction Loan Program and provide purchase assistance to Eligible Homebuyers under the HAP Permanent Loan Program, authorized by Sections 420.507 and 420.5088, Florida Statutes (F.S.); and

(2) Administer the Application process, determine loan amounts, and service loans to Developers for the construction of affordable housing and provide purchase assistance to Eligible Homebuyers under the HOME Investment Partnerships (HOME) Homeownership Loan Program, authorized by Section 420.5089, F.S., and HUD regulations, 24 CFR § 92, which is adopted and incorporated into this Rule chapter by reference.

Specific Authority 420.507(12),(14) FS. Law Implemented 420.507(23), 420.5088, 420.5089(2) FS. History—New

67-50.005 Definitions.

(1) “Act” means the Florida Housing Finance Corporation Act, as found in Chapter 420, Part V, Florida Statutes, as in effect on the date of this Rule Chapter.

(2) “Address” means the address assigned by the United States Postal Service (USPS), which must include address number, street name, city, state and zip code. If the USPS has not yet assigned an address, include, at a minimum, street name and closest designated intersection and the city, state and zip code.

(3) “Adjusted Income” means the gross income from wages or assets, cash or non-cash contributions, and any other resources and benefits determined to be income by the U.S. Department of Housing and Urban Development (HUD), adjusted for household size, as defined in 24 CFR § 5.609, formerly known as Section 8, which is adopted and incorporated herein by reference.

(4) “Affiliate” means any person that:

(a) Directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Applicant;

(b) Serves as an officer or director of the Applicant or of any Affiliate of the Applicant; or

(c) Is the spouse, parent, child, sibling, or relative by marriage of a person described in (a) or (b) above.

(5) “Applicant” means a legally formed entity in existence at the time of Application, which is authorized to conduct business in the state of Florida, and:

(a) With respect to the HAP Program, is a Non-Profit Developer or a Non-Profit Sponsor proposing to build affordable homeownership housing;

(b) With respect to the HOME Program, is a Community Housing Development Organization (CHDO), a public housing authority, a local government, a Non-Profit organization, or a private for-profit organization (including a corporation, limited partnership, limited liability company, partnership and a sole proprietorship) proposing to build affordable homeownership housing.

(6) “Application” means the completed forms from the Application Package together with all exhibits submitted to the Corporation in order to apply for either HAP or HOME Loan funds, in accordance with this Rule Chapter and the Application Package instructions, which is adopted and incorporated herein by reference.

(7) “Application Deadline” means 5:00 p.m., Eastern Time, on the final day of the Application Period.

(8) “Application Package” means the forms and instructions obtained from the Corporation, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329 and available on the Corporation's website at [www.floridahousing.org](http://www.floridahousing.org), which shall be completed and submitted to the Corporation in order to apply for either HAP or HOME funds, which is adopted and incorporated herein by reference and effective on the date of the latest amendment to this Rule Chapter.

(9) “Application Period” means the period during which Applications shall be accepted, with a deadline of no less than thirty (30) days from the beginning of the Application Period, as noticed in the Florida Administrative Weekly and posted on Florida Housing's web site at [www.floridahousing.org](http://www.floridahousing.org).

(10) “Area Median Income” (AMI) means the median income for an area, with adjustments made for household size, as determined by the United States Department of Housing and Urban Development (HUD).

(11) “Board” means the Board of Directors of the Florida Housing Finance Corporation.

(12) “Code” means the Internal Revenue Code of 1986, as in effect on the date of this Rule Chapter, together with corresponding and applicable final, temporary or proposed regulations, notices, and revenue rulings issued by the Treasury or the Internal Revenue Service of the United States, which is adopted and incorporated herein by reference.

(13) “Community Based Organization” means a private non-profit corporation, organized under Chapter 617, F.S., if a Florida Corporation, or under similar state law if organized in a jurisdiction other than Florida, authorized to conduct business in Florida, and certified by the Corporation to receive priority when applying for HAP funds.

(14) “Community Housing Development Organization” (CHDO) means an organization that is organized pursuant to HUD Notice CPD 97 11, which is adopted and incorporated herein by reference.

(15) “Consolidated Plan” means a plan which describes the needs, resources, priorities and proposed activities to be undertaken which is prepared by the Department of Community Affairs, in accordance with HUD Regulation, 24 CFR § 91, which is adopted and incorporated herein by reference.

(16) “Construction Loan” means a loan made available to a Developer in an amount not to exceed thirty three percent (33%) of the Total Development Cost, which utilizes either HAP or HOME Construction funds.

(17) “Contact Person” means the person with decision-making authority with whom the Corporation will correspond concerning the Application and the Development, as designated by the Applicant.

(18) “Contractor” means a person or entity duly licensed by the State of Florida who provides services in accordance with Chapter 489, F.S.

(19) “Corporation” means the Florida Housing Finance Corporation.

(20) “Credit Underwriter” means the independent contractor under contract with the Corporation having the responsibility for providing credit underwriting services, including, but not limited to, a comprehensive analysis of the Applicant, the real estate, the economics of the Development, the ability of the Applicant and the Development team to proceed, the evidence of need for affordable housing in order to determine that the Development meets the program requirements and determine a recommended HAP or HOME loan amount.

(21) “Developer” means an individual, association, corporation, joint venturer, limited partnership, limited liability company, or partnership, possessing the requisite skill, experience, and credit worthiness to successfully produce affordable homeownership housing pursuant to this Rule Chapter.

(22) “Development” means any work or improvement located or to be located in the state, including real property, buildings, and any other real and personal property which is:

(a) Designed and intended for the primary purpose of providing decent, safe, and sanitary residential housing for persons or households;

(b) Consists of at least four (4) homes; and

(c) Meets the minimum set-aside requirements and sales price limits of either the HAP or HOME Program, as applicable.

(23) “Development Cost” means the total of all costs incurred in the completion of a Development, as shown in the Development Cost line item on the development cost pro

forma within the Application, subject to the approval by the Credit Underwriter and the Corporation, and pursuant to 24 CFR § 92.206 where applicable.

(24) “Document” means a written, electronic media, or graphic matter of any kind whatsoever, however produced or reproduced, including but not limited to records, reports, memoranda, minutes, notes, graphs, maps, charts, contracts, opinions, studies, analysis, photographs, financial statements and correspondence as well as any other tangible item on which information is recorded.

(25) “Draw” means the disbursement of funds to a Development under the HAP or HOME Program.

(26) “Elderly” means, with respect to the HAP Program, a person 62 years of age or older, and with respect to the HOME Program, a person meeting the Federal Fair Housing Act requirements for the Elderly.

(27) “Eligible Homebuyer” means one or more natural persons or a household, irrespective of race, creed, religion, national origin, or sex, determined by the Corporation to be of very low to moderate income and who will utilize the home as their primary residence. In determining the income standards of eligible persons for its various programs, the Corporation shall take into account the following factors:

(a) Requirements mandated by state and federal law;

(b) Targeted areas of special need in the state; and

(c) The need for household size adjustments to accomplish the purposes set forth in this Rule Chapter.

(28) “Executive Director” means the Executive Director of the Florida Housing Finance Corporation.

(29) “F.A.C.” means the Florida Administrative Code.

(30) “F.S.” means the Florida Statutes.

(31) “FannieMae” means the Federal National Mortgage Association.

(32) “FHA” means the Federal Housing Administration of the United States Department of Housing and Urban Development or other Agency or instrumentality created or chartered by the United States government to which the powers of the Federal Housing Administration have been transferred.

(33) “Financial Institution” means a state or federal association, bank, trust company, international bank agency, representative office or international administrative office, or credit union.

(34) “First Mortgage” means the recorded mortgage to which the HAP or HOME Construction Loan and the HAP or HOME Permanent Loan is subordinate.

(35) “Florida Keys Area” means all lands in Monroe County, except:

(a) That portion of Monroe County included within the designated exterior boundaries of the Everglades National Park and areas north of said Park;

(b) All lands more than 250 feet seaward of the mean high water line owned by local, state, or federal governments; and

(c) Federal properties.

(36) "HOME-Assisted Units" mean the specific units that are funded with HOME funds, pursuant to 24 CFR § 92.254.

(37) "Homeownership Loan Program" means the combined Rule and Application, incorporating the HAP Construction, HAP Permanent, and HOME Homeownership Loan Programs.

(38) "HUD" means the United States Department of Housing and Urban Development.

(39) "HUD Regulations" means the regulations of HUD in 24 CFR § 92, incorporated herein by reference, together with subsequent amendments, as in effect on the date of this Rule Chapter.

(40) "Land Use Restriction Agreement" means the agreement between the Corporation and the Applicant, which sets forth the set-aside requirements and other Development requirements, if any, under the HAP or HOME Program.

(41) "Local Government" means a unit of local general-purpose government, as defined in subsection 218.31(2), F.S.

(42) "Low Income" means the Adjusted Income for persons or households that does not exceed eighty percent (80%) AMI.

(43) "Match" means the contributions obtained from other than federally funded program contributions that are dedicated to a HOME Development, pursuant to CPD 97-03, incorporated herein by reference.

(44) "Maximum Purchase Price" means:

(a) With respect to the HAP Program, the maximum purchase price of a house in an area as determined by the Single Family Mortgage Revenue Bond Program (SF MRB), as in effect at the time of the beginning of the construction of the house; and

(b) With respect to the HOME Program, the maximum purchase price of a house in an area as determined by HUD, as in effect at the beginning of the construction of the house.

(45) "Moderate Income" means the Adjusted Income for persons or households that does not exceed one hundred fifty percent (150%) AMI.

(46) "Non-Entitlement Area" means a unit of general local government that has not been designated by HUD to receive HOME assistance.

(47) "Non-Profit" means a qualified non-profit entity as defined in Section 42(h)(5)(C), subsection 501(c)(3) or 501(c)(4) of the Code, and organized under Chapter 617, F.S., if a Florida Corporation, or under similar state law if organized in a jurisdiction other than Florida, to provide low-income housing and other services on a not-for-profit basis, which owns at least 51% of the ownership interest in the Development and is acceptable to federal and state agencies and financial institutions as a Sponsor for housing.

(48) "Non-Profit Sponsor" means, with respect to the HAP Program, a unit of local government or public housing authority, established pursuant to Chapter 421, F.S., or a Community Based Organization, as defined in subsection 67-50.005(14), F.A.C., which has agreed to sponsor an Eligible Development utilizing either a Non-Profit or for-profit Developer.

(49) "Note" means a unilateral agreement containing an express and absolute promise to pay to the Corporation a principal sum of money on a specified date, which provides the interest rate, if applicable, and is secured by a mortgage.

(50) "Permanent Loan" means a zero percent (0%) interest rate, non-amortizing second mortgage loan made to an Eligible Homebuyer, who has an Adjusted Income that does not exceed eighty percent (80%) AMI.

(51) "Predevelopment Loan Program" means the Corporation's Predevelopment Loan Program, established by Chapters 420.521 through 420.529, F.S., and Rule Chapter 67-38, F.A.C.

(52) "Preliminary Allocation" means a non-binding reservation of HAP or HOME funds issued to a Development prior to the credit underwriting process.

(53) "Principal" means an Applicant, any general partner of an Applicant, and any officer, director, or any shareholder of any Applicant or shareholder of any general partner of an Applicant.

(54) "Qualified Census Tract" means any census tract that is designated by the Secretary of HUD as having either 50% or more of the households at an income that is less than sixty percent (60%) AMI or a poverty rate of at least twenty five percent (25%), in accordance with Section 42(d)(5)(C), Internal Revenue Code.

(55) "Received" means as it relates to delivery of a document by a specified deadline, delivery by hand, United States Postal Service or other courier service, unless otherwise indicated, in the office of the Corporation no later than 5:00 p.m., Eastern Time, on the deadline date.

(56) "Review Committee" means a committee of Corporation staff persons appointed by the Board of Directors who will make recommendations to the Board regarding Program participation.

(57) "Rural Area" means an area that is eligible to receive assistance from the United States Department of Agriculture – Rural Development.

(58) "Second Mortgage" means the recorded mortgage securing the HAP or HOME Construction Loan or the HAP or HOME Permanent Loan, which is subordinate only to the First Mortgage.

(59) "Scattered Sites" means an individual action on a one (1) to four (4) family dwelling, unless the development is of five (5) or more units located within two thousand (2,000) feet of each other, undertaken as a single action.

(60) “Servicer” means the entity, and any subcontractors, under contract with the Corporation to provide loan servicing, including but not limited to, administration and compliance monitoring.

(61) “Single Family Bond Program” means the Single Family Mortgage Revenue Bond Program (SF MRB), pursuant to Rule Chapter 67-25, F.A.C.

(62) “Sponsor” means, with respect to the HOME Program, any individual, association, corporation, joint venturer, partnership, trust, or other legal entity or combination thereof, that has been approved by the Corporation as qualified to construct a Development.

(63) “State” means the State of Florida.

(64) “Threshold” means the minimum criteria to be met for an Application to be considered complete, as required by this Rule Chapter and the Application.

(65) “Treasury” means the United States Department of Treasury or other agency or instrumentality created or chartered by the United States to which the powers of the Department of Treasury have been transferred.

(66) “Unit” means a residential unit used as a single-family residence and the land appurtenant that is taxed as real property under state laws, not including a two, three or four household residence, unless each unit is owner-occupied.

(67) “Urban In-Fill Development” means a Development in:

(a) A site or area that is targeted for in-fill housing or neighborhood revitalization by the local, county, state or federal government as evidenced by its inclusion in a HUD Empowerment/Enterprise Zone, a HUD-approved Neighborhood Revitalization Strategy, a Florida Enterprise Zone, area designated under a Community Development Block Grant (CDBG), an area designated as HOPE VI or Front Porch Florida Community, a Community Redevelopment Area as described and defined in the Florida Community Redevelopment Act of 1969, as amended, or the proposed Development is located in a Qualified Census Tract and the development of which contributes to a concerted community revitalization plan; and

(b) In a site which is located in an area that is already developed and part of an incorporated area or existing urban service area.

(68) “USDA-RD” means the United States Department of Agriculture Rural Housing Services.

(69) “Very Low-Income” means the Adjusted Income of persons or households that does not exceed fifty percent (50%) AMI.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088, 420.5089 FS. History–New

#### 67-50.010 Fees.

(1) The Corporation shall collect the following fees and charges, payable to the Corporation when initially applying for either HAP or HOME funds:

(a) Application Package fee

(b) Application submission fee

(2) The following fees shall also apply after Application submission:

(a) Credit Underwriting fee

(b) Loan Servicing fees

(c) Construction inspection fees

(3) With respect to the HAP Program, all of the fees set forth above are part of the Development Cost and can be included in the Development Cost pro forma and paid with HAP loan proceeds.

(4) Failure to pay any fee shall cause the loan commitment under any Program to be terminated or shall constitute a default on the respective loan documents.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(19), 420.5088, 420.5098 FS. History–New

#### 67-50.020 Notice of Funding Availability (NOFA).

The Corporation shall post the NOFA, which sets forth the availability of funding for the HAP Construction Loan, the HAP Permanent Loan and the HOME Homeownership Loan Programs, on the Corporation’s website at [www.floridahousing.org](http://www.floridahousing.org) and publish in the Florida Administrative Weekly (FAW).

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088, 420.5089 FS. History–New

#### 67-50.030 General Program Eligible Activities.

(1) Funds may be used to pay for the following eligible costs:

(a) Development hard costs as they directly relate to the identified assisted units for the costs necessary to meet local and State building codes and the Model Energy Code.

(b) Soft costs as they relate to the identified assisted units. The costs must be reasonable and necessary, as determined by the Corporation and Credit Underwriter, and associated with the financing, development, or both, including, but not limited to:

1. Architectural, engineering or related professional services required to prepare plans, drawings, specifications or work write-ups;

2. Costs to process and close the financing for a Development, such as credit reports, fees for evidence of title, recordation, building permits, attorney fees, cost certifications, and estimates;

3. Developer fees, including administrative overhead, are limited to sixteen percent (16%) of the Total Development Cost;

4. Impact fees;

5. Costs of Development audits required by the Corporation or compliance monitoring agent;

6. Affirmative marketing and fair housing costs; and

7. Temporary relocation costs, as required for the HOME program.

(2) Funds may be used to construct one (1) speculative unit for up to ten (10) units in the Development, up to two (2) speculative units for eleven (11) to twenty (20) units in the Development and a maximum of three (3) speculative units for a Development with over twenty (20) units at any period of time.

(3) Prepayment of the loan is permitted without penalty.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088, 420.5089 FS. History—New

67-50.040 General Program Restrictions.

(1) An Applicant cannot receive funding from both the HAP and HOME Construction Loan Programs for the same Development.

(2) Applications shall be limited to one submission per subject property, per Application Period.

(3) The HAP or HOME Construction or Permanent Loan must be in a second lien position and shall not share priority with any other liens.

(4) The term of the HAP or HOME Construction Loan shall be for a period of five (5) years.

(5) The accumulation of all Development financing, including the HAP or HOME Loan and all existing debt within a Development, may not exceed the Total Development Cost, as determined by the Credit Underwriter.

(6) The proceeds from the HAP or HOME Permanent Loan made to an Eligible Homebuyer shall be used to repay the HAP or HOME Construction Loan. Upon the closing of each house, the HAP or HOME Construction Loan provided for each house shall be repaid by the Applicant.

(7) Applicants are responsible for:

(a) The construction of affordable housing;

(b) The marketing of units in the Development and providing referrals of potential Eligible Borrowers to the first mortgage lender;

(c) Meeting the pre-sale requirements established by the first mortgage lender;

(d) Assisting the Corporation and the Servicer with performing Draw inspections, collecting payments and defaults, foreclosure procedures and performing compliance monitoring; and

(e) With respect to the HOME Loan, ensuring compliance with HUD requirements, pursuant to 24 CFR § 92.

(8) Prior to disbursing any funds, there must be a written agreement with the Applicant ensuring compliance with the requirements of the HAP or HOME Program, pursuant to this Rule Chapter, Florida Statutes, and HUD Regulations, as applicable.

(9) The Corporation shall require adequate insurance to be maintained on the Development as determined by the first mortgage lender and the Corporation's Servicer, including fire, hazard and other insurance sufficient to meet mortgage standards.

(10) The Corporation or its Servicer shall monitor the compliance with all terms and conditions of the HAP or HOME Loan and any violation of any term or condition shall constitute a default of the Loan. If a default on a Loan occurs, the Corporation may commence legal action to protect the interest of the Corporation.

(11) The construction period shall be for a period of three (3) years beginning on the closing date of the Loan. With approval by the Board, a one-year extension is permissible provided that the Applicant:

(a) Requests the extension in writing at least sixty (60) days prior to the end of the construction period;

(b) States the reason the extension is needed;

(c) Provides the Applicant's past performance history;

(d) Provides a comprehensive work completion plan;

(e) Supplies an alternate financing plan in the event the original financing source withdraws; and

(f) Provides assurance that the one-year extension will result in the successful completion of the Development.

(12) The Applicant shall not refinance, increase the principal amount, or alter any terms or conditions of any construction loan superior or inferior to the HAP or HOME Loan without prior approval of the Corporation's Board of Directors.

(13) The unpaid principal balance of the Loan shall be due and payable upon the sale or transfer of the secured property.

(14) If the Board of Directors determines that any Applicant or any Affiliate of an Applicant:

(a) Has engaged in fraudulent actions;

(b) Has materially misrepresented information to the Corporation regarding any of its Developments, within the current Application or in any previous applications for financing or an allocation of Housing Credits administered by the Corporation;

(c) Has been convicted of fraud, theft or misappropriation of funds;

(d) Has been excluded from federal or Florida procurement programs; or

(e) Has been convicted of a felony.

Upon a determination by the Board of Directors that such action substantially increases the likelihood that the Applicant will not be able to produce quality affordable housing, the Applicant and any of the Applicant's Affiliates will be ineligible for funding or allocation in any program administered by the Corporation for a period of two (2) years, which will begin from the date the Board of Directors makes such determination. Such determination shall be made either

pursuant to a proceeding conducted pursuant to Section 120.569 and 120.67, Florida Statutes, or as a result of a finding by a court of competent jurisdiction.

(15) If an Applicant or any Principal, or Affiliate of an Applicant or Developer has any existing Developments participating in any Corporation programs that remain in non-compliance with the Code, the applicable Florida Statutes and Rule Chapters, and loan documents, after any applicable cure period granted for correcting such non-compliance has ended, at the time of submission of the Application or issuance of a credit underwriting report, the requested allocation will be denied, upon determination by the Board of Directors that such non-compliance substantially increases the likelihood that such Applicant will not be able to produce quality affordable housing. The Applicant and the Affiliates of the Applicant or Developer shall be prohibited from new participation in any of the Corporation's Programs for the subsequent cycle and continuing until such time as all of their existing Developments are in compliance.

(16) The name of the Development provided in the Application may not be changed or altered after submission of the Application during the history of the Development with the Corporation unless the change is mandated by local, state or federal governmental authorities, or otherwise approved by the Corporation. Evidence of such mandate must be submitted to the Corporation within thirty (30) Calendar Days of notification by the local, state or federal authorities.

(17) Permanent Loans. Prior to disbursing any funds for either the HAP or HOME Permanent Loan, the Eligible Homebuyer must execute a homebuyer agreement, ensuring compliance with the requirements of this Rule Chapter, Florida Statutes and 24 CFR § 92, when applicable.

(18) The Homebuyer must maintain replacement cost hazard insurance naming the Corporation as an additional insured.

(19) A mortgagee policy of title insurance in the amount of the HAP or HOME Permanent Loan must be provided naming the Corporation as an additional insured.

(20) Loans shall be evidenced by a properly executed note and secured by a properly executed and recorded mortgage provided by the Corporation.

(21) Failure to comply with any part of this Rule Chapter without a waiver or variance being granted by the Board, pursuant to Section 120.542, F.S., and Rule Chapter 28-104, F.A.C., shall result in the disqualification of the Applicant and withdrawal of the preliminary commitment for Loan funds.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New \_\_\_\_\_.

#### 67-50.050 HAP Program Restrictions.

(1) HAP Construction Loans shall be made available for the construction of affordable housing Developments, as defined in subsection 67-50.005(23), F.A.C. Funds shall also

be made available for land acquisition, predevelopment expenses and infrastructure; however, in no event shall the funds be used solely for these purposes.

(2) A Non-Profit organization must have control of the Development and materially participate in the development and sale of the property through the construction period.

(3) Non-Profit Sponsor Applicants must:

(a) Have been in existence for at least one (1) year prior to applying for HAP funds;

(b) Own the property or have a valid contract for purchase of the property; and

(c) Utilize the services of either a Non-Profit or for-profit Developer who has a proven record of providing similar housing.

(4) The interest rate for a HAP Construction Loan is zero percent (0%).

(5) The Land Use Restriction Agreement (LURA) shall contain restrictive covenants to ensure that the Development maintains the minimum set-aside requirements of the HAP Program, as well as the specific amenities and set-asides the Applicant committed to in the Application.

(6) HAP Permanent Loan. The terms of the HAP Permanent Loan made to an Eligible Homebuyer are as follows:

(a) A HAP Permanent Loan shall be made available to an Eligible Homebuyer who purchases a home built by a Developer participating in the Homeownership Loan Program, under the HAP Program.

(b) The Eligible Homebuyer must have an Adjusted Income that does not exceed eighty percent (80%) AMI at the time of closing.

(c) A HAP Permanent Loan is available in an aggregate amount not to exceed the lesser of \$30,000, twenty five percent (25%) of the purchase price of the house, or the amount necessary to meet credit underwriting criteria, based on the monthly mortgage payment (which includes the principal, interest, taxes and insurance) to income underwriting ratio.

(d) When the HAP Permanent Loan is used in conjunction with another Corporation subordinate mortgage program, the Eligible Homebuyer's Adjusted Income may not exceed fifty percent (50%) AMI and the aggregate amount of the Corporation Loans may not exceed thirty-five percent (35%).

(e) The combined loan-to-value ratio cannot exceed one hundred five percent (105%) of the appraised value. In the 105% loan-to-value calculation, the Corporation will not include any subsidy that contains forgivable terms within a seven (7) year period.

(f) The HAP Permanent Loan shall be underwritten by the first mortgage lender and reviewed by the Corporation's designated Servicer.

(g) The purchase price of the house cannot exceed the appraised value or the maximum purchase price, as determined by the Single Family Mortgage Revenue Bond Program, as in effect at the time of the beginning of the construction of the house.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History--New

67-50.060 HOME Program Restrictions.

(1) HOME funds shall be made available for construction of affordable housing and homebuyer purchase assistance for Eligible Developments, pursuant to 24 CFR § 92.

(2) The maximum per-unit subsidy amount of HOME funds that the Corporation may allocate may not exceed twenty five percent 25% of the purchase price.

(3) The annual interest rate will be determined as follows:

(a) All for-profit Applicants that have one hundred percent (100%) ownership interest in the Development held by the general partner entity will receive a three percent (3%) per annum interest rate loan.

(b) All qualified non-profit Applicants that have one hundred percent (100%) ownership interest in the Development held by the general partner entity will receive a zero percent (0%) interest rate loan.

(c) All Applicants consisting of a non-profit and for-profit partnership will receive a zero percent (0%) interest rate on the portion of the loan equal to the qualified non-profit's ownership interest in the Development. A three percent (3%) interest rate shall be charged on the portion of the loan equal to the for-profit's ownership interest in the Development. Should the Applicant sell, transfer, or convey any portion of the ownership in the Development, the loan interest rate ratio will be adjusted to conform with the new percentage of for-profit to non-profit ownership.

(4) The Corporation shall acquire real and personal property or any interest in the Development if that acquisition is necessary to protect any loan; sell, transfer, and convey any such property to a buyer without regard to the provisions of Chapters 253 and 270, F.S.; and, if that sale, transfer, or conveyance cannot be consummated within a reasonable time, lease the Development for occupancy by eligible persons.

(5) The minimum amount of HOME funds that can be allocated on a per-unit basis for all Developments is \$2,500.

(6) All units must adhere to affordability requirements pursuant to 24 CFR § 92.254 and the recapture provisions described in 24 CFR § 92.254(5)(ii)(1).

(7) Funds shall not be used to pay for ineligible costs in accordance with 24 CFR § 92.214 (a) and the following ineligible costs:

(a) Development reserve accounts for replacement, anticipated increases in operating costs, or operating subsidies, except as described in this Rule Chapter;

(b) Administrative costs; and

(c) Developer fees on the acquisition portion of the Development cost.

(8) All contracts for the construction of a Development with 12 or more HOME-Assisted Units must contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the U.S. Secretary of Labor pursuant to the Davis-Bacon Act, 40 U.S.C. § 276a-265-a-5 (1994), 24 CFR § 92.354, 24 CFR § 70 (volunteers) and 40 U.S.C. 276c, which are adopted and incorporated herein by reference, will be paid to all laborers and mechanics employed for the construction of the Development. Such contracts shall also be subject to the overtime provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 327-333 (1994), and the Copeland Act (Anti-Kickback Act) 40 U.S.C. § 276c (1994) and the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.), which are adopted and incorporated herein by reference.

(9) If the Development has 12 or more HOME-Assisted Units, the General Contractor and all available subcontractors shall attend a Corporation-sponsored pre-construction conference regarding federal labor standards provisions.

(10) A representative of the Applicant must attend a Corporation-sponsored training session on income certification and compliance procedures.

(11) The Corporation is required by HUD to match non-federal funds to the HOME allocation as specified in 24 CFR § 92.218.

(12) All HOME Developments must conform to the following federal requirements:

(a) Equal Opportunity and Fair Housing as enumerated in 24 CFR § 92.202 and 92.250, 42 U.S.C. 2000d et seq., 42 U.S.C. 3601-3620, 42 U.S.C. 6101, and 24 CFR § 5.105(a), which are adopted and incorporated herein by reference.

(b) Affirmative Marketing as enumerated in 24 CFR § 92.351, which is adopted and incorporated herein by reference.

(c) Environmental Review as enumerated in 24 CFR § 92.352, 24 CFR § 58 and National Environmental Policy Act of 1969, which are adopted and incorporated herein by reference.

(d) Displacement, Relocation, and Acquisition as enumerated in 24 CFR § 92.353, 42 U.S.C. 4201-4655, 49 CFR § 24, 24 CFR § 42 (Subpart B), and Chapter 104(d) "Barney Frank Amendments", which are adopted and incorporated herein by reference.

(e) Labor Standards as enumerated in 24 CFR § 92.354, 40 U.S.C. 276a-276a-5, 24 CFR § 70 (volunteers), and 40 U.S.C. 276c, which are adopted and incorporated herein by reference.

(f) Lead-based Paint as enumerated in 24 CFR § 92.355, 42 U.S.C. 4821 et seq., 24 CFR § 35 and 24 CFR § 982.401(j) (except paragraph 982.401(j)(1)(i)), which are adopted and incorporated herein by reference.



(g) Conflict of Interest as enumerated in 24 CFR § 92.356, 24 CFR § 85.36 and 24 CFR § 84.42, which are adopted and incorporated herein by reference.

(h) Debarment and Suspension as enumerated in 24 CFR § 5, which is adopted and incorporated herein by reference.

(i) Flood Insurance as enumerated in Section 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106), which is adopted and incorporated herein by reference.

(j) Handicapped Accessibility as enumerated in 24 CFR § 8 and 24 CFR § 100.205, which are adopted and incorporated herein by reference.

(k) Equal Opportunity Employment as enumerated in 41 CFR § 60, which is adopted and incorporated herein by reference.

(l) Economic Opportunity as enumerated in 24 CFR § 135, which is adopted and incorporated herein by reference.

(m) Minority/Women Employment as enumerated in 24 CFR § 85.36(e), which is adopted and incorporated herein by reference.

(13) Applicants and lenders are responsible for providing the Corporation or the Servicer with completed documentation of the homebuyer and homeownership requirements established by the Corporation and 24 CFR § 92.254 and the record keeping requirements described in 24 CFR § 92.508.

(14) A HOME-assisted unit shall qualify as affordable housing if:

(a) The value or initial purchase price of the property after construction does not exceed the Maximum Purchase Price;

(b) The combined loan-to-value ratio cannot exceed one hundred five percent (105%) of the after construction or appraised value of the HOME-Assisted unit, except when HOME funds are used with the SF MRB Program, where the combined loan-to-value of all assistance cannot exceed one hundred three (103%) of the lesser of the appraised value or the purchase price or as permitted in the applicable SF MRB issue documents. In the loan-to-value calculation, the Corporation will not include any subsidy that contains forgivable terms within a seven (7) year period;

(c) The person or household qualifies as an Eligible Homebuyer at the time of purchase and who will occupy the home acquired property as their a principal residence; and

(d) The purchase price of the property after construction must not exceed the appraised value of the property.

(15) All homes in the Development must be sold to persons or households that have an Adjusted Income that does not exceed eighty percent (80%) AMI.

(16) The Eligible Homebuyer shall adhere to the following terms and conditions:

(a) The Second Mortgage Loan shall have a zero percent (0%) interest rate and be non-amortizing with principal deferment until maturity.

(b) Repayment of Principal on the Second Mortgage Loan shall be deferred until the homebuyer sells, transfers or disposes of the home either voluntarily or involuntarily, or ceases to occupy the home as a principal residence.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History--New

#### 67-50.070 Application and Selection Procedures.

(1) All Applications must be submitted complete, legible and consistent and must be received by the Application Deadline, as specified in the NOFA.

(2) Each submitted Application will be reviewed and evaluated using the factors specified in the Application Package and this Rule Chapter.

(3) Failure to submit an Application completed in accordance with the Application instructions and this Rule Chapter will result in rejection of the Application or a score less than the maximum available in accordance with the instructions in the Application and this Rule Chapter.

(4) The Corporation shall reject an Application, as detailed in the Application Package and this Rule Chapter, if:

(a) The Development is inconsistent with the purposes of the HAP or HOME Program, as applicable.

(b) The Applicant fails to achieve the threshold requirements or the minimum score required.

(c) The Applicant or any Principal or Affiliate of an Applicant or Developer is in arrears for any financial obligation to the Corporation or any agent or assignee of the Corporation. For purposes of the HOME Program, this rule subsection does not include permissible deferral of HOME interest.

(5) When two or more Applications receive the same numerical score, the Applications will be ranked as outlined in the Application instructions.

(6) At no time during the scoring process may Applicants or their representatives contact Board members or Corporation staff concerning their own Development or any other Applicant's Development. If an Applicant or its representative does contact a Board member or staff in violation of this section, the Board may, upon a determination that such contact was deliberate, disqualify such Applicant's Application.

(7) Applicants shall be provided with their scoring sheets, the scoring and ranking, and a notice of deficiencies, if applicable.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088, 420.5089 FS. History--New

#### 67-50.080 Credit Underwriting Procedures.

(1) After evaluation of the Applications received in each Application Period, the Corporation shall issue a notification letter to each Applicant disclosing whether or not the Applicant met the threshold and minimum score requirements.

(2) Those Applicants who achieve the threshold and minimum score requirements will be issued a preliminary allocation amount, providing funds are available. With respect to the HOME Program, once the allocation is exhausted in each of the set-aside categories, Applicants will have access to the remaining funds irrespective of set-aside.

(a) The preliminary commitment shall be subject to a positive recommendation by the Corporation's Credit Underwriter and approval by the Board of Directors. With respect to the HOME Program, a certification by the Corporation of the HUD Environmental Review is also required, pursuant to 24 CFR 92.352.

(b) The type of review to be performed by the Credit Underwriter shall be determined as follows:

1. Analytical Review. To expedite the underwriting process, the Corporation's Credit Underwriter shall perform an analytical review utilizing the lender's credit underwriting information when applicable:

a. If the first mortgage lender is not a related party, officer, or partner to the Applicant or Developer or any entity involved in the preparation of the Application or construction of the proposed Development.

b. The Corporation shall request the Applicant's authorization for the first mortgage lender to release their credit underwriting information to our Credit Underwriter.

c. Applicants requesting HAP or HOME Permanent Loan funds shall be subject to an Analytical Review.

2. Credit Underwriting. The Applicant will be subject to a full credit underwriting by the Corporation's Credit Underwriter if the Applicant will not give authorization, the first mortgage lender will not release the information, or the information provided is determined to be insufficient.

(c) The Applicant shall submit the required information to the Credit Underwriter within sixty (60) days of the date of receipt of the notification letter. If an extension is needed, a written request substantiating the need for the extension must be provided to the Corporation prior to the sixty (60) day initial deadline, subject to approval by the Credit Underwriter and the Corporation Staff. However, the extension shall not exceed a period of sixty (60) days. In the event the time limitation expires, the Corporation will request that the Applicant relinquish the preliminary allocation and it will be made available to the next ranked Applicant.

(d) The Credit Underwriter shall verify all information in the Application, including information relative to the Applicant, Developer, Contractor and other members of the Development team. Upon receipt, the Corporation shall provide to the Applicant the section from the written draft report which includes the supporting information and schedules. The Applicant shall review and provide written comments to the Corporation and Credit Underwriter within 48 hours after receipt. After the 48-hour period, the Corporation shall provide comments on the draft report and, as applicable,

on the Applicant's comments to the Credit Underwriter. The Credit Underwriter shall review and incorporate the Corporation's and Applicant's comments and release the revised report to the Corporation and the Applicant. The Corporation and the Credit Underwriter must receive any additional comments from the Applicant within 72 hours of receipt of revised report. The Credit Underwriter will provide a final report, which will address comments made by the Applicant, to the Corporation.

(e) The underwriters may request additional information but at a minimum the following will be required:

1. For credit enhancers, audited financial statements for their most recent fiscal year ended, if published; otherwise the previous year's audited statements will be provided until the current statements are published or credit underwriting is complete. The audited statements may be waived if the credit enhancer is rated a least "A-" by Moody's, Standard and Poor's or Fitch.

2. For Principals and guarantors, audited financial statements or financial statements compiled or reviewed in accordance with Statement on Standards for Accounting and Review Services (SSARS) No. 1, which is adopted and incorporated herein by reference, for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If audited financial statements or financial statement compiled or reviewed in accordance with SSARS No. 1, are not available, unaudited financial statements prepared within the last 90 days and reviewed by the Credit Underwriter and the two most recent year's tax returns.

3. For the Contractor, audited financial statements or financial statements compiled or reviewed in accordance with SSARS No. 1, for the most recent fiscal year ended, credit check, banking and trade references, and deposit verification. The audited or compiled statements may be waived if a payment and performance bond equal to 100% of the total construction cost is issued in the name of the contractor by a company rated at least "A-" by AMBest & Co.

4. For the Applicant and general partner, audited financial statements or financial statements compiled or reviewed in accordance with SSARS No. 1, for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If the entities are newly formed (less than 18 months in existence as of the date that that credit underwriting information is requested), a copy of any and all tax returns with related supporting notes and schedules.

(f) The Credit Underwriter shall report any inconsistencies or discrepancies or changes made to the Applicant's Application during credit underwriting. If the Board determines at any time that the Applicant's Development or Development team is no longer the Development or Development team described in the Application, and the changes made are prejudicial to the Development or the market to be served by the Development or if any discrepancy or

misrepresentation is found, the Application will be rejected and the Corporation shall bear the cost of the underwriting review under contract with the Credit Underwriter. However, if the HAP or HOME commitment is cancelled for failure to adhere to rule deadlines or for reasons within Applicant's control, the Developer will be responsible for reimbursing the Corporation for fees incurred for credit underwriting and environmental review processing.

(g) The Credit Underwriter shall use the following procedures during the underwriting evaluation:

1. Review and determine if the number of loans and construction commitments of the Applicant and its Principals will impede its ability to proceed with the successful development of each proposed Corporation-funded Development.

2. The Credit Underwriter shall consider the following when determining the need for construction completion guarantees:

a. Liquidity of the guarantor.

b. Developer and Contractor's history in successfully completing Developments of similar nature.

c. Problems encountered previously with Developer.

d. Problems encountered previously with Contractor.

3. Review the appraisal and other market documentation to determine if the market exists to support both the demographic and income restriction set-asides committed to within the Application.

(h) A full or self-contained appraisal as defined by the Uniform Standards of Professional Appraisal Practice and a separate market study shall be ordered by the Credit Underwriter, at the Applicant's expense, from an appraiser qualified for the geographic area and product type not later than completion of credit underwriting. The Credit Underwriter shall review the appraisal to properly evaluate the loan request in relation to the property value. Appraisals and separate market studies which have been ordered and submitted by third party credit enhancers or first mortgagors, which meet the above requirements and are acceptable to the Credit Underwriter, may be used instead of the appraisal or market study referenced above.

(i) If the Credit Underwriter requires additional clarifying materials, the Credit Underwriter shall request that the Applicant provide them and specify a deadline for submission. Failure to submit the required information by the specified deadline shall result in the Application being rejected, unless a written extension of time is approved by the Board of Directors.

(j) A preconstruction analyses and review of the Development's costs shall be required prior to the closing of the HAP or HOME Loan.

(k) The Applicant will bear the cost of all documentation submitted to the Credit Underwriter for review (i.e., appraisal, credit report, environmental study, etc.). The Applicant may reimburse itself for these costs with HAP or HOME funds from the first Draw.

(l) After the approval of the Credit Underwriter's recommendation by the Board of Directors, or a committee appointed by the Board, the Corporations shall issue a HAP or HOME Loan commitment.

(m) Once the Board of Directors has approved the final credit underwriting report, the Applicant will have ninety (90) days from the credit underwriting approval date to close the Loan. If an extension is needed, a written request substantiating the need for the extension must be provided to the Corporation prior to the ninety (90) day initial deadline, subject to approval by the Credit Underwriter and the Corporation Staff; however, the extension cannot exceed a period of ninety (90) days. In the event the time limitation expires, the Corporation will request that the Applicant relinquish the preliminary allocation and it will be made available to the next ranked Applicant.

(n) The Applicant must submit a written request for any changes to the Development or its financing from the original Application. All requests must be submitted in writing to the program administrator and contain the specific reasons for requesting the change. The written request must be submitted to the Corporation's Board of Directors for consideration.

(3) At least five (5) Calendar Days prior to the Loan closing:

(a) The Applicant must provide evidence of all necessary consents or required signatures from first mortgagees or subordinate mortgagees to the Corporation and its counsel, and

(b) The Credit Underwriter must have received all items necessary to release its letter confirming that all closing contingencies have been met, including the finalized sources and uses of the funds and Draw schedule.

(4) Upon closing of the Loan, the Applicant will be required to commence construction within one hundred-twenty (120) days of the closing of the Loan. If additional time is needed, an extension must be filed in writing prior to the one hundred-twenty (120) day deadline, substantiating the need for the extension and an estimated date for commencement of construction, subject to approval by the Credit Underwriter and the Corporation Staff.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088, 420.5089 FS. History—New \_\_\_\_\_.

67-50.090 Disbursement of Funds, Draw Requests, and Loan Servicing.

(1) Disbursements of Funds. Construction Loan proceeds shall be disbursed in an amount that does not exceed the ratio of the Loan to the Total Development Cost and is pro-rata with all other construction financing, unless approved by the Corporation and the Credit Underwriter.

(2) Draw Requests. Ten (10) days prior to each Draw, the Applicant shall provide the Servicer with a signed, written Draw request, which includes the requested amount, documentation of liability and builder's risk insurance acceptable to the Corporation, and claims for labor and materials to date of the last inspection.

(3) Loan Servicing. The Servicer shall review the Draw request and provide the Corporation with approval of the request or an alternative amount.

(4) Five percent (5%) of the Loan funds will be held as retainage. Release of funds held as retainage for each house shall occur only after the Applicant provides:

(a) A satisfactory final inspection certificate or certificate of occupancy;

(b) A final, as-built survey;

(c) Evidence of liability and replacement cost hazard insurance acceptable to the Corporation; and

(d) A title insurance policy insuring the Corporation's interest and containing no exceptions that are unacceptable to the Corporation.

(5) In addition to the five percent (5%) retainage, the Corporation shall elect to withhold any Draw or portion of any Draw if:

(a) The actual budget cost or progress of construction is materially greater than that shown in the sources and uses statement;

(b) The percentage of progress of construction differs materially from that shown on the Draw Request; or

(c) The Draw Request cannot be supported by invoices for labor and materials.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(18), 420.5088, 420.5089 FS. History—New

67-50.100 Compliance and Monitoring.

(1) The Servicer shall inspect and monitor the Development's construction site and records, as necessary, with inspections occurring during regular business hours.

(2) The Servicer shall monitor the sale of houses and determine homebuyer eligibility at initial purchase. Failure to comply with the agreed upon set-aside requirements shall result in a retroactive interest rate adjustment from the HAP or HOME Construction Loan interest rate to the current market rate.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088, 420.5089 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Bridget E. Warring, HAP Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Esrone McDaniels, III, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2000, Corporation Board Meeting

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2001, Vol. 27, No. 45

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

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Securities and Finance**

RULE NOS.:	RULE TITLES:
3E-600.001	Application for Registration as a Dealer, Issuer/Dealer, or Investment Adviser
3E-600.002	Application for Registration as Associated Person
3E-600.0021	Investment Adviser Notification
3E-600.003	Multiple Registration
3E-600.004	Registration of Issuer/Dealers, Principals and Branch Offices
3E-600.007	Changes in Name and Successor Registration Requirements
3E-600.0092	Investment Adviser Registration Depository for Federal Covered Advisers
3E-600.0093	Investment Adviser Registration Depository for Investment Advisers
3E-600.019	Dealer, Investment Adviser, Branch Office and Associated Persons Forms

NOTICE OF CHANGE

In accordance with subparagraph 120.54(3)(d)1., F.S., notice is hereby given that the following change has been made to the proposed rule as published in the Vol. 28, No. 17, April 26, 2002, issue of the Florida Administrative Weekly.

The change is in response to written material received on or before the date for a final public hearing.

The rule shall now read as follows: