

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Forestry

RULE CHAPTER TITLE: Open Burning
 RULE CHAPTER NO.: 5I-2

PURPOSE AND EFFECT: The purpose of the rule development is to amend Rule Chapter 5I-2, F.A.C., in general to simplify and clarify the open burning rules and procedures.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development deletes definitions that are no longer necessary, and adds some new definitions to further clarify the rule. Defines under what conditions the Division can withhold authorizations when public health and safety are threatened. The proposed rule separates and defines the obligations of individuals (Certified and Un-Certified) requesting authorization to burn from the Division of Forestry. The proposed ruled includes what a prescribed burn prescription must contain in order to be approved. The language of the proposed rule has been simplified to facilitate the understanding of all Floridians.

SPECIFIC AUTHORITY: 570.07(23), (28), 590.02(1)(f) FS.

LAW IMPLEMENTED: 570.07(28), 570.548, 590.02(1)(b), 590.02(1)(f), 590.125 FS.

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

TIME AND DATE: 9:30 a.m., July 20, 2004

PLACE: Doyle Conner Complex, Eyster Auditorium, 3125 Conner Blvd., Tallahassee Florida 32399-1650

TIME AND DATE: 9:30 a.m., July 22, 2004

PLACE: Holiday Inn Crown Plaza, 10221 Princess Palm Ave., Tampa, FL 33610

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Jim Brenner, Fire Management Administrator, 3125 Conner Blvd., Tallahassee, Florida 32399-1650, Telephone: (850)488-6111, FAX: (850)488-4445, E-Mail: brennej@doacs.state.fl.us

The purpose of the workshop is to develop a draft revision of Chapter 5I-2, F.A.C., preliminary text is not available at this time.

Pursuant to the Americans with Disabilities Act, persons needing special accommodations to review the documents should contact Jim Brenner at (850)488-6111.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

RULE CHAPTER TITLE: Aquaculture Best Management Practices
 RULE CHAPTER NO.: 5L-3

PURPOSE AND EFFECT: The purpose and effect of this rulemaking is to amend the Rule and Aquaculture Best Management Practices Manual, October 2002.

SUBJECT AREA TO BE ADDRESSED: Amendments to the Rule and Aquaculture Best Management Practices Manual, October 2002.

SPECIFIC AUTHORITY: 570.07(23), 597.004(2)(b) FS.

LAW IMPLEMENTED: 597.002, 597.003, 597.004 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kal Knickerbocker, Division of Aquaculture, 1203 Governor's Square Boulevard, 5th Floor, Tallahassee, Florida 32301, Phone: (850)488-4033

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Residency For Tuition Purposes
 RULE NO.: 6A-10.044

PURPOSE AND EFFECT: Amends the current Residency Rule to establish clearer requirements for use by institutions in making student residency determinations.

SUBJECT AREA TO BE ADDRESSED: Residency for Tuition Purposes.

SPECIFIC AUTHORITY: 1009.21(11) FS.

LAW IMPLEMENTED: 1009.21 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE AND PLACE TO BE ADVERTISED IN A FUTURE EDITION OF THE FLORIDA ADMINISTRATIVE WEEKLY.

Requests for the rule development workshop should be addressed to Lynn Abbott, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1514, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Connie Graunke, Executive Director, Florida Center for Advising & Academic Support, 325 W. Gaines Street, Suite 1652, Turlington Building, Tallahassee, Florida 32399; (850)245-9536

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6A-10.044 Residency for Tuition Purposes.

~~The purpose of this rule is to establish Community Colleges and the Board of Regents shall maintain~~ consistent policies and practices for the classification of students as residents for tuition purposes ~~to facilitate the transfer of students among institutions.~~ The policies and practices may vary to accommodate differences in governance, but the determinations of classification or reclassification shall be consistent to assure that students are of being classified the same regardless of the institution determining the classification.

(1) The classification of a student as a Florida resident for tuition purposes by a public Florida community college or university shall be recognized by other public postsecondary institutions to which the student may later seek admission provided that student has attended that institution within the last 12 months ~~unless the classification was erroneous or the student did not then qualify as a resident for tuition purposes.~~

~~(2)~~ Once a public institution has classified a student as a resident for tuition purposes, institutions to which the student may transfer are not required to re-evaluate the classification unless inconsistent information suggests that an erroneous classification was made or the student's situation has changed.

(2) The Articulation Coordinating Committee shall ensure that consistent documents and processes are being used by institutions in carrying out the policies for classifying or re-classifying applicants as residents for tuition purposes.

~~(3) Changes the State Board of Education Community Colleges and the Board of Regents intend to make in the policies and practices for the classification of students as residents for tuition purposes shall be filed with the Articulation Coordinating Committee.~~

~~(3)(4)~~ Non-U.S. citizens such as permanent residents, parolees, asylees, refugees, or other permanent status persons (e.g., conditional permanent residents and temporary residents), who ~~have applied to and~~ have been approved by the U.S. Bureau of Citizenship and Immigration Services Immigration and Naturalization Service with no date certain for departure shall be considered eligible to establish Florida residency for tuition purposes.

~~(4)~~ ~~In addition,~~ Nonimmigrants holding one of the following visas shall be considered eligible to establish Florida residency for tuition purposes. Persons in visa categories not listed herein shall be considered ineligible to establish Florida residency for tuition purposes.

- (a) Visa category A – Government official.
- (b) Visa category E – Treaty trader or investor.
- (c) Visa category G – Representative of international organization.
- (d) Visa category H-1 – Temporary worker performing professional nursing services or in a specialty occupation.
- (e) Visa category H-4 – Only if spouse or child of alien classified H-1.
- (f) Visa category I – Foreign information media representative.
- (g) Visa category K – Fiance, fiancée, spouse or a child of United States citizen(s).
- (h) Visa category L – Intracompany transferee (including spouse or child).
- (i) Visa category N – Parent or child of alien accorded special immigrant status.
- (j) Visa category O-1 – Workers of “extraordinary” ability in the sciences, arts, education, business, or athletics.
- (k) Visa category O-3 – Only if spouse or child of O-1 alien.
- (l) Visa category R – Religious workers.
- (m) Visa category NATO 1-7 – Representatives and employees of NATO and their families.
- (n) Visa category T – Victims of trafficking who cooperate with federal authorities in prosecutions of traffickers and their spouses and children.
- (o) Visa category V – Spouses and children of lawful permanent residents.
- (5) Non-U.S. citizens who fall within the following categories shall also be considered eligible to establish Florida residency for tuition purposes:
 - (a) Citizens of Micronesia.
 - (b) Citizens of the Marshall Islands.
 - (c) Beneficiaries of the Family Unity Program.
 - (d) Individuals granted temporary protected status.
 - (e) Individuals granted withholding of deportation status.
 - (f) Individuals granted suspension of deportation status or cancellation of removal.
 - (g) Individuals granted a stay of deportation status.
 - (h) Individuals granted deferred action status.
 - (i) Individuals granted deferred enforced departure status.
 - (j) Applicants for adjustment of status.
 - (k) Asylum applicants with INS receipt or Immigration Court stamp.
- (6) If a declaration of domicile, pursuant to Section 222.17, Florida Statutes, is being used as one of the documents to establish residency for tuition purposes, the date that an applicant shall be deemed as establishing residency for tuition purposes shall be 12 months from the date that the Clerk of Circuit Court notes the declaration was sworn and subscribed to them.

(7) For purposes of this Rule, any reference to federal or state government shall be construed as meaning U.S. federal or state government.

(8) An applicant shall be classified at the time of initial classification as an "All Florida" resident for tuition purposes and the institution to which the applicant is applying shall grant the applicant residency for tuition purposes if all of the following criteria are met. If the applicant does not meet all of the criteria, he or she must be evaluated further to determine residency status.

(a) If the student indicates he/she is an independent person he/she will qualify as an All Florida resident if all of the following criteria are met:

1. Their nation of citizenship is the United States;
2. The student is 24 years of age or over;
3. Their permanent address is a Florida address;
4. The High School from which the student graduated is a Florida High School;
5. Every postsecondary school, college, or university attended is located in the State of Florida; and

6. The student provides written or electronic verification that he or she has been issued two of the following three Florida documents that are dated more than 12 months old: a voter's registration, a driver's license or a vehicle registration.

(b) If the student indicates he/she is a dependent person he/she will qualify as an All Florida resident if all of the following criteria are met:

1. Their nation of citizenship is the United States;
2. The student is under 24 years of age;
3. Their mother, father or legal guardian is the person claiming Florida residence;
4. The mother, father or legal guardian claiming Florida residence has a Florida permanent legal address; and

5. The mother, father or legal guardian claiming Florida residence provides written or electronic verification that he or she has been issued two of the following three Florida documents that are dated more than 12 months old: a voter's registration, a driver's license or a vehicle registration.

(c) Other applicants who do not fall into either of the above categories shall be further assessed by the institution to determine residency for tuition purposes and shall provide other documentation as required by the institution to make such determination.

(9) In determining the domicile of a married person, irrespective of sex, the determination of a legally married person shall be consistent with Chapter 741, Florida Laws.

(10) No independent or dependent student shall be deemed to have gained or acquired in-state status for tuition purposes while enrolled as a full-time student at any higher educational institution in this State, unless the student presents clear and convincing evidence that the student is establishing Florida as their permanent domicile and not establishing a mere

temporary residence incident to the enrollment in higher education. The definition of full time student shall be based on the federal financial aid definition.

(11) All documentation establishing the fact that a student is a resident eligible for residency for tuition purposes must be presented prior to the last day of registration for the term for which the student intends to enroll at a public postsecondary institution or the student will not be classified as a resident for tuition purposes for that term. For private postsecondary institutions all documentation establishing the fact that a student is a resident eligible for state financial assistance under Section 1009.89 or 1009.40, Florida Statutes, shall be presented prior to the deadline date for filing state reports for financial aid. The residency status will remain in place unless the student files for a re-classification or evidence is presented which indicates the residency status of the student has changed. The institution may define term(s) to include session(s), program(s) and/or course(s) that may be offered at times other than the regular semester term. The burden of establishing the facts, which justify classification of a student as a resident for tuition purposes rests with the applicant.

Specific Authority ~~1009.21 229.053(1), 240.325~~ FS. Law Implemented ~~1009.21 240.1204~~ FS. History--New 10-6-92, Amended 10-17-00, _____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF CORRECTIONS

RULE TITLE: Use of Force
 RULE NO.: 33-602.210

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify that videotaping is not required for the administration of chemical agents on an inmate creating a disturbance in his or her cell when the officer is attempting to resolve the situation without extracting the inmate from the cell.

SUBJECT AREA TO BE ADDRESSED: Use of force.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.35 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.210 Use of Force.

(1) No change.

(2) Physical force shall be employed only as a last resort when it reasonably appears that other alternatives are not feasible to control the situation and will not be used solely in response to verbal abuse that does not rise to a level of a disturbance. When the use of force is justified, only that amount and type of force that reasonably appears necessary to accomplish the authorized objective shall be used. All authorized use of force incidents will be videorecorded in their entirety, except that videotaping the administration of chemical agents is not required for use on an inmate creating a disturbance in his or her cell when the officer is attempting to resolve the situation without extracting the inmate from the cell. Videotaping will be initiated after the final exposure to chemical agents if cell extraction or other uses of force are necessary. All spontaneous use of force incidents will be videotaped from the point the video camera operator arrives at the scene. Videotaping shall continue uninterrupted until the incident is under control, the involved inmate is escorted to medical, and the inmate is subsequently returned to secure housing. Videotaping of post use of force medical exams shall be done in such a manner as to provide the privacy needed for the exam. If it is necessary to transport the inmate to an outside facility for treatment or to another department facility for secure housing purposes, videotaping shall continue until the inmate is loaded and secured in the transport vehicle.

(3) through (20) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.35 FS. History—New 4-8-81, Amended 10-10-83, 9-28-85, Formerly 33-3.066, Amended 3-26-86, 11-21-86, 4-21-93, 7-26-93, 11-2-94, 2-12-97, 11-8-98, Formerly 33-3.0066, Amended 10-6-99, 2-7-00, 7-25-02, 8-25-03, 2-25-04, _____.

DEPARTMENT OF CORRECTIONS

RULE TITLE: Protective Management
 RULE NO.: 33-602.221

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide clarification through: correction of staff and office titles; substitution of terms that more accurately describe department operations; and placement of a reference to an incorporated form in a more appropriate location within the rule.

SUBJECT AREA TO BE ADDRESSED: Protective Management.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.34, 945.04 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.221 Protective Management.

(1) No change.

(2) Procedures for placement in Protective Management.

(a) through (c) No change.

(d) When the SCO determines that protective management is appropriate for an inmate, the inmate shall be interviewed by the housing supervisor and a review shall be initiated to assess the inmate's potential risk to or from other inmates in the unit. The completion of this review will be documented on Form DC6-235, Record of Protective Management. Form DC6-235 is incorporated by reference in subsection ~~(9)~~(10) of this rule. If the inmate can not be placed for this reason the housing supervisor shall place or maintain the inmate in administrative confinement until the issue can be expeditiously resolved. The case shall be immediately forwarded to the ICT for review. The ICT shall review the case and interview the inmate and forward recommendations to the SCO. The SCO shall review the case and may interview the inmate and make a final decision to resolve protection.

(3) Protective Management Facilities.

(a) The number of inmates housed in protective management housing units shall not exceed the number of beds in the cell. Exceptions may be made during an emergency situation as approved by the warden or duty warden, but such exceptions shall not continue for more than 24 hours without the specific written authorization of the regional director of institutions or designee. Prior to placing inmates in the same cell, a determination shall be made by the housing supervisor that none of the inmates constitute a threat to any of the others, and document such on Form DC6-235, Record of Protective Management.

(b) through (d) No change.

(4) Conditions and Privileges.

(a) No change.

(b) Bedding and linen – Bedding and linen shall be issued and exchanged for protective management inmates the same as for the general inmate population. Any exceptions shall be based on potential harm to individuals or a threat to the security of the institution. The shift supervisor or the housing confinement lieutenant must approve the action initially. Such exceptions shall be documented on Form DC6-235, Record of Protective Management, and the chief of security shall make the final decision in regard to the appropriateness of the action no later than the next working day following the action.

(c) through (t) No change.

(5) Work Assignments.

(a) Within 10 days of the protective management determination, work opportunities consistent with medical grades shall be available to inmates in protective management during the day, evening or night hours. All inmates shall be provided the opportunity for work assignments regardless of medical grade except when precluded by doctor's orders for medical reasons. Work shall be cancelled for an individual inmate or a work squad when staff concludes the work or work assignment would subject the inmate to danger or if adequate staff protection is not available. Each occurrence of work cancellation will be documented with reasons for the action on Form DC6-210, Incident Report, and shall be reviewed by the warden or ICT the next working day. Form DC6-210 is incorporated by reference in subsection 33-602.210(9), F.A.C. Refusal of a work assignment shall result in disciplinary action pursuant to Rules 33-601.301-601.314, F.A.C. Inmates who refuse work assignments will not be allowed other housing unit activities. Inmates ~~Those~~ who accept work assignments shall be subject to awards of gain time pursuant to Rule 33-601.101, F.A.C., in the same manner as general population.

(b) No change.

(6) Restraint and Escort Requirements.

(a) No change.

(b) Protective management inmates shall be subject to searches in the same manner as open ~~general~~ population inmates in accordance with Rule 33-602.204, F.A.C.

(7) Contact by Staff.

(a) The following staff members shall be required to officially inspect and tour the protective management unit. All visits by staff shall be documented on Form DC6-228, Inspection of Special Housing Record. The staff member shall also document his or her visit on the Record of Protective Management, Form DC6-235, if, during the official visit by staff, any discussion of significance, action or behavior of the inmate occurs or any information is obtained which may have an effect on the status of protective management. These visits shall be conducted at a minimum of:

1. through 7. No change.

8. Weekly ~~At least once a week~~ by a classification officer.

9. No change.

(b) Any inmate who has demonstrated behavior that is or could be harmful to him or herself shall be designated as a special risk inmate. If the inmate demonstrates bizarre, mentally disordered, or self-destructive behavior, health services staff ~~the medical department~~ shall be immediately contacted to determine if special watch or suicide watch procedures shall be initiated. Suicidal inmates shall be removed to a designated area where a correctional officer or health care staff provides observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist, until the inmate is no longer considered

a special risk inmate. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229, Daily Record of Segregation, and followed with an Incident Report, Form DC6-210. Form DC6-229 and Forms DC4-650 are incorporated by reference in subsection 33-602.220(11), F.A.C.

(8) Review of Protective management.

(a) The Institutional Classification Team shall review inmates in protective management weekly ~~every week~~ for the first 60 days. The purpose of this review will ~~goal shall be to return toward returning~~ the inmate to general population as soon as the facts of the case indicate that this can be done safely.

(b) through (e) No change.

(9) Protective Management Records.

(a) through (b) No change.

(c) A Record of Protective Management, Form DC6-235 shall be maintained for each inmate as long as the inmate is in protective management. Once the inmate is released from protective management, Form DC6-235 will be forwarded to classification to be filed in the institutional inmate record. This form shall be used to record any action, remarks or disposition made on a specific inmate. Notations shall be made on Form DC6-235 by health services ~~medical~~ staff, the ICT, the SCO or other staff dealing directly with the inmate. If items are denied or removed from the inmate, the senior correctional officer on duty must approve the action. The central office ADA coordinator will be contacted within 24 hours if any item is removed that would be considered an auxiliary aid or device that ensures a disabled inmate of equal opportunity as a non-disabled inmate. The items denied or removed will be documented on the Form DC6-235 and the chief of security will make the final decision in regard to the appropriateness of that action no later than the next working day following this action. The housing supervisor will document any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action will also be documented. Form DC6-235, Record of Protective Management, is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of the form is January 19, 2003.

(d) No change.

~~(10) Form DC6-235, Record of Protective Management, is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of the form is January 19, 2003.~~

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.34, 945.04 FS. History—New 6-23-83, Formerly 33-3.082, Amended 3-12-84, 7-10-90, 12-4-90, 4-26-98, Formerly 33-3.0082, Amended 2-12-01, 1-19-03, 4-1-04, _____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Prescribed Drug Services
 RULE NO.: 59G-4.250

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Prescribed Drug Services, Coverage, Limitations and Reimbursement Handbook, July 2004. This version of the handbook contains revisions related to the legislative changes in the years 2002, 2003 and 2004. The effect will be to incorporate by reference in the rule the current Florida Medicaid Prescribed Drug Services Coverage, Limitations and Reimbursement Handbook.

SUBJECT AREA TO BE ADDRESSED: Prescribed Drug Services.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906(20), 409.908, 409.912, 409.9081 FS.

IF REQUESTED IN WRITING WITHIN 14 DAYS BY AN AFFECTED PERSON AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT TIME, DATE AND PLACE SHOWN BELOW.

TIME AND DATE: 9:00 a.m., July 14, 2004

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room D, Tallahassee, FL 32308
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Julie Davis, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 38, Tallahassee, FL 32308-5407, (850)487-4441

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.250 Prescribed Drug Services.

(1) No change.

(2) All participating prescribed drug services providers enrolled in the Medicaid program must comply with the provisions of the Florida Medicaid Prescribed Drug Services Coverage, Limitations and Reimbursement Handbook, July 2004, ~~July 2001~~, which is incorporated by reference, and available from the fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906(20), 409.908, 409.912 FS. History—New 1-1-77, Amended 6-30-77, 10-1-77, 2-1-78, 4-1-78, 9-28-78, 6-1-79, 2-28-80, 11-11-81, 7-3-84, Formerly 10C-7.42, Amended 3-11-86, 12-5-88, 6-4-90, 10-29-90, 5-20-92, 4-11-93, Formerly 10C-7.042, Amended 12-28-95, 8-3-97, 2-11-98, 9-13-99, 7-20-00, 7-1-01, _____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Payment Methodology for Nursing Home Services
 RULE NO.: 59G-6.010

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Long-Term Care Reimbursement Plan payment methodology, effective July 1, 2004, to provide the following changes based on House Bill 1835, General Appropriations Act 2004-05, Specific Appropriation 232.

1. Effective July 1, 2004 and all subsequent rate semesters, each component of a nursing home rate, except for the direct care component, shall be reduced proportionately until an aggregate total estimated savings of \$66,689,094 is achieved on an annualized basis.

2. Cost reports submitted on or after July 1, 2004, must include the following statement immediately preceding the dated signature of the provider’s administrator or chief financial officer: “I certify that I am familiar with the laws and regulations regarding the provision of health care services under the Florida Medicaid program, including the laws and regulations relating to claims for Medicaid reimbursements and payments, and that the services identified in this cost report were provided in compliance with such laws and regulations.”

SUBJECT AREA TO BE ADDRESSED: Nursing home reimbursement rates and cost reports.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

TIME AND DATE: 9:00 a.m., July 13, 2004

PLACE: 2727 Mahan Drive, Conference Room D, Building 3, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Robert Butler, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Tallahassee, Florida 32308, (850)414-2756

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE FROM THE CONTACT PERSON LISTED ABOVE.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: RULE NO.:

Payment Methodology for Inpatient 59G-6.020
Hospital Services

PURPOSE AND EFFECT: The purpose and effect of the proposed amendment is to incorporate changes to the Florida Title XIX Inpatient Hospital Reimbursement Plan payment methodology, effective July 1, 2004, to provide the following changes:

1. \$47,497,222 is provided for special Medicaid payments to statutory teaching hospitals; family practice teaching hospitals; hospitals providing primary care to low-income individuals; hospitals operating as designated or provisional trauma centers; and rural hospitals. Statutory teaching hospitals that received a special Medicaid payment in State Fiscal Year 2003-04 shall be paid \$12,203,921 distributed in the same proportion as the State Fiscal Year 2003-04 special Medicaid payments to statutory teaching hospitals. Family practice teaching hospitals shall be paid \$2,330,882 distributed equally between the hospitals. Hospitals providing primary care to low-income individuals and participating in the Primary Care DSH program in state Fiscal Year 2003-04 shall be paid \$12,203,921 distributed in the same proportion as the Primary Care DSH payments for State Fiscal Year 2003-04. Hospitals designated as provisional trauma centers shall be paid \$12,375,000. Of this amount, \$5,355,000 shall be distributed equally between hospitals that are a Level I trauma center; \$4,500,000 shall be distributed equally between hospitals that are either a Level II or pediatric trauma center; and \$2,520,000 shall be distributed equally between hospitals that are both a Level II and pediatric trauma center. Of the amount payable to the Level I trauma centers, \$765,000 is reserved for Shands Teaching Hospital, upon their becoming a designated or provisional trauma center. Rural hospitals participating in the Rural Hospital DSH program shall be paid \$8,383,500 distributed in the same proportion as the DSH payments.
2. \$2,000,000 is provided for special Medicaid payments to specialty pediatric facilities. To qualify for a special Medicaid payment under this section a hospital must be licensed as a children's specialty hospital and their combined Medicaid managed care and fee for service days as a percentage to total inpatient days equals or exceeds 30 percent. The agency shall use the 2002 Financial Hospital Uniform Reporting System (FHURS) data to determine the combined Medicaid managed care and fee-for-service days. The total special Medicaid payments made shall be distributed equally to the qualifying hospitals.
3. \$46,910,529 is provided to eliminate the inpatient reimbursement ceilings for hospitals whose charity care and Medicaid days, as a percentage of total adjusted hospital days, equal or exceed 11 percent. The agency shall use the average of the 1998, 1999 and 2000 audited DSH data available as of

March 1, 2004. In the event the agency does not have the prescribed three years of audited DSH data for a hospital, the agency will use the average of the audited DSH data for 1998, 1999, and 2000 that are available.

4. \$19,477,766 is provided to eliminate the inpatient hospital reimbursement ceilings for hospitals whose Medicaid days as a percentage of total hospital days exceed 9.6 percent, and are trauma centers. The agency shall use the average of the 1998, 1999 and 2000 audited DSH data available as of March 1, 2004. In the event the agency does not have the prescribed three years of audited DSH data for a hospital, the agency will use the average of the audited DSH data for 1998, 1999 and 2000 that are available.

5. \$103,495,651 is provided to make special Medicaid payments to hospitals that serve as a safety net in providing emergency, specialized pediatric trauma services and inpatient hospital care to low-income individuals. These amounts shall be paid to the following:

Jackson Memorial Hospital	\$3,322,365
University Medical Center – Shands	\$44,418,270
All Children's Hospital	\$6,637,413
Shands Teaching Hospital	\$7,703,253
Tampa General Hospital	\$18,914,451
Orlando Regional Medical Center	\$5,560,262
Lee Memorial Hospital/CMS	\$950,000
St. Mary's Hospital	\$291,706
Miami Children's Hospital	\$5,400,000
Broward General Medical Center	\$330,366
Tallahassee Memorial Healthcare	\$54,402
St. Joseph's Hospital	\$52,835
Florida Hospital	\$55,072
Baptist Hospital of Pensacola	\$450,000
Mt. Sinai Medical Center	\$8,972,075
Bayfront Medical Center	\$215,975
Sacred Heart Hospital	\$166,977

6. \$406,672,080 is provided for special Medicaid payments to hospitals providing enhanced services to low-income individuals.

7. \$182,616,639 is provided to eliminate the inpatient reimbursement ceilings for teaching, specialty, Community Hospital Education Program hospitals and Level III Neonatal Intensive Care Units that have a minimum of three of the following designated tertiary services as regulated under the certificate of need program: pediatric bone marrow transplantation, pediatric open heart surgery, pediatric cardiac catheterization and pediatric heart transplantation.

8. \$3,183,014 is provided to make special Medicaid payments to the hospitals. These payments may be used, in collaboration with the Department of Health, to provide funding for hospitals providing poison control programs.

9. Special Medicaid payments to reward hospitals enhancing medical education programs are discontinued.

10. \$7,299,270 is provided to make special Medicaid payments to hospitals. These payments may be used, in collaboration with the Department of Health, to provide funding for hospitals supporting primary care services in medically underserved areas.

11. Effective July 1, 2004 and all subsequent rate semesters, each inpatient rate shall be reduced proportionately until an aggregate total estimated savings of \$69,662,000 is achieved on an annualized basis. In reducing hospital inpatient rates, rural hospitals and hospitals with twenty thousand (20,000) or more combined Medicaid managed care and fee-for-service inpatient days shall not have their inpatient rates reduced below the final rates that are effective on June 30, 2004. The 2002 Financial Hospital Uniform Reporting System (FHURS) data shall be used to determine the combined inpatient Medicaid days.

12. \$26,296,287 is payable to the following hospitals: Jackson Memorial Hospital – \$13,999,408; Broward General Medical Center – \$6,298,136; North Broward Medical Center – \$1,827,884; Coral Springs Medical Center – \$622,184; Imperial Point Hospital – \$756,557; and Memorial Regional Hospital – \$2,792,118. These funds are additional disproportionate share dollars provided through the Medicare Prescription Drug Act for Federal Fiscal Year 2004.

13. Cost reports submitted on or after July 1, 2004, must include the following statement immediately preceding the dated signature of the provider’s administrator or chief financial officer: “I certify that I am familiar with the laws and regulations regarding the provision of health care services under the Florida Medicaid program, including the laws and regulations relating to claims for Medicaid reimbursements and payments, and that the services identified in this cost report were provided in compliance with such laws and regulations.”

14. Cost reports beginning January 1, 2005 and later shall report all allowable direct and indirect graduate medical education (GME) costs within inpatient cost centers. No GME costs shall be reported in outpatient cost centers.

SUBJECT AREAS TO BE ADDRESSED: Special Medicaid payments, Florida Medicaid upper payment limit (UPL), DSH formulas, and cost reporting issues.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

TIME AND DATE: 10:00 a.m., July 13, 2004

PLACE: 2727 Mahan Drive, Conference Room D, Building 3, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Robert Butler, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2120-B, Tallahassee, Florida 32308, (850)414-2759

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT THIS TIME. PLEASE CONTACT THE PERSON LISTED ABOVE FOR A COPY OF THE PLAN.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Payment Methodology for Outpatient Hospital Services **RULE NO.:** 59G-6.030

PURPOSE AND EFFECT: The purpose and effect of the proposed amendment is to incorporate changes to the Florida Title XIX Outpatient Hospital Reimbursement plan (the Plan) payment methodology. Effective July 1, 2004, the proposed rates for Medicaid outpatient hospitals will be rates resulting from the revised methodology used to calculate per diems including appropriations from the 2004-05 General Appropriations Act, House Bill 1835, Specific Appropriation 206.

1. \$46,058,449 is provided to increase the outpatient cap for adults from \$1,000 to \$1,500 per year and to eliminate the outpatient reimbursement ceilings for teaching, specialty, Community Health Education Program hospitals and Level III Neonatal Intensive Care Units that have a minimum of three of the following designated tertiary services as regulated under the certificate of need program: pediatric bone marrow transplantation, pediatric open heart surgery, pediatric cardiac catheterization and pediatric heart transplantation.

2. \$9,194,434 is provided to eliminate the outpatient reimbursement ceilings for hospitals whose charity care and Medicaid days as a percentage of total adjusted hospital days equals or exceeds 11 percent. The agency shall use the average of the 1998, 1999 and 2000 audited Disproportionate Share Hospital (DSH) data available as of March 1, 2004. In the event the agency does not have the prescribed three years of audited DSH data for a hospital, the agency will use the average of the audited DSH data for 1998, 1999 and 2000 that are available.

3. \$769,913 is provided to eliminate the outpatient reimbursement ceilings for hospitals whose Medicaid days, as a percentage of total hospital days, exceed 9.6 percent, and are trauma centers. The agency shall use the average of the 1998, 1999 and 2000 audited DSH data available as of March 1, 2004. In the event the agency does not have the prescribed three years of audited DSH data for a hospital, the agency will use the average of the audited DSH data for 1998, 1999 and 2000 that are available.

4. Cost reports submitted on or after July 1, 2004, must include the following statement immediately preceding the dated signature of the provider's administrator or chief financial officer: "I certify that I am familiar with the laws and regulations regarding the provision of health care services under the Florida Medicaid program, including the laws and regulations relating to claims for Medicaid reimbursements and payments, and that the services identified in this cost report were provided in compliance with such laws and regulations."

5. Cost reports beginning January 1, 2005 and later shall not include any direct or indirect graduate medical education (GME) costs in any outpatient cost center. All GME costs are to be reported and/or allocated to inpatient cost centers.

6. Effective July 1, 2004 and all subsequent rate semesters, each outpatient rate shall be reduced proportionately until an aggregate total estimated savings of \$14,103,000 is achieved on an annualized basis. In reducing hospital outpatient rates, rural hospitals and hospitals with twenty thousand (20,000) or more combined Medicaid managed care and fee-for-service inpatient days shall not have their outpatient rates reduced below the final rates that are effective on June 30, 2004. The 2002 Financial Hospital Uniform Reporting System (FHURS) data shall be used to determine the combined inpatient Medicaid days.

SUBJECT AREA TO BE ADDRESSED: Outpatient hospital reimbursement rates, ceilings, and cost reports.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

TIME AND DATE: 11:00 a.m., July 13, 2004

PLACE: 2727 Mahan Drive, Conference Room D, Building 3, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Robert C. Butler, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2120B, Tallahassee, Florida 32308, (850)414-2756

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Payment Methodology for Services in Facilities Not Publicly Owned and Publicly Operated (Facilities Formerly Known As ICF/DD Facilities) RULE NO.: 59G-6.045

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Intermediate Care Facilities (ICF) for the Mentally Retarded and the Developmentally Disabled Facilities not publicly owned and not publicly operated Reimbursement Plan (the Plan) in accordance with the 2004-05 General Appropriations Act, House Bill 1835, Specific Appropriation 231.

The purpose and the effect of the proposed amendment is:

1. Effective July 1, 2004, individual rates shall be reduced proportionately by an estimated aggregate total of \$4,788,000 per state fiscal year. The full amount of the estimated reduction of \$4,788,000 shall be applied to the rates in effect from October 1, 2004 through June 30, 2005, then annually thereafter.

2. Cost reports submitted on or after July 1, 2004, must include the following statement immediately preceding the dated signature of the provider's administrator or chief financial officer: "I certify that I am familiar with the laws and regulations regarding the provision of health care services under the Florida Medicaid program, including the laws and regulations relating to claims for Medicaid reimbursements and payments, and that the services identified in this cost report were provided in compliance with such laws and regulations."

3. Change from "Health Care Financing Administration (HCFA)" to "Centers for Medicare and Medicaid Services (CMS)."

4. Updates to Code of Federal Regulation (CFR), Florida Administrative Code (FAC), and Florida Statute references.

5. Vacancy interim rates will be prohibited unless the bed(s) in question has been empty for at least 90 days (the waiting period), the facility has an occupancy rate of at least 95%, and the effected reimbursement rate is based upon patient days that included occupancy of the bed(s). The vacancy interim rate will not cover the 90-day waiting period.

6. The period between the exit conference from an audit and the date the cost report is deemed audited will be increased from 30 days to 60 days.

SUBJECT AREA TO BE ADDRESSED: Florida Medicaid Title XIX Intermediate Care Facilities (ICF) for the Mentally Retarded and the Developmentally Disabled Facilities not publicly owned and not publicly operated reimbursement methodology.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

IF REQUESTED IN WRITING, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., July 13, 2004

PLACE: 2727 Mahan Drive, Conference Room D, Building 3, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Robert C. Butler, Bureau Chief, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2106-B, Tallahassee, Florida 32308, (850)414-2759

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE FROM THE CONTACT PERSON LISTED ABOVE

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Medicaid Contracts for Prepaid Health Plans
 RULE NO.: 59G-8.100

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Payment Methodology for Participating Medicaid Managed Health Care Plans, effective July 1, 2004, to provide the following changes based on House Bill 1843, 2004-2005 Florida Legislature.

The Agency is amending the rule to:

1. Revise the methodology regarding trend factors;
2. Revise fee-for-service base for groups enrolled for part of a year; and
3. Revise methodology for behavioral health care services.

SUBJECT AREAS TO BE ADDRESSED: Payment methodology for participating Medicaid managed health care plans.

SPECIFIC AUTHORITY: 409.9124, 409.919 FS.

LAW IMPLEMENTED: 409.9124(1) FS.

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

TIME AND DATE: 3:00 p.m., July 13, 2004

PLACE: 2727 Mahan Drive, Conference Room D, Building 3, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Robert Butler, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Tallahassee, Florida 32308, (850)414-2756

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE AT THIS TIME. PLEASE CONTACT THE PERSON LISTED ABOVE FOR A COPY WHEN IT IS AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Pilot Commissioners

RULE TITLE: Percentage of Gross Pilotage Assessed
 RULE NO.: 61G14-19.001

PURPOSE AND EFFECT: The Board intends to review the rule and determine whether changes to the rule are necessary.

SUBJECT AREA TO BE ADDRESSED: Percentage of gross pilotage.

SPECIFIC AUTHORITY: 310.131, 310.185 FS.

LAW IMPLEMENTED: 310.131 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Anthony Spivey, Executive Director, Board Pilot Commissioners, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLE: Definitions
 RULE NO.: 61G15-18.011

PURPOSE AND EFFECT: This rule is being amended to delete obsolete terminology, update and clarify terminology pursuant to Chapter 471, F.S., as it relates to the practice of professional engineering.

SUBJECT AREA TO BE ADDRESSED: Definitions.

SPECIFIC AUTHORITY: 471.003(2)(f), 471.008, 471.013(1)(a)1., 2. FS.

LAW IMPLEMENTED: 471.003(2)(f), 471.005(6), 471.013(1)(a)1., 2., 471.025(3), 471.033(1)(j) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Carrie Flynn, Acting Executive Director, Florida Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G15-18.011 Definitions.

As used in Chapter 471, F.S., and in these rules where the context will permit the following terms have the following meanings:

(1) "Responsible Charge" shall mean that degree of control an engineer is required to maintain over engineering decisions made personally or by others over which the engineer exercises supervisory direction and control authority. The engineer in responsible charge is the Engineer of Record as defined in subsection 61G15-30.002(1), F.A.C.

(a) The degree of control necessary for the Engineer of Record ~~an engineer to be in responsible charge~~ shall be such that the engineer:

1. Personally makes engineering decisions or reviews and approves proposed decisions prior to their implementation, including the consideration of alternatives, whenever engineering decisions which could affect the health, safety and welfare of the public are made. In making said engineering decisions, the engineer shall be physically present or, if not physically present, be available in a reasonable period of time, through the use of electronic communication devices, such as electronic mail, videoconferencing, teleconferencing, computer networking, and via facsimile transmission ~~be available in a reasonable period of time.~~

2. No change.

(b) Engineering decisions which must be made by and are the responsibility of the Engineer of Record ~~engineer in responsible charge~~ are those decisions concerning permanent or temporary work which could create a danger to the health, safety, and welfare of the public, such as, but not limited to, the following:

1. through 4. No change.

(c) As a test to evaluate whether an engineer is the Engineer of Record, in responsible charge, the following shall ~~must~~ be considered:

1. The engineer shall ~~An engineer who signs and seals engineering documents in responsible charge must~~ be capable of answering questions relevant to the engineering decisions made during the engineer's work on the project, in sufficient detail as to leave little doubt as to the engineer's proficiency for the work performed and involvement in said work. It is not necessary to defend decisions as in an adversary situation, but only to demonstrate that the engineer in responsible charge made them and possessed sufficient knowledge of the project to make them. Examples of questions to be answered by the engineer could relate to criteria for design, applicable codes and standards, methods of analysis, selection of materials and systems, economics of alternate solutions, and environmental considerations. The individuals should be able to clearly define the span and degree of control and how it was exercised and to demonstrate that the engineer was answerable within said span and degree of control necessary for the engineering work done.

2. The engineer shall be completely in charge of, and satisfied with, the engineering aspects of the project.

3. The engineer shall have the ability to review design work at any time during the development of the project and shall be available to exercise judgment in reviewing these documents.

4. The engineer shall have personal knowledge of the technical abilities of the technical personnel doing the work and be satisfied that these capabilities are sufficient for the performance of the work.

(d) No change.

(2) through (5) No change.

Specific Authority 471.003(2)(f), 471.008, 471.013(1)(a)1., 2. FS. Law Implemented 471.003(2)(f), 471.005(6), 471.013(1)(a)1., 2., 471.025(3), 471.033(1)(j) FS. History—New 6-23-80, Amended 12-19-82, 11-22-83, Formerly 21H-18.11, Amended 1-16-91, 4-4-93, Formerly 21H-18.011, Amended 12-22-99, 4-19-01, 10-16-02, _____.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Board of Speech-Language Pathology and Audiology

RULE TITLE: On-the-Job Training, Role and Observation of Speech-Language Pathology and Audiology Assistants
 RULE NO.: 64B20-4.003

PURPOSE AND EFFECT: The Board proposes to review the existing language in this rule to determine if any amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: On-the-job training, role and observation of speech-language pathology and audiology assistants.

SPECIFIC AUTHORITY: 468.1135(4) FS.

LAW IMPLEMENTED: 468.1215, 468.1125(3), (4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Pamela E. King, Executive Director, Board of Speech-Language Pathology and Audiology, 4052 Bald Cypress Way, Bin C06, Tallahassee, Florida 32399

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

(9) “Household” means one or more persons living in one dwelling place who are related by blood, marriage, law or conception, and it includes persons unrelated who contribute to the economic status of the applicant.

(10) “Household Income” means spouses and all adult persons living in the household who are related or unrelated and contribute to economic status of the applicant.

(11) “HIV/AIDS Patient Care Programs” are the Ryan White Title II Consortia Program, the Ryan White Title II AIDS Drug Assistance Program, the Ryan White Title II AIDS Insurance Continuation Program, Housing Opportunities for Persons with AIDS and HIV/AIDS Patient Care Programs provided by the County Health Departments as administered by the Department of Health, Bureau of HIV/AIDS.

(12) “Low Income” means a person with a gross income less than or equal to 300% of the Federal Poverty Level (FPL) as published and updated annually by the Federal Office of Management and Budget (OMB).

(13) “Verification” means to confirm the accuracy of information through sources other than a self-declaratory statement of the applicant.

Specific Authority 381.003(1)(c) FS. Law Implemented 381.011(1), 381.003(1)(c) FS. History—New _____.

64D-4.003 Eligibility and Documentation Requirements.

The eligibility and documentation requirements for determination to receive allowable services from the HIV/AIDS Patient Care Programs include the following:

(1) An applicant must submit an Application for Eligibility Determination to Receive Allowable Services for the HIV/AIDS Patient Care Programs (DOH Form #1234).

(2) All requested information and documentation must be included with the application or provided to eligibility staff during the eligibility process. Failure to provide the requested information will delay or prevent a determination of eligibility.

(3) An applicant must have documentation of a medical diagnosis of HIV disease. A laboratory test documenting confirmed HIV infection is required from one of the following is required:

(4) A confirmed positive HIV antibody test result (e.g. Elisa (EIA) & Western Blot) by blood or Orasure.

(a) A positive HIV direct viral test such as PCR or P24 antigen.

(b) A positive viral culture results.

(c) A detectable HIV-viral load & viral resistance test.

(d) An applicant must be living in the state of Florida at the time of the eligibility determination with the intent to remain in the state.

(5) An applicant must not be receiving services or eligible to participate in local, state or federal programs where the same type service is provided or available. The requirement does not

preclude an applicant from receiving allowable services not provided or available by other local, state or federal programs or pending enrollment.

(6) An applicant must have low-income with a gross income less than or equal to 300% of Federal Poverty Level (FPL) as published and updated annually by the Federal Office of Management and Budget (OMB).

(7) An applicant cannot have cash assets greater than or equal to \$12,000.

(8) An applicant must be willing to cooperate with eligibility staff during the eligibility process and as required in Part 6 of the Application.

Specific Authority 381.003(1)(c) FS. Law Implemented 381.011(1), 381.003(1)(c) FS. History—New _____.

64D-4.004 Determination of Eligibility or Ineligibility.

(1) Eligibility staff is required to make a determination of eligibility and provide written confirmation of an applicant’s status within 30 days from the receipt of the Application and the requested information, unless approved by the supervisor.

(2) If an applicant is determined eligible, he/she is provided a written confirmation of the eligibility determination with a referral to the appropriate programs for allowable services.

(3) If an applicant is determined ineligible, the applicant is provided a written explanation as to why he/she is ineligible and is provided information on the right to appeal in accordance with Chapter 120, F.S. A supervisory review of the applicant’s case is required prior to a determination of ineligibility.

Specific Authority 381.003(1)(c) FS. Law Implemented 381.011(1), 381.003(1)(c) FS. History—New _____.

64D-4.005 Determination of Continued Eligibility.

(1) Eligibility of an existing client is re-determined every six months on DOH Form 2468, which is incorporated by reference in accordance with the procedures established in the Procedure’s Manual. Re-determination will occur at shorter intervals if the client’s income and other eligibility factors change before the 6-month period. The written confirmation requirements established in subsections 64D-4.004(1)-(3), F.A.C., of this rule will apply.

(2) The client must report any change in his/her situation which will impact his/her eligibility status to the Department no later than 10 days after it is known

(3) A client can be determined ineligible to receive services for the following reasons:

(a) A client is no longer living in the state of Florida with the intent to remain in the state.

(b) A client is eligible to receive services or participating in local, state or federal programs where the same type service is provided or available.

(c) A client is no longer considered low-income.

- (d) A client's assets exceed \$12,000.
- (e) A client has not been truthful on the Re-certification Application.
- (f) A client has been threatening, hostile and uncooperative towards Department staff.

Specific Authority 381.003(1)(c) FS. Law Implemented 381.011(1), 381.003(1)(c) FS. History--New

64D-4.006 Rights and Responsibilities.

- (1) Any person has the right to apply for a determination of eligibility to receive allowable services from the HIV/AIDS Patient Care Programs in accordance with this rule chapter.
- (2) The applicant or client is responsible for adhering to the statements contained in the Rights and Responsibilities section of the Application.
- (3) The applicant or client is responsible for demonstrating behavior that is cooperative, civil and respectful of others during and after the eligibility process.
- (4) The applicant has the right to appeal the determination of ineligibility if he/she believes the decision was made incorrectly and unfairly in accordance with procedures established in Chapter 120, F.S.

Specific Authority 381.003(1)(c) FS. Law Implemented 381.011(1), 381.003(1)(c) FS. History--New

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: Minimum Security Procedures for Voting Systems RULE NO.: 1S-2.015
 PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to revise and update its content to comply with current Florida Statutes.
 SUMMARY: The rule is being amended to update it so that it complies and reflects current requirements under Florida Statutes.
 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: 101.015 FS.
 LAW IMPLEMENTED: 101.015(4) FS.
 HEARINGS WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:
 TIME AND DATE: 11:00 a.m., Monday, July 13, 2004
 PLACE: 500 South Bronough Street, R.A. Gray Building Auditorium, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sarah Jane Bradshaw, Division of Elections, 500 South Bronough Street, R.A. Gray Building, Suite 316, Tallahassee, Florida 32399, (850)245-6220
 Pursuant to the Americans with Disabilities Act, persons needing special accommodations to participate in this meeting should contact Marielba Torres, (850)245-6200, at least three days in advance of the meeting.

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.015 Minimum Security Procedures for Voting Systems.

- (1) ~~PURPOSE Purpose.~~
~~(a) To achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting, including write-in voting, and of counting, tabulating and recording votes by voting systems used in the State of Florida, pursuant to Section 101.015(3), F.S.~~
~~(b) To establish minimum security standards for voting systems and requirements for filing and review of written security procedures, pursuant to Section 101.015(4), F.S.~~
- (2) DEFINITIONS Definitions. The following words and phrases shall be construed as follows when used in this rule:
~~(a) A "Ballot" when used in reference to means one or more of the following:~~

1. "Paper ballot" means that printed sheet of paper, used in conjunction with an electronic or electromechanical vote tabulation voting system, containing the names of candidates, or a statement of proposed constitutional amendments or other questions or propositions submitted to the electorate at any election, on which sheet of paper an elector casts his or her vote. A device created for the purpose of advising an elector of the valid choices for voting. Ballots may be reproduced on paper, video screens, liquid crystal displays, or on other visual, audible, printed, or electronic media.

2. "Electronic or electromechanical device" means a ballot that is voted by the process of electronically designating, including by touchscreen, or marking with a marking device for tabulation by automatic tabulating equipment or data processing equipment. Any medium used to record each vote cast which may include marksense forms, printed paper sheets, unprinted strips for write-in votes, electronic, optical, electromechanical, or magnetic storage devices.

~~3. Any device which combines the features of paragraphs 1. and 2. above.~~

~~(b) A "Voted ballot" means a ballot as defined in (2)(a)2. or (2)(a)3. above, which has been cast by an elector.~~

(c) "Voting system" means a method of casting and processing votes that functions wholly or partly by use of ~~mechanical~~, electromechanical, or electronic apparatus or by use of paper ballots and includes, but is not limited to, the