

SUBJECT AREA TO BE ADDRESSED: Subject areas covered in the proposed rules include listing, delisting, and reclassifying species to the Candidate Species, Endangered Species, Threatened Species and Species of Special Concern lists.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution; 372.021 FS.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution; 372.073 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 IS: Thomas Eason, Division of Habitat and Species Conservation, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT MAY BE AVAILABLE AT NO CHARGE FROM: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

Section II Proposed Rules

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Outdoor Advertising Sign Regulation and Highway Beautification

RULE CHAPTER NO.: 14-10

RULE TITLE: Permits

RULE NO.: 14-10.004

PURPOSE AND EFFECT: Rule 14-10.004, F.A.C., is being amended to incorporate by reference a revised Form 575-070-04, Application for Outdoor Advertising Permit.

SUMMARY: Form 575-070-04, Application for Outdoor Advertising Permit, is being revised.

SPECIFIC AUTHORITY: 334.044(2), 479.02(7) FS.

LAW IMPLEMENTED: 334.044(28), 339.05, 479.01(14), 479.02, 479.07, 479.106(5), 479.24 FS.

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

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULE IS:

14-10.004 Permits.

(1) An application for a new sign permit is made by completing and submitting an Application for Outdoor Advertising Permit, Form 575-070-04, Rev. ~~01/04~~ ~~08/03~~, incorporated herein by reference, to the address listed in Rule subsection 14-10.003(2), F.A.C. Applications may be obtained from the State Outdoor Advertising License and Permit Office.

(a) through (e) No change.

(f) For purposes of paragraph (c), above, when a valid permit is being conditionally canceled pursuant to subsection 14-10.004(9), F.A.C., the Outdoor Advertising Permit Cancellation Certification, Form 575-070-12, Rev. 07/01, incorporated herein by reference, and Application for Outdoor Advertising Permit, Form 575-070-04, Rev. ~~01/04~~ ~~08/03~~, must be submitted simultaneously to the Department. Form 575-070-12 may be obtained from the address listed in subsection 14-10.003(2), F.A.C. The date the Department receives the cancellation and complete application documents shall be considered the date the application is received.

(g) through (2) No change.

(3) Notwithstanding any other provisions of this rule chapter, an outdoor advertising sign existing at a location which previously was not subject to the permitting requirements of this chapter, but which has become subject to the requirements of this chapter due to changes in the jurisdictional designation of highways, shall be granted a state permit in accordance with the process outlined below:

(a) through (c) No change.

(d) The Department shall issue an Outdoor Advertising Permit, Form 575-070-30, Rev. 07/01, to the sign owner upon receipt of a complete Application for Outdoor Advertising Permit, Form 575-070-04, Rev. ~~01/04~~ ~~08/03~~, together with all items required by Section 479.07(3)(b), Florida Statutes. For existing signs, the written statement required by Section 479.07(3)(b), Florida Statutes, shall be any written document from the appropriate local governmental official indicating compliance with local requirements as of the date of the permit application. A previously issued building permit shall be accepted as the statement from an appropriate local governmental official, except in cases where the local government has provided notice to the sign owner that the sign is illegal or has undertaken action to cause the sign to be removed. When a building permit is submitted as the statement of the local government, the applicant shall certify in writing

that the local government has not provided notice that the sign is illegal, and that the local government has taken no action to cause the sign to be removed.

(4) through (12) No change.

Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 215.34, 334.044(28), 339.05, 479.01(14), 479.02, 479.04, 479.07, 479.106(5), 479.24 FS. History—New 3-28-76, (Formerly part of Rule 14-10.04, Permits; 14-15.05, Right of Way Bureau Operating Procedures), Amended 4-21-77, 12-10-77, 6-26-78, 12-31-78, 1-1-86, Formerly 14-10.04, Amended 7-7-92, 6-28-98, 8-10-99, 8-19-01, 1-25-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Lynn Holschuh, State Outdoor Advertising Administrator
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kevin Thibault, Assistant Secretary for Engineering and Operations for José Abreu, P.E., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 24, 2004
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 13, 2004

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Regulation of Encroachments
RULE CHAPTER NO.: 14-43

Over State Rights of Way
RULE TITLE: Regulation of Overhanging Encroachments
RULE NO.: 14-43.001

PURPOSE AND EFFECT: The definitions are amended, including the addition of a definition for “applicant.” Other definitions are amended and other amendments are made regarding permitting matters. A revised application form also is being incorporated by reference.

SUMMARY: Rule 14-43.001, F.A.C., is being amended, to include a definition for the term “applicant” and other amendments regarding permitting matters, including incorporating by reference a revised application form.

SPECIFIC AUTHORITY: 334.044(2), 337.407 FS.
LAW IMPLEMENTED: 337.406, 337.407, 479.01, 479.16, 768.28 FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Costs has been prepared.

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULE IS:

14-43.001 Regulation of Overhanging Encroachments.

(1) Definitions.

(a) “Applicant” means any person or entity, including a local governmental entity, seeking permission for an overhanging encroachment.

~~(b)(a)~~ “Banner” means any object or thing attached to one or more existing permanent supports, a length or sheet of cloth, fabric, plastic, or other flexible material bearing a message which may be either of the following:

1. “Pole Banner” means a banner which is located adjacent to the travel lanes of the roadway and is attached to a single ~~an~~ existing permanent support.

2. “Street Banner” means a banner which extends over the travel lanes of the roadway and is attached to two ~~one~~ or more existing permanent supports.

~~(c)(b)~~ “Canopy” means a permanent or semi-permanent, on-premise roof-like encroachment or projection partially extending over the right of way.

~~(d)(e)~~ “Department” means the State of Florida Department of Transportation.

~~(d)~~ “Governmental Entity” has the same meaning as provided in Section 11.45(1)(e), Florida Statutes.

~~(d)(e)~~ “Local Governmental Entity” has the same meaning as provided in Section 11.45(1)(d), Florida Statutes.

~~(e)(f)~~ “Overhanging Encroachment” for purposes of this rule means a sign, canopy, or banner, as these terms are herein defined, which is ~~are~~ placed along and over any state roads which are within municipalities, or which are of curb and gutter construction outside municipalities.

~~(f)(g)~~ “Sign” has the same meaning as provided in Section 479.01(14), Florida Statutes.

~~(2) Overhanging encroachments as authorized by are prohibited on the Interstate System. Overhanging encroachments shall be authorized, pursuant to Section 337.407(1), Florida Statutes, are subject to the following conditions:~~

(a) No new supports may be located within state right of way.

(b) Any overhanging encroachment must be allowed by the affected local governmental entity.

(c) Any overhanging encroachment which interferes with Department construction must be adjusted or removed at the owner’s expense.

(d) Overhanging encroachments may not obstruct the view of any traffic signal, traffic device, or official sign, nor in any way interfere with motorists’ ability to safely operate their vehicles.

(e) Overhanging encroachments must comply with the setback or clearance requirements set forth in subsections (3) and (4) below. The Department will notify the owner that if ~~if~~ the overhanging encroachment must be adjusted within 36 hours

of notification to meet setback or clearance requirements, and, upon failure of the owner to make such adjustment, it shall be removed by the Department. If the overhanging encroachment presents a safety hazard, the Department shall remove it and notify the owner of the removal.

(f) No overhanging encroachment may be erected or maintained which would interfere with the Department's maintenance, operation, or other use of a transportation facility.

(g) When an overhanging encroachment must be removed by the Department, the owner may reclaim it within 30 calendar days from the date of removal, upon payment of any costs incurred by the Department in removing the encroachment.

(3) Signs and Canopies. Signs and canopies are prohibited along and over limited access roadways. Signs and canopies which meet the criteria of Section 479.16(1), Florida Statutes, may only be placed along and over any other roads within corporate limits of a municipality, or outside municipalities where curb and gutter construction exists in compliance with the following conditions:

(a) Where curb and gutter construction exists, the entire structure, including attachments and supports, must clear the sidewalk vertically by at least nine feet, the outside edge of the structure must be at least two feet behind a vertical line extending upward from the face of the curb, and the entire structure must comply with the Department's clear zone requirements set forth in Table 2.11.9 Clear Zone Widths and Table 2.11.10 Clear Zone Widths for Curved Alignments on Highways With Flush Shoulders (January 2000, Revised 1/01), incorporated herein by reference. Copies of these tables are available from the Department's Maintenance Office, 605 Suwannee Street, MS 52, Tallahassee, Florida 32399-0450.

(b) Within municipalities where there is no curb and gutter construction, the entire structure, including attachments and supports, may not extend more than six feet over the right of way; may not extend closer than 12 feet from the edge of the driving lane; must have a vertical clearance of at least ~~7.5~~ 10 feet; and the entire structure must comply with the Department's clear zone requirements as set forth in Table 2.11.9 Clear Zone Widths and Table 2.11.10 Clear Zone Widths for Curved Alignments on Highways With Flush Shoulders, referenced in paragraph (a) above.

(c) The design of said canopies or signs, as to bracing and attachments to buildings, shall be approved for safety features by the appropriate official of the local governmental entity agency affected.

(d) No canopy or sign shall be erected away from the site of the business which it promotes.

(e) Lighting of signs and canopies shall conform to the requirements of Section 479.11(5), Florida Statutes.

(4) Banners. Banners may be placed along and over any state roads which are within municipalities, or which are of curb and gutter construction outside municipalities subject to the following conditions:

(a) ~~The~~ ~~Written~~ authorization for the placement of banners ~~from the~~ local governmental entity within whose jurisdictional boundaries the banners are to be placed must be the applicant provided.

(b) Banners will be allowed for the a period set forth in the application ~~not to exceed 30 consecutive calendar days.~~ ~~Banners will not be allowed to be displayed within 180 days of the last day of its most recent display period.~~

~~(c) Banners are allowed for routinely recurring events, e.g., events occurring monthly or quarterly, unless otherwise provided in this rule, provided the banner is displayed for no more than three consecutive days per month, for 12 months.~~

~~(c)(d)~~ Pole banners must be placed a minimum of 1,000 feet apart on the same side of the travel lane on all limited access facilities, and on non limited access facilities outside the corporate limits of a municipality.

1. The lowest point of the banner must be at least 14 1/2 feet above the pavement elevation;

2. ~~A~~ ~~The~~ pole banner must be attached to a light standard or other such device which is permanently located in the right of way. Banners may not be attached to any utility pole.

~~(d)(e)~~ Placement of banners on frangible light standards or other frangible devices will require a load rating analysis, signed and sealed by a registered professional engineer, certifying that the specific light standards or devices used to support the banners will handle the additional load placed on the structures by the banner and attachments, and will not exceed the wind loading design requirements of the structure. Copies of load rating analyses previously submitted are acceptable for subsequent applications when all specifications are the same.

(f) Banners may not be placed within 500 feet of a limited access interchange.

(g) Street banners may only be placed on the right of way of non limited access roadways and must vertically clear the pavement by at least 18 feet. Street banners must be a minimum of 1,000 feet apart.

(5) Applications for an overhanging encroachment must be made in writing to the appropriate District Maintenance Office.

(a) Applications for overhanging signs and canopies shall include:

1. The name and address of the applicant.

2. A drawing sketch of the sign or canopy, drawn to scale, including any ~~which includes~~ the message, letterings, logos, or emblems.

3. A sketch of the specific location of the sign or canopy, including height, location of supports, proximity to utility poles, and the identification of the state highway where the sign or canopy will be located.

4. Sketches or specific descriptions of the method to be used to affix the sign or canopy to the support structure(s).

5. Proof of compliance with any applicable local governmental regulations.

(b) Applications for banners shall be made no later than 30 days and no earlier than 365 days prior to the requested installation date. The application shall be on Application for Banner, DOT Form ~~575-070-18 850-040-75~~, Rev. ~~10/04 07/01~~, incorporated herein by reference. Copies of DOT Form ~~575-070-18 850-040-75~~ are available from the State Maintenance Engineer or any District Maintenance Engineer. The application shall include:

1. The name, address, and telephone number of the applicants. The name of a contact person whom the Department may contact regarding the banner installation and display also must be supplied. ~~If the applicant is a business or governmental entity, the name of the contact person must be supplied.~~

2. A ~~sketch or~~ drawing of the banner(s), drawn to scale, including any message, logo, or emblem which includes the entire message that will appear on the banner(s).

3. A sketch of the specific location of the banner(s), including height, location of supports, proximity to utility poles, and the identification of the state highway where the banner(s) will be located.

4. Sketches, photographs, or specific descriptions of the method to be used to affix the banner(s) to the support structure(s).

~~5. The beginning and ending dates of the event being promoted.~~

~~5.6.~~ The beginning and ending dates of the display period requested.

~~6.7.~~ Proof of compliance with the requirements of paragraph (4)(c) and any local governmental regulations.

~~8. Written authorization from the local governmental entity granting permission to the applicant for the installation of the banners. No banner shall be allowed when the local governmental entity has an ordinance prohibiting its installation.~~

~~9. When the roadway requested for banner installation is under the ownership of an Expressway Authority, written authorization from the affected Expressway Authority granting permission to the applicant for the installation of the banners must be provided.~~

~~7.10.~~ A load rating analysis by a registered professional engineer. See paragraph (4)(d), above.

(c) Banners will not be allowed where a Department construction project is planned or ongoing during the requested display period.

(d) The ~~a~~Applicant shall agree as follows:

1. To the extent provided by law, ~~each the~~ aApplicant shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by ~~an the~~ aApplicant, its agents, or employees arising from activities associated herewith.

2. When the Department receives a notice of claim for damages that may have been caused by the ~~a~~Applicant in the performance of activities hereunder, the Department will immediately forward the claim to ~~all the~~ aApplicants. The ~~a~~Applicants and the Department will evaluate the claim and report their findings to each other within 14 working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of the ~~a~~Applicants in the defense of the claim or to require that the ~~a~~Applicants defend the Department in such claim as described in this section. The Department's failure to promptly notify ~~each the~~ aApplicant of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by the ~~a~~Applicants. The ~~a~~Applicants shall bear all expenses of the Department in defense of the claim.

(e) If the application is denied, the Department shall provide a Notice of Administrative Hearing Rights to ~~each the~~ aApplicant.

(6) Failure to comply with the provisions of this rule shall result in the issuance of a Notice of Intent to Deny the Application or a Notice of Noncompliance, which shall include a Notice of Administrative Hearing Rights.

(7) Provision of any notice, denial, revocation, or Notice of Administrative Hearing Rights by the Department under this rule shall not constitute or create entitlement to an administrative hearing where such right does not otherwise exist.

Specific Authority 334.044(2), 337.407 FS. Law Implemented 337.406, 337.407, 479.01, ~~479.16~~, 768.28 FS. History—Amended 3-21-64, 5-9-70, 7-9-75, Formerly 14-43.01, Amended 8-3-99, 8-2-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kenneth Towcimak, Director, Office of Right of Way

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ysela Llort, Assistant Secretary for Intermodal Systems Development, for José Abreu, P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 29, 2004

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."

PUBLIC SERVICE COMMISSION

DOCKET NO. 041252-WS

RULE TITLE: Regulatory Assessment Fees; Water and Wastewater Utilities

RULE NO.: 25-30.120

PURPOSE AND EFFECT: To implement an amendment to Section 367.145(1), F.S.

SUMMARY: Requires water and wastewater utilities with annual gross operating revenues of \$200,000 or more to pay regulatory assessment fees on a semi-annual basis.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None as a result of the rule change.

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: 350.127(2) FS.

LAW IMPLEMENTED: 350.113, 367.145, 367.161 FS.

Written comments or suggestions on the proposed rule may be submitted to the FPSC, Division of the Commission Clerk and Administrative Services, within 21 days of the date of this notice for inclusion in the record of the proceeding.

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: Christiana Moore, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6098

THE FULL TEXT OF THE PROPOSED RULE IS:

25-30.120 Regulatory Assessment Fees; Water and Wastewater Utilities.

(1) No change.

(2) The obligation to remit the regulatory assessment fees for any year shall apply to any utility ~~that which~~ is subject to this Commission's jurisdiction on or before December 31 of that year or for any part of that year, whether or not the utility has actually applied for or been issued a certificate.

(a) For large utilities with annual revenues of \$200,000 or more based on the most recent prior calendar year, rRegulatory assessment fees shall be filed with the Commission on or before July 30 for the preceding period or any part of the period from January 1 until June 30, and on January 30 for the

preceding period or any part of the period from July 1 until March 31 for the preceding year ended December 31. Commission Form PSC/ECR ~~CCA~~ 10-WL (xx/xx) entitled "Large Water System Regulatory Assessment Fee Return" and Commission Form PSC/ECR ~~CCA~~ 017-WL (xx/xx) entitled "Large Wastewater System Regulatory Assessment Fee Return" are incorporated into this rule by reference and may be obtained from the Commission's Division of the Commission Clerk and Administrative Services. The failure of a utility to receive a return form shall not excuse the utility from its obligation to timely remit the regulatory assessment fees.

(b) For small utilities with annual revenues of less than \$200,000 based on the most recent prior calendar year, regulatory assessment fees shall be filed with the Commission on or before March 31 for the preceding year ended December 31. Commission Form PSC/ECR 010-WS (xx/xx) entitled "Small Water System Regulatory Assessment Fee Return" and Commission Form PSC/ECR 017-WS (xx/xx) entitled "Small Wastewater System Regulatory Assessment Fee Return" are incorporated into this rule by reference and may be obtained from the Commission's Division of the Commission Clerk and Administrative Services. The failure of a utility to receive a return form shall not excuse the utility from its obligation to timely remit the regulatory fees.

(c) For the purpose of this rule, a utility operating both a water system and a wastewater system shall consider each system separately in determining the revenue threshold for filing regulatory assessment fees on either an annual or semi-annual basis.

~~(d)~~(b) Regulatory assessment fees are considered paid on the date they are postmarked by the United States Postal Service or received and logged in by the Commission's Division of The Commission Clerk and Administrative Services in Tallahassee. Fees are considered timely paid if properly addressed, with sufficient postage and postmarked no later than the due date.

(3) through (5) No change.

(6) A utility may request from the Division of the Commission Clerk and Administrative Services either a 15-day extension or a 30-day extension of its due date for payment of regulatory assessment fees or for filing its return. Commission Form PSC/CCA 124 (Rev. 01/01/05), entitled "Regulatory Assessment Fee Extension Request", is incorporated into this rule by reference and may be obtained from the Commission's Division of the Commission Clerk and Administrative Services.

(a) The request for extension will be granted if the utility has applied for the extension within the time required in (b) below and the utility does not have any unpaid regulatory assessment fees, penalties or interest due from a prior period must be written and accompanied by a statement of good cause.

(b) No change.

(c) Where a utility receives either a 15-day extension or a 30-day extension of its due date pursuant to this rule, the utility shall remit a charge in addition to the regulatory assessment fee set out in Section 350.113, F.S.

(7) No change.

(8) Any utility ~~that which~~ requests and receives an extension of not more than 30 days or remits, by the due date, an estimated fee payment of at least 90 percent of the actual fee due shall not be charged interest or penalty on the balance due if paid within the extension period.

(9) Any utility ~~that which~~ fails to pay a penalty within 30 days after its assessment by the Commission shall be subject to interest applied to the penalty up to and including the date of payment of the penalty. Such interest shall be compounded monthly, based on the 30-day commercial paper rate for high-grade, unsecured notes sold through dealers by major corporations in multiples of \$1,000 as regularly published in the Wall Street Journal.

Specific Authority 350.127(2) FS. Law Implemented 350.113, 367.145, 367.161 FS. History--New 5-18-83, Formerly 25-10.24, Amended 10-16-86, Formerly 25-10.024, Amended 11-9-86, 2-8-90, 7-8-96,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
John Slemkewicz
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 30, 2004
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 30, No. 31, July 30, 2004

DEPARTMENT OF MANAGEMENT SERVICES

Division of State Group Insurance

RULE CHAPTER TITLE: State Group Health Self-Insurance Plan
RULE CHAPTER NO.: 60P-2
RULE TITLE: Effective Date of Coverage
RULE NO.: 60P-2.004

PURPOSE AND EFFECT: To clarify the coverage procedures when premiums for any State Group Health Program are paid partially or entirely by direct payment.

SUMMARY: Neither receipt of direct payment, endorsement, or deposit of premium by the Department or its agent provides coverage, if, for any reason, the subscriber or any eligible dependents are later found to be ineligible to participate.

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

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

SPECIFIC AUTHORITY: 110.123(5) FS.

LAW IMPLEMENTED: 110.123 FS.

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

TIME AND DATE: 2:00 p.m., January 10, 2005

PLACE: Department of Management Services, 4050 Esplanade Way, Conference Room One, Tallahassee, FL 32399
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jeff Dykes, Chief, Bureau of Accounting and Financial Management, Division of State Group Insurance, 4040 Esplanade Way, Tallahassee, FL 32399-0950, (850)921-4400

THE FULL TEXT OF THE PROPOSED RULE IS:

60P-2.004 Effective Date of Coverage.

(1) The effective date of coverage requested by the employing agency for enrollment or changes in coverage in the Health Program by an employee shall always be the first day of a month, subject to the following:

(a) Subject to the requirements of subsections (2), (3), and (4), the requested effective date for new enrollees shall be no later than the first day of the month for which a full month's premium may be deducted using single deductions based upon the employee's signature date on the application.

(b) The requested effective date shall be no earlier than the first day of the month following the employee's signature date; however, in no case shall such effective date be prior to or on the employee's employment date.

(2) The coverage of an employee applying for enrollment during his or her initial enrollment period shall become effective as follows:

(a) If the employee's agency personnel office enters the application information as required in subsection 60P-2.002(4), F.A.C., into the state insurance computer system data base prior to the requested effective date, coverage shall be effective on the date requested.

(b) If the employee's agency personnel office does not enter the application information as required in subsection 60P-2.002(3), F.A.C., into the state insurance computer system data base, coverage shall be effective on the date requested provided the Department receives the completed application prior to the requested effective date. If the application is received by the Department after the requested effective date, coverage shall be effective on the first day of the month following the date the application is received. However, if the proper full month's premium is received by the Department prior to the requested effective date, coverage shall become effective on the date requested, even though the application may not be received until after such date.

(3) Coverage changes shall be effective as follows:

(a) If the completed application for a family to individual coverage change is received by the Department before the requested effective date, but after a designated monthly payroll due date, such change shall be effective on the date requested.

(b) If the completed application for an individual to family coverage change is received by the Department after the designated monthly payroll due date but before the requested date of coverage, such change shall be effective on the date requested provided the employee's personal check or money order for the additional employee contribution not payroll deducted is received by the Department prior to the requested effective date. If the completed application is received after the requested effective date, the coverage change shall be effective the first of the month following the date such application and additional employee contribution are received.

(4) The effective date of coverage for an eligible dependent acquired while family coverage is in effect shall be the date such dependent is acquired.

(5) Changes in coverage requested by a retiree or surviving spouse shall become effective the first day of the month following receipt of a written request for such changes by the Department.

(6) The effective date of all enrollments and or changes made during the open enrollment period shall be designated by the Department.

(7) The effective date of coverage for an employee enrolling due to a pending retirement application shall be no later than the retirement date.

(8) The effective date of coverage for enrollment or changes will be determined by the Department if an error or omission occurs by the employee's agency personnel office.

(9) Receipt of direct payment, endorsement, or deposit of premium by the Department or its agent does not provide coverage if after receipt of the payment, its endorsement, or deposit, the Department or its agent determines that the employee, retiree, or COBRA participant or dependent is not eligible to participate in the State Group Health Program. Upon determination of ineligibility, including failure to make timely payments, the premium received shall be fully reimbursed.

Specific Authority 110.123(5) FS. Law Implemented 110.123 FS. History--New 10-8-78, Amended 10-22-79, 7-1-80, 9-13-82, 8-7-83, Formerly 22K-1.17, Amended 7-16-86, 9-25-86, Formerly 22K-1.204, Amended 8-22-96, Repromulgated 1-31-02, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeff Dykes, Chief, Bureau of Accounting and Financial Management, Division of State Group Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: John J. Matthews, Director, Division of State Group Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 2004

DEPARTMENT OF MANAGEMENT SERVICES

Division of State Group Insurance

RULE CHAPTER TITLE: State Group Life Insurance Plan
 RULE CHAPTER NO.: 60P-3

RULE TITLE: Enrollment
 RULE NO.: 60P-3.005

PURPOSE AND EFFECT: To clarify the coverage procedures when premiums for the State Group Life Insurance Plan are paid partially or entirely by direct payment.

SUMMARY: Neither receipt of direct payment, endorsement, or deposit of premium by the Department or its agent provides coverage, if, for any reason, the subscriber or any eligible dependents are later found to be ineligible to participate.

SPECIFIC AUTHORITY: 110.123(5) FS.

LAW IMPLEMENTED: 110.123 FS.

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

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

SPECIFIC AUTHORITY: 110.123(5) FS.

LAW IMPLEMENTED: 110.123 FS.

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

TIME AND DATE: 2:00 p.m., January 10, 2005

PLACE: Department of Management Services, 4050 Esplanade Way, Conference Room One, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jeff Dykes, Chief, Bureau of Accounting and Financial Management, Division of State Group Insurance, 4040 Esplanade Way, Tallahassee, FL 32399-0950, (850)921-4400

THE FULL TEXT OF THE PROPOSED RULE IS:

60P-3.005 Enrollment.

(1) An employee may apply through his or her personnel office before or during the initial eligibility period or during the open enrollment period. A state officer may apply during the first sixty (60) calendar days after beginning a new term of office or during the open enrollment period.

(2) It shall be the responsibility of the employing agency to assist the employee in completing the application, entering information into the insurance data base, placing a copy of such application in the employee's personnel file and forwarding the application to the Department.

(3) Participation in the Life Plan shall be voluntary on the part of all employees or retirees. If the employee or retiree does not elect to enroll in the Life Plan, he or she must give written

refusal. If an employee's refusal is not received by the employing agency within sixty (60) calendar days of employment, the agency shall immediately certify such lack of action in writing and shall place it in the employee's personnel file and a copy shall be given to the employee.

(4) Receipt of direct payment, endorsement, or deposit of premium by the Department or its agent does not provide coverage if after receipt of the payment, its endorsement, or deposit, the Department or its agent determines that the employee or retiree is not eligible to either participate in the State Group Life Insurance Plan or is not eligible for the coverage elected. Upon determination of ineligibility, including failure to make timely payments, the premium received shall be reimbursed.

Specific Authority 110.123(5) FS. Law Implemented 110.123 FS. History--New 8-12-80, Formerly 22K-1.45, 22K-1.045, 22K-1.303, Amended 8-26-96, Repromulgated 1-31-02, Amended _____

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeff Dykes, Chief, Bureau of Accounting and Financial Management, Division of State Group Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: John J. Matthews, Director, Division of State Group Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 2004

DEPARTMENT OF MANAGEMENT SERVICES

Division of Retirement

RULE CHAPTER TITLE	RULE CHAPTER NO.:
Approved Forms	60S-9
RULE TITLE:	RULE NO.:
Division Forms	60S-9.001

PURPOSE AND EFFECT: The purpose of this proposed rule amendment is the adoption of twelve new Division forms, thirty revised Division forms, and the adoption of five State Board of Administration forms utilized by the Division, three of which replace Division maintained forms.

SUMMARY: The twelve new Division Forms are comprised of five new Bureau of Retirement Calculations forms and seven new Bureau of Benefit Payments forms as follows.

- The Five New Bureau of Retirement Calculations Forms:
- *Form DP-EXT* is created for specified K-12 instructional personnel to apply for extended Deferred Retirement Option Program (DROP) participation, up to 36 months beyond their initial 60-month DROP participation period, as provided in Section 121.091(13), F.S.
- *Form PRO-1* is created for the member to authorize the direct rollover or trustee to trustee transfer of funds to the Florida Retirement System Pension Plan for the purchase of prior service pursuant to the provisions of Section 112.215(13), F.S., after enabling federal legislation in the

“Economic Growth and Tax Reconciliation Act of 2001” became effective January 1, 2002.

- *Forms HIS-IP* and *HIS-IP-2* are created for Public Employee Optional Retirement Program retirees to apply for benefits under the Health Insurance Subsidy Program as provided in Section 121.4501(18), F.S., and Section 112.363, F.S.
- *Form SA-1* is created to supplement *Option Selection for FRS Members*, Form FRS-11o when the spousal acknowledgment section of the FRS-11o form is not completed when submitted to the Division as required by Section 121.091, F.S.
- The Seven New Bureau of Benefit Payments Forms:
- *Form DROLL* is created for surviving beneficiaries of deceased DROP participants to select their payout method of DROP monies as provided in Section 121.091(c)5.b., F.S.
- *Form DIS-2* is created to allow a surviving child to disclaim retirement benefits as provided in Section 121.091(8)(b) and 689.21, F.S.
- *Form DIS-3* is created for use by one who is a surviving child and beneficiary to disclaim his or her rights to retirement benefits as provided in subsection 121.091(8)(b) and 689.21, F.S.
- *Form DP-VOID* is created for use by a FRS employer to notify the Division that a DROP participant's resignation has been rescinded and that such employee will continue employment beyond their DROP end date resulting in that employee's retirement and DROP election being deemed null and void t as is provided in subsection 121.091(c)5.d., F.S.
- *Form SRA-1* is created for FRS Pension Plan members to request service retirement benefits while pursuing the appeal process resulting from a denial of an application for disability retirement benefits.
- *Form PR-13* is an application created for Public Employee Optional Retirement Program members to apply for disability retirement under the Florida Retirement System Pension Plan as provided in Section 121.591(2), F.S.
- *Form PR-11o* is the benefit option selection form created for use by Public Employee Optional Retirement Program members who apply for disability benefits as is provided in Section 121.591(2), F.S.
- The Thirty revised Division forms are comprised of Three Bureau of Enrollment and Contribution forms, sixteen Bureau of Retirement Calculations forms, ten Bureau of Benefit Payment forms and one Administration form as follows:
- The Three Revised Bureau of Enrollment and Contribution Forms:
- *Form BEN-001* is revised to add “Pension Plan” to the form header, to section 1 of the form and to the Designation of Beneficiary explanation to clarify form purpose and use.

- *Form FRS-404* is revised to reflect the change from 10-year vesting to 6-year vesting as provided in Section 121.021(45), F.S.
 - *Form FRS-405* is revised in sections A and B to clarify special risk criteria in accordance with Section 121.0515, F.S., and to correct a statute reference from Section 943.1395, F.S., to Section 633.35, F.S.
 - The Sixteen Revised Bureau of Retirement Calculation Forms:
 - Forms, FR-11, FC-1, MF-2, FR-23, FR-23A, FR30A, FRS-11o, FST-11o, and are revised to add “Pension Plan” to the form header to clarify form purpose and use.
 - *Form FR-9* and *Form DP-ELE* are revised to add “Pension Plan” to the form headers to clarify form purpose and use and to correct the statutory reference for the definition of “instructional personnel” to be Section 1012.01(2), F.S.
 - *Form FR-28* is revised to add “Pension Plan” to the form header, to the title of the “Requirements” section, and to the first bulleted item within that section for further clarification of form purpose and use. This form is also revised to reflect the change in vesting from 10 years to 6 years as provided with Section 121.021(45), F.S.
 - *Forms TR-4 and TR-11* are revised by reformatting to conform to the Division’s automated processing standards and adding a barcode.
 - *Form MF-1* is revised to add “Pension Plan” to the form header for further clarification of form purpose and usage, to reflect the change in vesting from 10 years to 6 years as provided with Section 121.021(45), F.S., and to add the ending date of the Persian Gulf War as described in Section 1.01(14)(g), F.S.
 - *Form DP-11* is revised to add “Pension Plan” to the form header to clarify form purpose and use and to add the verbiage “including any period of DROP participation” to the Option 2 benefit payment explanation for clarification.
 - *Form FR-30* is revised to add “Pension Plan” to the form header to clarify form purpose and use; change the references on the first line of Section B from “member” to “employee”; and made changes to provide clarity in form completion and determine eligibility to purchase service credit in accordance with Section 121.1115 and 121.1122, F.S., a line was added to determine if employee was a member of the plan, changed description of defined benefit in question #1, added question regarding employee contributions, deleted the original question #4 regarding service credit from another state.
 - The Ten Revised Bureau of Benefit Payments Forms.
 - *Forms DP-12 and FST-11so-2* are revised to reformat the notary block by removing the date alongside the signature line to eliminate discrepancies between notarization and signature dates.
 - *Form FR-13* is revised to delete the reference “the other side of the page” from the instruction sheet, to add a line to accommodate the member’s e-mail address, and to change the vesting reference from 10 years to 8 years in the first instructional page as provided in Section 121.021(45), F.S.
 - *Form HIS-1* is revised to add Pension Plan to the header of the form for clarity of use and purpose.
 - *Forms FST-12, JA-1, FST-11b, and FST-11g* are revised to add Pension Plan to the header of the form for clarity of form use and purpose and to reformat the notary block by removing the date alongside the signature line to eliminate discrepancies between notarization and signature dates.
 - *Form TR-11c* is revised to amend the former reference to reverse side of the form in item 2 to read page 2 of form and to reformat the notary block by removing the date alongside the signature line to eliminate discrepancies between notarization and signature dates.
 - *Form DIS-1* form is revised to delete the words “Under the Florida Retirement System” from the title and to reformat the notary block by removing the date alongside the signature line to eliminate discrepancies between notarization and signature dates.
 - The One Revised Administration Form:
 - *Form SAPS* is revised to delete “Management Review Section” and replace it with “DMS-Office of the Inspector General, Audit Section” to reflect changes in the organizational structure for the Audit Section.
 - The Five State Board of Administration (SBA) Forms to be adopted by reference are as follows:
 - *Forms OCC-1, SMS-3 and EOC-1* were previously Division maintained forms and are being deleted as Division forms and herein are incorporated by reference within this Rule Chapter as State Board of Administration Enrollment and Election Forms for the Florida Retirement System as described in Section 121.4501, F.S.
 - *Forms OCC-2 and SMS-1* State Board of Administration Enrollment and Election Forms are herein incorporated by reference for use by the Division for the Florida Retirement System as described in Section 121.4501, F.S.
- SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No State 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 regulatory cost alternative must do so in writing within 21 days of this notice.
- SPECIFIC AUTHORITY: 121.031 FS.
- LAW IMPLEMENTED: 1.01, 112.215, 112.361, 112.363, 120.55, 121.011, 121.015, 121.021, 121.031(2), 121.051, 121.0515, 121.081, 121.091, 121.111, 121.1115, 121.1122, 121.121, 121.125, 121.4501, 121.591, 122.08, 122.09, 215.28, 238.05, 238.06, 238.07, 689.21, 1012.01 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., Tuesday, January 11, 2005

PLACE: Division of Retirement, Cedars Executive Center, Building C, Director's Conference Room, 2639 North Monroe Street, Tallahassee, Florida 32399-1560

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Clifford, Senior Benefits Analyst, Division of Retirement, Cedars Executive Center, Building C, 2639 North Monroe Street, Tallahassee, Florida 32399-1560

THE FULL TEXT OF THE PROPOSED RULE IS:

60S-9.001 Division Forms.

(1)(a) Bureau of Enrollment and Contributions.

FORM NO./ REVISION DATE	TITLE
1.(a) BEN-001 (6/04) (Rev. 7/00)	<u>Florida Retirement System Pension Plan</u> Beneficiary Designation Form Active Members Only
2.(b) FRS-400 (Rev. 4/00)	Application for Special Risk Membership Law Enforcement/Correctional Officers
3.(c) FRS-401 (Rev. 7/99)	Special Risk Credit for Past Service
4.(d) FRS-402 (Rev. 10/01)	Application for Special Risk Equivalent Credit
5.(e) FRS-404 (Rev. 11/02) (8/99)	<u>Florida Retirement System Pension Plan</u> Application for Special Risk Administrative Support Class
6.(f) FRS-405 (Rev.10/03) (Rev. 10/01)	<u>Florida Retirement System Pension Plan</u> Application for Special Risk Membership Firefighters/Paramedics/EMTs
7.(g) ERQ-1 (Rev. 8/99)	Employment Relationship Questionnaire
8.(h) BLE-1 (8/99)	Ballot for Member of an Existing Retirement System
(i) SMS-3 (Rev. 8/99)	SMSC Ballot/Enrollment Form for Local Agency Employees
9.(j) SMSD-1 (Rev. 8/00)	Senior Management Service Class Designated Position Form
(k) EOC-1 (Rev. 8/01)	Ballot Form for Employees of Elected Officers' Class
(l) OCC-1 (Rev. 7/99)	Ballot/Enrollment Form for Community Colleges Optional Retirement Program Employees

(b) State Board of Administration – Enrollment and Election forms.

FORM NO./REVISION DATE	TITLE
1. OCC-1 (07/04)	<u>Community College Optional Retirement Program (CCORP) Retirement Plan Choice Form for Eligible Employees</u>
2. OCC-2 (11/04)	<u>Retirement Plan Conversion Form for Community College Optional Retirement Program (CCORP) Members</u>
3. SMS-1 (Rev. 07/04)	<u>State Senior Management Service Employees Retirement Plan Enrollment Form</u>
4. SMS-3 (Rev 07/04)	<u>Local Senior Management Service Employees Retirement Plan Enrollment Form</u>
5. EOC-1 (Rev. 07/04)	<u>Elected Officers' Class Employees Retirement Plan Enrollment Form</u>

(2) Bureau of Retirement Calculations.

FORM NO./REVISION DATE	TITLE
(a) FR-9 (Rev. 6/04) (Rev. 9/01)	<u>Florida Retirement System Pension Plan</u> Information Request
(b) FR-11 (Rev. 6/04) (Rev. 11/01)	<u>Florida Retirement System Pension Plan</u> Application for Service Retirement
(c) SR-11 (Rev. 5/87)	SCOERS Application for Service Retirement
(d) TR-11 (Rev. 7/99) (Rev. 9/92)	Teachers' Retirement System Application for Service Retirement
(e) FR-28 (Rev. 6/04) (Rev. 7/99)	<u>Division of Retirement Pension Plan</u> Application to Purchase Retirement Credit for a <u>Pension Plan</u> Leave of Absence
(f) MF-1 (Rev. 7/04) (Rev. 7/00)	<u>Florida Retirement System Pension Plan</u> Statement of Military Eligibility
(g) TR-4 (Rev. 4/99) (Rev. 11/83)	<u>Florida Retirement System</u> Verification of Out-of-State Teaching Service
(h) through (i)	No change.
(j) FC-1 (Rev. 7/04) (Rev. 11/01)	<u>Florida Retirement System Pension Plan</u> Salary Certification

(k) MF-2 <u>(Rev. 7/04)</u> (7/99)	<u>Florida Retirement System Pension Plan Statement of Military Eligibility to Purchase Military Service Under the Out-of-State Provisions of Section 121.1115, F.S.</u>	(3) Bureau of Benefit Payments.	
(l) FR-23 <u>(Rev. 7/04)</u> (Rev. 7/99)	<u>Florida Retirement System Pension Plan Notification of Reemployment for Suspension of Retirement Benefits</u>	FORM NO./REVISION DATE	TITLE
(m) FR-23a <u>(Rev. 7/04)</u> (Rev. 7/99)	<u>Florida Retirement System Pension Plan Application to Reactivate Retirement Benefits</u>	(a) FR-13 <u>(Rev. 02/04)</u> (Rev. 8/00)	<u>Florida Retirement System Pension Plan FRS Application for Disability Retirement</u>
(n) FR-30 <u>(Rev. 7/04)</u> (Rev. 7/99)	<u>Florida Retirement System Pension Plan Verification for In-State or Out-of-State Service Credit</u>	(b) through (p) No change.	
(o) FR-30a <u>(Rev. 7/04)</u> (7/99)	<u>Florida Retirement System Pension Plan Out-of-State Employer Request</u>	(q) HIS-1 <u>(Rev. 7/02)</u> (Rev. 7/04)	Florida Retirement System Health Insurance Subsidy Certification Form
(p) FRS-11o <u>(Rev. 7/04)</u> (Rev. 7/99)	<u>Florida Retirement System Pension Plan Option Selection for FRS Members</u>	(r) FST-12 <u>(Rev. 12/02)</u> (Rev. 7/99)	<u>Florida Retirement System Pension Plan Beneficiary Designation Form (Retired Members Only)</u>
(q) FST-11o <u>(Rev. 7/04)</u> (7/99)	<u>Florida Retirement System Pension Plan Option Selection for TRS and SCOERS Members</u>	(s) JA-1 <u>(Rev.12/02)</u> (Rev. 7/99)	<u>Florida Retirement System Pension Plan Change of Joint Annuitant Form (Retired Members Only)</u>
(r) DP-ELE <u>(Rev. 7/04)</u> (Rev. 9/04)	<u>Florida Retirement System Pension Plan Notice of Election to Participate in the Deferred Retirement Option Program (DROP) and Resignation of Employment</u>	(t) AAPS (Rev. 8/00)	Affidavit Attesting to Payee Status Military Eligibility
(s) DP-11 <u>(Rev. 7/04)</u> (Rev. 9/04)	<u>Florida Retirement System Pension Plan Application for Service Retirement and the Deferred Retirement Option Program (DROP)</u>	(u) FST-11b <u>(Rev. 12/02)</u> (Rev. 7/99)	<u>Florida Retirement System Pension Plan Application of Beneficiary for Monthly Retirement Benefits</u>
(t) to (u) No change.		(v) FST-11g <u>(Rev. 12/02)</u> (Rev. 7/99)	<u>Florida Retirement System Pension Plan Application of Beneficiary for Benefit Payment Refund</u>
(v) DP-EXT (6/03)	<u>Florida Retirement System Pension Plan Extension of Deferred Retirement Option Program (DROP) for Specified K-12 Instructional Personnel</u>	(w) TR-11c <u>(Rev. 12/02)</u> (Rev. 7/99)	<u>Teachers Retirement System Application for Survivor Benefits</u>
(w) PRO-1 (12/02)	<u>Florida Retirement System Pension Plan (401(a) Plan) Pretax Direct Rollover/Transfer Form</u>	(x) through (aa) No change.	
(x) HIS-IP (7/04)	<u>Florida Retirement System (FRS) Application for Health Insurance Subsidy for Investment Plan Members</u>	(bb) DIS-1 <u>(Rev. 12/02)</u> (Rev. 5/00)	<u>Florida Retirement System Pension Plan Disclaimer of Benefits</u>
(y) HIS IP-2 (7/04)	<u>Florida Retirement System Health Insurance Subsidy Certification for Investment Plan Members</u>	(cc) through (hh) No change.	
(z) SA-1 (5/00)	<u>Division of Retirement Spousal Acknowledgement</u>	(ii) DP-12 <u>(Rev. 09/02)</u> (5/00)	<u>Florida Retirement System Beneficiary Designation Form for the Alternate Payee of a DROP Participant</u>
		(jj) SB-13b (Rev. 3/01)	Physician's Report
		(kk) FST-11so2 <u>(Rev. 12/02)</u> (2/00)	Florida Retirement System Application for Survivor Benefits
		(ll) DP-TEOC (9/01)	Florida Retirement System Deferred Retirement Option Program (DROP) Elected Officers' Termination Notification
		(mm) DROLL (1/02)	<u>Beneficiary Direct Rollover Election Form</u>
		(nn) DIS-2 (8/03)	<u>Florida Retirement System Pension Plan Disclaimer of Benefits</u>
		(oo) DIS-3 (8/03)	<u>Florida Retirement System Pension Plan Disclaimer of Benefits</u>
		(pp) DP-VOID (4/03)	<u>Florida Retirement System Pension Plan Deferred Retirement Option Program (DROP) Void Form</u>

<u>(qq) SRA-1 Rev.</u> <u>(7/04)</u>	<u>Florida Retirement System</u> <u>Service Retirement Agreement</u>
<u>(rr) DP-EXT</u> <u>(6/03)</u>	<u>Florida Retirement System Pension Plan</u> <u>Extension of Deferred Retirement Option</u> <u>Program (DROP) for Specified K-12</u> <u>Instructional Personnel</u>
<u>(ss) PR-13</u> <u>(7/04)</u>	<u>Florida Retirement System Investment</u> <u>Plan Application for Disability</u> <u>Retirement</u>
<u>(tt) PR-11o</u> <u>(7/04)</u>	<u>Florida Retirement System Investment</u> <u>Plan Option Selection for FRS Members</u>

(4) Administration.

FORM NO./REVISION DATE	TITLE
(a) SAPS <u>(Rev. 10/02)</u> (8/00)	<u>Florida Retirement System</u> Statement Attesting to Payee Status

Specific Authority 121.031 FS. Law Implemented 1.01, 112.215, 112.361, 112.363, 120.55, 121.011, 121.015, 121.021, 121.031(2), 121.051, 121.0515, 121.081, 121.091, 121.111, 121.115, 121.1122, 121.121, 121.125, 121.4501, 121.591, 122.08, 122.09, 215.28, 238.05, 238.06, 238.07, 689.21, 1012.01 FS. History—New 9-9-82, Amended 2-6-84, 11-6-84, 4-17-85, Formerly 22B-9.01, Amended 6-4-86, 12-5-90, Formerly 22B-9.001, Amended 1-4-93, 1-18-94, 4-26-94, 1-10-95, 11-2-95, 12-28-95, 3-12-96, 12-16-97, 10-14-98, 4-26-99, 1-24-00, 12-19-00, 2-6-01, 3-18-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sarabeth Snuggs, Director, Division of Retirement
 NAME OF SUPERVISOR OF PERSON WHO APPROVED THE PROPOSED RULE: Garry Green, Operations and Management Consultant Manager, Division of Retirement
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 22, 2004
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 15, 2004

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors' Licensing Board

RULE TITLE: Continuing Education Requirements for Renewal for Certificateholders and Registrants
 RULE NO.: 61G6-9.004

PURPOSE AND EFFECT: The proposed rule amendment is intended to set forth the minimum number of continuing education hours required in an approved provider's specialized or advanced module course on any portion of the Florida Building Code, relating to the contractor's respective discipline.

SUMMARY: The proposed rule amendment specifies that one of the 14 required continuing education hours must be obtained by completing an approved provider's specialized or advance course on any portion of the Florida Building Code.

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: 120.52(15), 120.54(1), 455.2124, 489.507(3) FS.

LAW IMPLEMENTED: 455.2124, 489.513(3), 489.517(3) FS. IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Knap, Executive Director, Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0771

THE FULL TEXT OF THE PROPOSED RULE IS:

61G6-9.004 Continuing Education Requirements for Renewal for Certificateholders and Registrants.

(1) through (5) No change.

(6) A minimum of one of the 14 required classroom hours of continuing education must be obtained by completing an approved provider's specialized or advanced module course, approved by the Florida Building Commission, on any portion of the Florida Building Code, relating to the contractor's respective discipline.

Specific Authority 120.52(15), 120.54(1), 455.2124, 489.507(3) FS. Law Implemented 455.2124, 489.513(3), 489.517(3) FS. History—New 11-30-94, Amended 4-22-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrical Contractors' Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Electrical Contractors' Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 19, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 3, 2004

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Funeral Directors and Embalmers

RULE TITLE: Disciplinary Guidelines
 RULE NO.: 61G8-30.001

PURPOSE AND EFFECT: The Board proposes to substantially reword this rule to make language updates regarding disciplinary guidelines for imposition of penalties by the Board for licensures in violation of the statutes referenced in the instant rule.

SUMMARY: The substantial rewording amends and revamps language relating to the recommended penalty ranges for disciplinary guidelines for violations of provisions of Chapter 470 or 455, Florida Statutes.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 455.2273, 470.005 FS.

LAW IMPLEMENTED: 455.2273, 470.019, 470.036 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: Juanita Chastain, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 61G8-30.001 follows. See Florida Administrative Code for present text.)

61G8-30.001 Disciplinary Guidelines.

(1) When the Board finds an applicant or licensee whom it regulates under Chapter 470, F.S., has violated any provisions of Chapter 470 or 455, F.S., it shall issue a final order imposing appropriate penalties within the ranges recommended in the following disciplinary guidelines.

<u>Violator</u> <u>DD; DDIC.</u> <u>FD/DDIC.</u> <u>DD Estab.</u>	<u>Violator</u> <u>FD, FD&E, FDIC.</u> <u>Fun Estab.</u>	<u>Violation Summary</u>	<u>Penalty Range</u> <u>1st Offense</u>	<u>Penalty Range</u> <u>Subsequent Offenses</u>
470.031	470.031			
470.031(1)(a); 455.227(1)(k)(1)(o); (1)(b) if inentional; 470.019(2)(g)	470.031 (1)(a); 455.227(1)(o); (1)(b) if intentional	Practice FD, DD or Embalming without a license	6 mos – 1 yr. suspension with usual conditions + costs + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083 or	Fine of \$1000 + costs, 1 yr suspension with usual conditions – Revocation or Denial + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083
470.031(1)(b)	470.031(1)(b)	Use Name/title FD, Embalmer or DD when not licensed	6 mos – 1 yr suspension with usual conditions + costs + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083	Fine of \$1000 + costs, 1 yr suspension with usual conditions – Revocation or Denial + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083
470.031(1)(c)	470.031(1)(c)	Represent as your own license of another	6 mos – 1 yr suspension with usual conditions + costs + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083	Fine of \$1000 costs, 1 yr suspension with usual conditions – Revocation or Denial + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083

470.031(1)(d)	470.031(1)(d)	Give false or forged evidence to obtain license	6 mos – 1 yr suspension with usual conditions + costs + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083	Fine of \$1000 + costs, 1 yr suspension with usual conditions – Revocation or Denial + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083
470.031(1)(e)	470.031(1)(e)	Attempt to or use a suspended or revoked license	6 mos – 1 yr suspension with usual conditions + costs + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083	Fine of \$1000 + costs, 1 yr suspension with usual conditions – Revocation or Denial + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083
470.031(1)(f)	470.031(1)(f)	Knowingly employ an unlicensed person in the practice	6 mos – 1 yr suspension with usual conditions + costs + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083	Fine of \$1000 + costs, 1 yr suspension with usual conditions – Revocation or Denial + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083
470.031(1)(g)	470.031(1)(g)	Knowingly conceal info. relative to violations of Ch. 470	6 mos – 1 yr suspension with usual conditions + costs + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083	Fine of \$1000 + costs, 1 yr suspension with usual conditions – Revocation or Denial + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083
470.031(1)(h)	470.031(1)(h)	Operate an unlicensed cinerator facility	6 mos – 1 yr suspension with usual conditions + costs + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083	Fine of \$1000 + costs, 1 yr suspension with usual conditions – Revocation or Denial + reference to State Attorney for Misdemeanor – Punishable pursuant to 775.082 or 775.083
470.0315	470.0315			
470.0315	470.0315	Storage, preservation & transportation of dead human bodies		
470.0315(1)	470.0315(1)	Store or maintain remains except at a licensed establishment or facility, health care facility, Med. Examiner’s facility, morgue, or cemetery holding facility	Fine of \$500-1000 + costs, 6 mos – 1 yr probation with usual conditions	Fine of \$1000-2500 + costs, 1 yr – 2 year probations with usual conditions
470.0315(2)	470.0315(2)	Hold in place or transit over 24 hours unless body refrigerated, embalmed or otherwise preserved	Fine of \$500-1000 + costs, 6 mos – 1 yr probation with usual conditions	Fine of \$1000-2500 + costs, 1yr – 2yr probations with usual conditions

470.0315(4)	470.0315(4)	Transported human remains must be placed in a container adequate to prevent seepage of fluids and offensive odors, and accompanied by a burial transit permit	Fine of \$500-1000 + costs, 6 mos – 1 yr probation with usual conditions	Fine of \$1000-2500 + costs, 1yr – 2yr probations with usual conditions
470.034	470.034			
470.034 Disclosure of Information	470.034 Disclosure of Information	Licensee offering services to public who: (1) fails to provide by phone on request retain prices for merchandise or services (2) fails to fully disclose all available services and merchandise prior to casket selection and cost of all items not to be disposed of w/body (3) makes false or misleading statement regarding embalming or casketing needs (4) fails to disclose, when disclosure is desired, the components of the prices for alternatives.	Fine of \$500-1000 + costs, 6 mos – 1yr probation with usual conditions	Fine of \$2500-5000 + costs, 1-2 yr probation with usual conditions
470.035	470.035			
470.035(1)	470.035(1)	Fails to provide itemized price list as described before discussion of selection	Fine of \$500-1000 + costs, 6 mos – 1 yr probation with usual conditions	Fine of \$2500-5000 + costs, 1-2 yr probation with usual conditions
470.035(2)	470.035(2)	Fails to include name, address and phone number of the funeral establishment and required statement in price list required in §(1)	6 mos – 1 yr suspension with usual conditions + Costs	Fine of \$1000, 1 yr suspension with usual conditions – Revocation + costs
470.035(3)	470.035(3)	Fails to furnish price list required in this section when making arrangements	Fine of \$500-1000 + costs, 6 mos – 1 yr probation with usual conditions	Fine of \$2500-5000 + costs, 1-2 yr probation with usual conditions
470.035(4)	470.035(4)	Fails to include name, address and phone number of the funeral establishment and required statement in price list required in §(3)	Fine of \$500-1000 + costs, 6 mos – 1 yr probation with usual conditions	Fine of \$2500-5000 + costs, 1-2 yr probation with usual conditions
470.035(5)	470.035(5)	Fails to include signatures of customer, FD and date signed	Fine of \$500-1000 + costs, 6 mos – 1 yr probation with usual conditions	Fine of \$2500-5000 + costs, 1-2 yr probation with usual conditions
470.019	470.036(1)			
	(A) by violating 470.031 (a-h) (See above) or 455.227(1) (See below)	See specific individual statutory citations above or below		
470.019(2)(a); 455.227 (1)(h); (1)(q); (1)(b) if intentional	470.036(1)(b); 455.227 (1)(h); (1)(q); (1)(b) if intentional 470.031(1)(d)	Getting or attempting to get license by bribery or fraudulent misrepresentation	6 mos – 1 yr suspension with usual conditions + Costs	Fine of \$1000, 1 yr suspension with usual conditions – Revocation or Denial + costs

	<u>470.036(1)(c); 455.227 (1)(f); (1)(q)</u>	<u>Having similar license revoked, suspended or acted against including denial in another jurisdiction</u>	<u>Reprimand, Fine of \$1000-2500 + costs</u>	<u>Fine of \$2500-5000, Revocation or Denial + costs</u>
<u>470.019(2)(b); 455.227 (1)(c)</u>	<u>470.036(1)(d); 455.227 (1)(c)</u>	<u>Being convicted, pleading nolo, regardless of adjudication to crime directly relates to practice or ability to do so</u>	<u>Reprimand, fine of \$1000-2500 + costs</u>	<u>Fine of \$2500-5000, Revocation or denial + costs</u>
<u>470.019(2)(q); 455.227(1)(a); (1)(1); (i)(b)</u>	<u>470.036(1)(e); 455.227(1)(a); (1)(1); (i)(b)</u>	<u>Knowingly filing false report, failing to file required report or impeding filing report requiring signature of licensee</u>	<u>Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions</u>	<u>Reprimand, Fine of \$2500-5000, Revocation or Denial + Costs – 2 yr probation with usual conditions</u>
<u>470.019(2)(1); 455.227(1)(a); (1)(m); (1)(b) if intentional</u>	<u>470.036(1)(f); 455.227(1)(a); (1)(m)(1)(b) if intentional</u>	<u>Fraudulent, false, deceptive or misleading advertising</u>	<u>Reprimand, Fine of \$1000-2500 + Costs, 6 mos-1 yr probation with usual conditions</u>	<u>Reprimand, Fine of \$2500-5000, Revocation or Denial + Costs – 2 yr probation with usual conditions</u>
<u>455.227(1)(a); (1)(m); (1)(b) if intentional</u>	<u>470.036(1)(g); 455.227(1)(a); (1)(m); (1)(b) if intentional</u>	<u>Committing fraud, deceit, negligence, incompetence, or misconduct in practice</u>	<u>Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions</u>	<u>Reprimand, Fine of \$2500-5000, Revocation or Denial + Costs – 2 yr probation with usual conditions</u>
<u>470.019(2)(m); 455.227(1)(q); (1)(b) if intentional</u>	<u>470.036(1)(h); 455.227 (1)(q); (1)(b) if intentional</u>	<u>Violation of Ch. 470 or 455</u>	<u>Reprimand, Fine of \$1000-2500 + Costs, 6 mos – 1 yr probation with usual conditions</u>	<u>Reprimand, Fine of \$2500-5000, Revocation or Denial + costs – 2 yr probation with usual conditions</u>
<u>470.019(2)(m) continued; 455.227(1)(q)</u>	<u>470.036(1)(i); 455.227(1)(g)</u>	<u>Violation of Board or Department disciplinary order or failure to comply with Order or subpoena</u>	<u>Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions</u>	<u>Reprimand, Fine of \$2500-5000, Revocation or Denial + Costs – 2 yr probation with usual conditions</u>
<u>470.019(2)(n)</u>	<u>470.036(1)(j)</u>	<u>Practicing with revoked, suspended, inactive or delinquent license</u>	<u>Fine \$100-500 per month of violation + costs, probation 6 mos – 1 yr. with usual conditions to suspension until compliant</u>	<u>Fine \$500-1000 per month of violation + costs, 1 yr probation with usual conditions – revocation or denial</u>
<u>470.019(2)(d) 455.227(1)(a); (1)(b) if intentional</u>	<u>470.036(1)(k); 455.227(1)(a); (1)(b) if intentional</u>	<u>Misrepresentation or Fraud in practice</u>	<u>Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions</u>	<u>Reprimand, Fine of \$2500-5000, Revocation or Denial + costs – 2 yr probation with usual conditions</u>
<u>470.019(2)(e); 455.227(1)(a); (1)(b) if intentional</u>	<u>470.036(1)(l); 455.227(1)(a); (1)(b) if intentional</u>	<u>False/misleading oral or written statement regarding law or rule</u>	<u>Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions</u>	<u>Reprimand, Fine of \$2500-5000, Revocation or denial + costs, – 2 yr probation with usual conditions</u>
	<u>470.036(1)(m); 455.227(1)(a); (1)(b) if intentional</u>	<u>False/misleading stmt. re sale of service or merchandise connected to regulated activity</u>	<u>Reprimand, Fine of \$500-1000 + costs, 6 mos – 1 yr probation with usual conditions</u>	<u>Reprimand, Fine \$1000-2500 + Costs, 2 yr probation with usual conditions – revocation or denial</u>

470.019(2)(g); 455.227(1)(q)	470.036(1)(n); 455.227(1)(j); (1)(b) if intentional	Aid-abet unlicensed practice	Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions	Reprimand, Fine of \$2500-5000; Revocation or denial + Costs – 2 yr probation with usual conditions
470.019(2)(g) continued; 455.227(1)(k); (1)(o)		Engage in conduct for which a license as an FD or Emb. is required	Fine of \$500-1000 + costs, Reprimand, 6 mos – 1 yr probation with usual conditions	Fine of \$1000-2500, costs, 2 yr probation with usual conditions – Revocation or denial
470.019(2)(h); 455.227(1)(q)	470.036(1)(o); 455.227(1)(q)	Violating any state or local law/rule affecting handling, custody, care or transport of bodies	Fine \$500-1000, Reprimand, Costs	Fine \$2500-5000, Costs, Probation – Revocation or denial
470.019(2)(i); 455.227(1)(q)	470.036(1)(p); 455.227(1)(q); (1)(b) if intentional	Refusing to promptly surrender custody of body on express order of legally authorized person	Reprimand, Fine of \$1000-2500 + costs, 6mos – 1 yr probation with usual conditions	Reprimand, Fine of \$2500-5000, Revocation or denial + costs – 2 yr probation with usual conditions
470.019(2)(f); 455.227(1)(q)	470.036(1)(q); 455.227(1)(q)	Paying or receiving commission/bonus/ kickback or rebate for any regulated activity	Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions	Reprimand, Fine of \$2500-5000, Revocation or denial + costs – 2 yr probation with usual conditions
470.019(2)(j) 455.227(1)(q)	470.036(1)(r); 455.227(1)(q)	Taking possession of body w/out permission from legally authorized person	Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions	Reprimand, Fine of \$2500-5000, Revocation or denial + costs – 2 yr probation with usual conditions
470.019(2)(k) 455.227(1)(a); (1)(q)	470.036(1)(s) 455.227(1)(q)	Requiring casket purchase for cremation or claiming it is required	Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions	Reprimand, Fine of \$2500-5000, Revocation or denial + costs – 2 yr probation with usual conditions
	470.036(1)(t); 470.227(1)(q); (1)(b) if intentional	Embalming w/out prior permission of legally authorized person	Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions	Reprimand, Fine of \$2500-5000, Revocation or denial + costs – 2 yr probation with usual conditions
	470.036(1)(v); 455.227(1)(a); (1)(q); (1)(b) if intentional	Making false or misleading statements about substantial delay in decomposition of remains through embalming, or use of sealed or unsealed casket or container	Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions	Reprimand, Fine of \$2500-5000, Revocation or denial + costs – 2 yr probation with usual conditions
470.019(2)(o); 455.227(1)(q)	470.036(1)(w); 455.227(1)(a); (1)(q)	Solicitation by or on behalf of licensee by fraud, undue influence or other nexatious conduct	Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions	Reprimand, Fine of \$2500-5000, Revocation or denial + costs – 2 yr probation with usual conditions

470.019(2)(c); 455.227(1)(q)	470.036(1)(x); 455.227(1)(q)	Having been disciplined by a regulatory agency in any jurisdiction for an offense that would violate Chapters 470, 245, 382, 406, 497 or 872 or that directly relates to the ability to practice under this chapter	Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions	Reprimand, Fine of \$2500-5000. Revocation or denial + costs – 2 yr probation with usual conditions
470.019				
470.019(2)(p); 455.227(1)(a); (1)(q); (1)(b) if intentional		Fraud or deceit in the practice of direct disposition	Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions	Reprimand, Fine of \$2500-5000. Revocation or denial + costs – 2 yr probation with usual conditions
470.019(2)(r); 455.227(1)(q)		Engaging in the practice of direct burial or offering at-need or preneed service of direct burial	Reprimand, Fine of \$100-2000 + costs, 6 mos – 1 yr probation with usual conditions	Fine \$2500-5000 + costs, 2 yr probation with usual conditions-Revocation
455.227	455.227			
455.227(1)(e); (1)(q)	455.227(1)(e); (1)(q)	Failing to comply with CE course requirements in HIV/AIDS	Become compliant within 30 days, Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions	Become compliant within 30 days, Reprimand, Fine of \$2500-5000. Revocation or denial + costs – 2 yr probation with usual conditions
455.227(1)(g); (1)(q)	455.227(1)(g); (1)(q)	Having been found liable in civil proceedings for knowingly filing false report or complaint against another licensee	Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions	Reprimand, Fine of \$2500-5000. Revocation or denial + costs – 2 yr probation with usual conditions
455.227(1)(i); (1)(q)	455.227(1)(i); (1)(q)	Failing to report person licensee knows is in violation of laws or rules	Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions	Reprimand, Fine of \$2500-5000. Revocation or denial + costs – 2 yr probation with usual conditions
455.227(1)(n); (1)(q)	455.227(1)(n); (1)(q)	Exercising influence on client for financial gain	Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions	Reprimand, Fine of \$2500-5000. Revocation or denial + costs – 2 yr probation with usual conditions
455.227(1)(p); (1)(q)	455.227(1)(r); (1)(q)	Improperly interfering with investigation or inspection	Reprimand, Fine of \$1000-2500 + costs, 6 mos – 1 yr probation with usual conditions	Reprimand, Fine of \$2500-5000. Revocation or denial + costs – 2 yr probation with usual conditions

(2) Based upon consideration of the following factors, the Board may impose disciplinary action other than the penalties recommended in subsections (1) through (5) above:

- (a) The danger to the public;
- (b) The length of time since date of violation;
- (c) The number of complaints filed against the licensee;
- (d) The length of time licensee has practiced;

(e) The actual damage, physical or otherwise, caused by the violation;

- (f) The deterrent effect of the penalty imposed;
- (g) The effect of the penalty upon the licensee’s livelihood;
- (h) Any efforts for rehabilitation;
- (i) The actual knowledge of the licensee pertaining to the violation;

(j) Attempts by licensee to correct or stop violations or refusal by licensee to correct or stop violations;

(k) Related violations against a license in another state including findings of guilt or innocence, penalties imposed and penalties served;

(l) Actual negligence of the licensee pertaining to any violation;

(m) Penalties imposed for related offenses under subsections (1) through (5) above; and

(n) Any other mitigating or aggravating circumstances.

(3) The usual conditions to be imposed are:

(a) Fines and costs are to be paid by cashier's check or money order payable to the Board of Funeral Directors and Embalmers and delivered to the Board office at the Department of Business and Professional Regulation, Board of Funeral Directors and Embalmers, 1940 North Monroe Street, Tallahassee, Florida 32399, within 30 days of the effective date of the Order.

(b) Failure to pay the fine or cost within the time specified in this rule or in the Boards Order shall result in the assessment of interest at the statutory rate, beginning on the thirty-first (31st) day.

(c) When any penalty is imposed, the license is suspended, with the suspension stayed. Failure to comply with any provision of the Final Order shall result in a lifting of the stay.

(d) Continuing Education, when imposed, will be a minimum of three (3) hours and a maximum of six (6) hours per violation and shall be in addition to those hours required for license renewal. Unless otherwise indicated in the Order, all Continuing Education must be completed prior to the lifting of probation or suspension.

(e) Licensee must take and pass the Florida Laws and Rules examination at his/her own expense, prior to the lifting of probation or suspension.

(e) Prior to the lifting of probation or suspension, the licensee must attend an in-person meeting of the Board and demonstrate compliance with the Order and demonstrate by testimony, presentation of letters of recommendation from friends and supervisors within the industry, and other indicia of rehabilitation, that he or she is able to resume practicing within reasonable care and safety and in compliance with the laws of the State of Florida and rules of this Board.

(4) The usual conditions may be altered by the Board at the time discipline is imposed.

(5) The provisions of Sections (1) through (6) above shall not be construed so as to prohibit civil action or criminal prosecution as provided for in Sections 455.227, 470.031(2) or 470.037, F.S., and the provisions of Sections (1) through (6) above shall not be construed so as to limit the ability of the Board to enter into binding stipulations with accused parties as per Section 120.57(3), F.S.

Specific Authority 455.2273, 470.005 FS. Law Implemented 455.2273, 470.019, 470.031, 470.036 FS. History—New 12-15-86, Amended 9-27-88, Formerly 21J-30.001, Amended 7-9-95, 2-11-96, 5-1-96, 8-7-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Funeral Directors and Embalmers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral Directors and Embalmers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 10, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 9, 2004

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLE: RULE NO.:

Written Examination Designated;

General Requirements 61G15-21.001

PURPOSE AND EFFECT: To conform to the examination rules of the National Council of Examiners for Engineers and Surveyors (NCEES), which is the organization that administers the examination.

SUMMARY: To conform to the examination rules of the National Council of Examiners for Engineers and Surveyors (NCEES), which is the organization that administers the 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 to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 455.217(1) FS.

LAW IMPLEMENTED: 455.217(1), 471.015 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: Paul Martin, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-21.001 Written Examination Designated; General Requirements.

(1) The Florida Board of Engineers hereby determines that a written examination shall be given and passed prior to any applicant receiving a license to practice as a professional engineer, or as an engineer intern in the State of Florida except as provided in Section 471.015, F.S. The examination shall be

provided by the National Council of Examiners for Engineers and Surveyors (NCEES). The examination consists of two parts, each of eight hours. The engineer intern examination is defined to be Part One of the written examination provided by the NCEES. Candidates are permitted to bring certain reference materials and calculators. A list of approved reference materials and calculators will be provided to all candidates prior to each examination. ~~Reference materials are limited to fifteen (15) bound volumes.~~ National examination security requirements as set forth by the NCEES shall be followed throughout the administration of the examination.

(2) No change.

Specific Authority 455.217(1) FS. Law Implemented 455.217(1), 471.015 FS. History—New 1-8-80, Formerly 21H-21.01, Amended 10-5-92, Formerly 21H-21.001, Amended 11-15-94, 10-14-02, 3-9-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Professional Engineers
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 22, 2004
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 2004

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLE: Re-examination
RULE NO.: 61G15-21.007
PURPOSE AND EFFECT: To conform the rule to amendments to the enabling statute.
SUMMARY: To conform the rule to amendments to the enabling statute.
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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 455.217(2) FS.
LAW IMPLEMENTED: 455.217(2), 471.011, 471.013, 471.015 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: Paul Martin, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-21.007 Re-examination.

If an applicant fails ~~three~~ **five** times to pass the examination, the applicant must take additional courses in order to reapply for examination. The applicant must submit to the Board of Professional Engineers transcripts for the enrollment and completion of twelve (12) college credit hours of college level courses in the applicant’s area of deficiency. For applicants to take Part I of the engineer examination, such additional courses shall be undergraduate college courses in higher mathematics, basic sciences or engineering as described in paragraphs 61G15-20.007(2)(a), (b), and (d), F.A.C. For applicants to take Part II of the engineer examination, such additional courses shall be upper level or higher courses in engineering, as defined in paragraph 61G15-20.007(2)(d), F.A.C.

Specific Authority 455.217(2) FS. Law Implemented 455.217(2), 471.011, 471.013, 471.015 FS. History—New 1-8-80, Amended 8-25-81, Formerly 21H-21.07, 21H-21.007, Amended 2-14-95, 5-22-01, 12-10-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Professional Engineers
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 22, 2004
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 2004

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLES: Schedule of Fees
RULE NOS.: 61G15-24.001
Unlicensed Activity Fee 61G15-24.002

PURPOSE AND EFFECT: Purpose and effect for Rule 61G15-24.001, F.A.C., amendment are to eliminate unnecessary and duplicative language, add fees for Special Inspector Certification application and initial certification for Certificate of Authority, and to increase the inactive status fee. Purpose and effect for Rule 61G15-24.002, F.A.C., amendment are to collect the unlicensed activity fee in addition to other fees, instead of as part of the licensure and renewal fees.

SUMMARY: For Rule 61G15-24.001, F.A.C., amendment it is to eliminate unnecessary and duplicative language, add fees for Special Inspector Certification application and initial certification for Certificate of Authority, and to increase the inactive status fee. For Rule 61G15-24.002, F.A.C., amendment it is to collect the unlicensed activity fee in addition to other fees, instead of as part of the licensure and renewal 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 to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 455.213, 455.217(3), 455.219, 455.2281, 455.271, 471.011, 471.019 FS.

LAW IMPLEMENTED: 119.07(1)(a), 455.217(3),(7), 455.2281, 471.011, 471.019 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 RULES IS: Paul Martin, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULES IS:

61G15-24.001 Schedule of Fees.

(1) Pursuant to Sections 471.011, 471.019, Florida Statutes, the Board hereby establishes the following fees for applications, ~~examination, reexamination,~~ licensing and renewal, temporary registration, late renewal, licensure registration by endorsement, reactivation fee, and replacement of certificate.

(2) Engineering licensure fees (individuals and firms):

(a) ~~Initial Application fee for licensure by examination or endorsement - Graduate of Board approved engineering program as defined in paragraph 61G15-20.001(2)(a), F.A.C., or an engineering program approved by the Board pursuant to Rule 61G15-20.006, F.A.C., or qualified under Section 471.013(1), F.S. \$125.00 non-refundable.~~

~~(b) Examination and re-examination fee - \$100.00, except the fee for Structural II examination is \$450.00.~~

~~(c) Application fee for licensure by endorsement - \$125.00.~~

~~(b)(d) Initial license fee licensure - \$100.00.~~

~~(c)(e) Biennial rRenewal fee - \$125.00 per biennium.~~

~~(d)(f) Delinquency Fee - \$100.00.~~

~~(e)(g) Temporary license registration (individual) - \$25.00.~~

~~(f)(h) Temporary Certificate of Authorization (firm) - \$50.00.~~

~~(g)(i) Application fee Registration for a Certificate of Authorization (firm) - \$125.00 non-refundable.~~

~~(h) Initial fee for Certificate of Authorization - \$125.00.~~

~~(i)(j) Biennial Renewal fee for of Certificate of Authorization (firm) - \$125.00.~~

~~(j)(k) Inactive Status Fee - \$1275.00.~~

~~(k)(l) Reactivation fee - \$150.00.~~

~~(l)(m) Duplicate Certificate - \$25.00.~~

~~(m)(n) Verification of Licensure - \$25.00.~~

~~(n)(o) Special Inspector Certification Fee - \$100.00.~~

~~(o) Application fee for Special Inspector Certification - \$125.00.~~

~~(3) Engineer Intern application fFees: \$30.00.~~

~~(a) Application Fee - \$30.00.~~

~~(b) Examination - \$50.00.~~

~~(c) Re-examination - \$100.00.~~

Specific Authority 455.213, 455.217(3), 455.219, 455.271, 471.011, 471.019 FS. Law Implemented 119.07(1)(a), 455.217(3),(7), 471.011, 471.019 FS. History—New 1-8-80, Amended 8-26-81, 12-19-82, 6-2-83, 2-28-84, Formerly 21H-24.01, Amended 3-10-86, 12-11-86, 3-10-87, 4-12-88, 12-21-88, 1-10-90, 8-15-90, 1-6-93, Formerly 21H-24.001, Amended 11-15-94, 8-10-98, 6-16-99, 5-8-00, 11-15-01, 2-21-02, 9-16-02, 5-9-04, _____.

61G15-24.002 Unlicensed Activity Fee.

In addition to ~~From~~ each fee for initial licensure or licensure renewal, an additional \$5.00 shall be collected and earmarked for the purpose of combating unlicensed activity.

Specific Authority 455.2281 FS. Law Implemented 455.2281 FS. History—New 8-29-93, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 22, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 2004

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 Osteopathic Medicine

RULE TITLES: RULE NOS.:

Continuing Education for Biennial Renewal 64B15-13.001

Continuing Education Requirements for Reactivation 64B15-13.002

PURPOSE AND EFFECT: The Board proposed rule amendments are intended to address requirements for continuing education with regard to renewal and reactivation.

SUMMARY: The proposed rule amendments clarify the requirements for continuing education for renewal and reactivation.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 459.005, 459.008(4), 459.009(1) FS.

LAW IMPLEMENTED: 456.013(5),(6),(7), 459.008, 459.008(4), 459.009(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: Pamela King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-13.001 Continuing Education for Biennial Renewal.

(1)(a) Every person licensed pursuant to Chapter 459, F.S., except those licensed as physician assistants pursuant to Section 459.022, F.S., shall be required to complete forty (40) hours of continuing medical education courses approved by the Board in the twenty-four (24) months preceding each biennial renewal period as established by the Department. Seven of the continuing medical education hours required for renewal shall be one hour HIV/AIDS course, one hour Domestic Violence, one hour Risk Management Course, one hour Florida Laws and Rules, one hour on the laws regarding the use and abuses of controlled substances, and two hours Prevention of Medical Errors Course. The completion of the seven required continuing medical education hours set forth above shall be obtained as set forth in paragraph (3)(b) of this rule.

(b) No change.

(2) No change.

(3)(a) For purposes of this rule, risk management means the identification, investigation, analysis, and evaluation of risks and the selection of the most advantageous method of correcting, reducing, or eliminating identifiable risks and domestic violence as defined in Section 741.30, F.S.

(b) The continuing medical education found in paragraph 64B15-13.001(1)(a), F.A.C., with regard to Risk Management, Florida Laws and Rules, controlled substances and the prevention of medical errors shall be obtained by the completion of live, participatory attendance courses. However, the continuing medical education found in paragraph 64B15-13.001(1)(a), F.A.C., with regard to HIV/AIDS, domestic violence, or the alternative end-of-life/palliative care as set forth in subsection (7) of this rule may be obtained by the completion of non-live/participatory attendance.

(c) For purposes of this rule, Florida laws and rules means Chapters 456 and 459, ~~Part II~~, F.S., and Rule Chapter 64B15, F.A.C.

(d) through (e) No change.

(4) The following courses are approved by the Board:

(a) through (d) No change.

(e) Fellowships approved by the American Osteopathic Association or the American Medical Association; Internship or residency approved by the American Osteopathic Association or the Accreditation Council for Graduate Medical Education ~~American Medical Association~~; each fellow, intern and/or resident shall be responsible for obtaining the continuing medical education required under this rule. For fellows, interns, and/or residents in approved AOA, ~~or~~ AMA, or ACGME educational training programs, ten (10) continuing medical education credit hours shall be awarded for successful completion of each 6 month training program period;

(f) through (g) No change.

(h) Internship or residency approved by the American Osteopathic Association or the Accreditation Council for Graduate Medical Education ~~American Medical Association~~;

(i) No change.

(5) through (8) No change.

Specific Authority 459.005, 459.008(4) FS. Law Implemented 456.013(5),(6),(7), 459.008, 459.008(4) FS. History--New 10-23-79, Amended 1-29-86, Formerly 21R-13.01, Amended 12-5-89, 4-8-91, 2-16-92, Formerly 21R-13.001, Amended 1-10-94, Formerly 61F9-13.001, Amended 10-25-95, Formerly 59W-13.001, Amended 1-19-98, 6-3-98, 4-14-99, 5-26-02, 5-10-04, 7-27-04, _____.

64B15-13.002 Continuing Education Requirements for Reactivation.

(1) Every license holder pursuant to Chapter 459, F.S., whose license has been inactive for more than one (1) year shall be required to complete continuing education requirements as a condition for reactivating his license.

(2) The continuing education requirements shall be twenty (20) ~~live, participatory~~ attendance hours for each year the license was inactive. At least seven ~~five~~ of the continuing medical education hours required for renewal shall be as found in paragraph 64B15-13.001(1)(a), F.A.C.

(3) The courses listed in Rule 64B15-13.001, F.A.C., shall constitute the list of approved courses under this rule.

Specific Authority 459.009(1) FS. Law Implemented 459.009(1) FS. History--New 10-23-79, Amended 4-17-85, Formerly 21R-13.02, Amended 5-13-87, Formerly 21R-13.002, Amended 1-10-94, Formerly 61F9-13.002, Amended 8-27-95, Formerly 59W-13.002, Amended 12-9-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Osteopathic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 12, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2004 (64B15-13.001) October 8, 2004 (64B15-13.002)

**DEPARTMENT OF HEALTH
Board of Osteopathic Medicine**

RULE TITLE: Standards of Practice for Surgery
RULE NO.: 64B15-14.006

PURPOSE AND EFFECT: The proposed rule amendment is intended to address a process to be undertaken by the surgical/procedure team for the purpose of properly identifying the patient, procedure and correct site for the procedure prior to commencing any surgery/procedure.

SUMMARY: The proposed rule amendment sets forth the appropriate process to be undertaken by the surgical/procedure team for the purpose of properly identifying the patient, procedure and correct site for the procedure prior to commencing any surgery/procedure.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 459.005, 459.015(1)(z) FS.

LAW IMPLEMENTED: 459.015(1)(x), (z), (aa) 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: Pamela King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin # C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-14.006 Standards of Practice for Surgery.

The Board of Osteopathic Medicine interprets the standard of care requirement of Section 459.015(1)(x), F.S., and the delegation of duties restrictions of Section 459.015(1)(aa), F.S., with regard to surgery as follows:

(1) The ultimate responsibility for diagnosing medical and surgical problems is that of the licensed allopathic or osteopathic physician who is to perform the surgery. In addition, it is the responsibility of the operating surgeon or an equivalently trained allopathic or osteopathic physician practicing within a Board approved postgraduate training program to explain the procedure to and obtain the informed consent of the patient. It is not necessary, however, that the operating surgeon obtain or witness the signature of the patient on the written form evidencing informed consent.

(2) This rule is intended to prevent wrong site, wrong side, wrong patient and wrong surgeries/procedures by requiring the team to pause prior to the initiation of the surgery/procedure to confirm the side, site, patient identity, and surgery/procedure.

(a) Definition of Surgery/Procedure. As used herein, "surgery/procedure" means the incision or curettage of tissue or an organ, insertion of natural or artificial implants, electro-convulsive therapy, and endoscopic procedure. Minor surgeries/procedures such as excision of skin lesions, moles, warts, cysts, lipomas and repair of lacerations or surgery limited to the skin and subcutaneous tissue performed under topical or local anesthesia not involving drug-induced alteration of consciousness other than minimal pre-operative tranquilization of the patient are exempt from the following requirements.

(b) Except in life-threatening emergencies requiring immediate resuscitative measures, once the patient has been prepared for the elective surgery/procedure and the surgical team has been gathered in the operating room and immediately prior to the initiation of any surgical procedure, the surgical team will pause and the operating physician will verbally confirm the patient's identification, the intended procedure and the correct surgical/procedure site. The operating physician shall not make any incision or perform any surgery or procedure prior to performing this required confirmation. The notes of the procedure shall specifically reflect when this confirmation procedure was completed and which personnel on the surgical team confirmed each item. This requirement for confirmation applies to physicians performing procedures either in office settings or facilities licensed pursuant to Chapter 395, Florida Statutes, and shall be in addition to any other requirements that may be required by the office or facility.

(2) through (4) renumbered (3) through (5) No change.

Specific Authority 459.005, 459.015(1)(z) FS. Law Implemented 459.015(1)(x),(z),(aa) 459.334(+)(x),(aa) FS. History--New 10-16-01, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Osteopathic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 12, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 2004

**DEPARTMENT OF HEALTH
Board of Osteopathic Medicine**

RULE TITLE: Physician Practice Standard Regarding Do Not Resuscitate (DNR) Orders
RULE NO.: 64B15-14.010

PURPOSE AND EFFECT: The proposed new rule is intended to address proper physician practice with regard to DNR orders.

SUMMARY: The proposed rule sets forth appropriate standards with regard to physicians and the identification and recognition of DNR orders.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 459.015 (1)(z) FS.

LAW IMPLEMENTED: 459.015 (1)(z) 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: Pamela King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-14.010 Physician Practice Standard Regarding Do Not Resuscitate (DNR) Orders.

Resuscitation may be withheld or withdrawn from a patient by a treating physician licensed pursuant to Chapter 459, F.S., if evidence of an order not to resuscitate by the patient's physician is presented to the treating physician. An order not to resuscitate, to be valid, must be on the form as set forth in Section 401.45, F.S. The form must be signed by the patient's physician and by the patient, or, if the patient is incapacitated, the patient's health care surrogate, or proxy as provided in Chapter 765, F.S.; court appointed guardian as provided in Chapter 744, F.S.; or attorney in fact under a durable power of attorney as provided in Chapter 709, F.S. The court appointed guardian or attorney in fact must have been delegated authority to make health care decisions on behalf of the patient.

Specific Authority 459.015(1)(z) FS. Law Implemented 459.015(1)(z) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Osteopathic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 12, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 2004

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE TITLES:	RULE NOS.:
Citations	64B15-19.007
Mediation	64B15-19.008

PURPOSE AND EFFECT: The proposed rule amendments are intended to clarify the additional citation violations and violations which are appropriate for mediation.

SUMMARY: The proposed rule amendments clarify additional citation violations and set forth violations which are appropriate for mediation.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.073, 456.077, 456.078 FS.

LAW IMPLEMENTED: 456.073, 456.077, 456.078 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: Pamela King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-19.007 Citations.

(1) through (2) No change.

(3) The following violations with accompanying fines may be disposed of by citation.

(a) through (l) No change.

(m) Failure to report another licensee in violation; Sections 456.072(1)(i) & 459.015(1)(e), F.S. The fine shall be \$500. First time failure to pay fine or costs. The fine shall be 10% of the fine and/or costs imposed plus the fine and costs. Failure to pay citation shall result in an administrative complaint.

(n) Failure of the director of medical education in a training program to appropriately register a physician in training as required in Section 459.021, F.S. The fine shall be \$500.

(o) Failure to comply with the guidelines for the use of obesity drugs in instances which do not result in patient harm. The fine shall be \$500.

(4) through (7) No change.

Specific Authority 456.073, 456.077 FS. Law Implemented 456.073, 456.077 FS. History--New 10-28-91, Amended 8-24-92, 11-17-92, Formerly 21R-19.007, 61F9-19.007, 59W-19.007, Amended 11-27-97, 11-12-00, 1-29-03, 7-13-03, _____.

64B15-19.008 Mediation.

(1) "Mediation" means a process whereby a mediator appointed by the Department acts to encourage and facilitate resolution of a legally sufficient complaint. It is an informal and non-adversarial process with the objective of assisting the parties to reach a mutually acceptable agreement.

(2) The board finds that the following offenses may be mediated if the offense meets the criteria of Section 456.078, F.S.: mediation is an acceptable method of dispute resolution for the following violations as they are economic in nature or can be remedied by the licensee;

(a) Section 459.015(1)(d), F.S., false advertising. Failure of the licensee to timely pay any assessed administrative fines or costs;

(b) Section 459.015(1)(g), F.S., failure to perform a statutory or legal obligation, with regard to violation of medical director clinic responsibilities. Failure of the licensee to timely respond to a continuing education audit.

(c) Section 459.015(1)(pp), F.S., violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto, with regard to failure to release patient records to a patient or a patient's legal representative.

(d) Section 459.015(1)(r), F.S., improper advertising of pharmacy; promoting or advertising on any prescription form of a community pharmacy unless the form shall also state "This prescription may be filled at any pharmacy of your choice."

(e) Section 459.015(1)(x), F.S., failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances, provided that it does not result in patient harm or the performance of any surgical procedure.

(3) The Department of Health shall, at the end of each calendar quarter, submit a report to the Board of the number of successful mediations, the violations, resolutions and the number of subjects who chose to follow the procedures of Section 456.073, F.S.

~~Specific Authority 456.078 FS, Section 8, 94-119, Laws of Fla. Law Implemented 456.078 FS, Section 8, 94-119, Laws of Fla. History--New 11-30-94, Formerly 59W-19.008, Amended _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Osteopathic Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 12, 2004
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 3, 2003 (64B15-19.007) and May 28, 2004 (64B15-19.008)

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLES:	RULE NOS.:
Display of Current License and Wall Certificate; Pharmacist and Intern Identification	64B16-27.100
Practice of Pharmacy	64B16-27.1001
Oral Prescriptions and Copies	64B16-27.103
Transmission of Prescription Orders	64B16-27.1003
Conduct Governing Pharmacists and Pharmacy Permittees	64B16-27.104
General Terms and Conditions to Be Followed by a Pharmacist When Ordering and Dispensing Approved Medicinal Drug Products	64B16-27.210
Prescription Refills	64B16-27.211
Medicinal Drugs Which May Be Ordered by Pharmacists	64B16-27.220
Fluoride Containing Products That May Be Ordered By Pharmacists	64B16-27.230
Standards of Practice – Continuous Quality Improvement Program	64B16-27.300
Pharmacy Technician 1:1, 2:1 or 3:1 Ratio Duty of Pharmacist to Inform Regarding Drug Substitution	64B16-27.530
Possession and Disposition of Sample Medicinal Drugs	64B16-27.615
Definition of Compounding	64B16-27.700
Standards of Practice – Drug Therapy Management	64B16-27.830
Standards of Practice for the Dispensing of Controlled Substances for Treatment of Pain	64B16-27.831

PURPOSE AND EFFECT: the Board proposes the rule amendments and new rules to update pharmacy practices and to consolidate all its pharmacy practice requirements into Chapter 64B16-27, F.A.C.

SUMMARY: The proposed new rules and amendments address the requirements regarding the practice of the profession of pharmacy.

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

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

SPECIFIC AUTHORITY: 465.005, 465.0155, 465.016(1), 465.018, 465.022, 465.024, 465.186(2), 499.028, 893.04 FS.

LAW IMPLEMENTED: 456.072(1)(i), 465.003(11)(b), (12),(13), 465.014, 465.0155, 465.016(1)(i), 465.017(2), 465.018, 465.022, 465.024, 465.025(3)(a), 465.026, 465.0265, 465.186, 499.028, 893.07(1)(b) 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 RULES IS: Danna Droz, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULES IS:

64B16-27.100 Display of Current License and Wall Certificate; Pharmacist and Intern Identification and Renewal Certificates.

(1) The wall certificate and current license of each pharmacist engaged in the practice of the profession of pharmacy as defined by Section 465.003(13)(12), F.S., in any pharmacy shall be displayed, ~~together with the current renewal certificate~~, when applicable, in a conspicuous place in or near the prescription department, and in such manner that said license can be easily read by patrons of said establishment. Pharmacists employed in secondary practice sites shall present a valid wallet license as evidence of licensure upon request.

(2) No pharmacist shall display, cause to be displayed, or allow to be displayed, their his license in any pharmacy where said pharmacist is not engaged in the practice of the profession as defined in Section 465.003(13)(12), F.S.

(3) A pharmacist and intern must be clearly identified by a means such as an identification badge or monogrammed smock showing their name and if they are a pharmacist or an intern.

Specific Authority 465.005, 465.0155, 465.022 FS. Law Implemented 465.022 FS. History—Amended 5-19-72, Repromulgated 12-18-74, Formerly 21S-1.06, 21S-1.006, Amended 7-30-91, Formerly 21S-27.100, 61F10-27.100, Amended 1-30-96, Formerly 59X-27.100, Amended _____.

64B16-27.1001 Practice of Pharmacy.

Those functions within the definition of the practice of the profession of pharmacy, as defined by Section 465.003(13), Florida Statutes, are specifically reserved to a pharmacist or a duly registered pharmacy intern in this state acting under the direct and immediate personal supervision of a pharmacist. The following subjects come solely within the purview of the pharmacist.

(1) A pharmacist or pharmacy intern must:

(a) Supervise and be responsible for the controlled substance inventory.

(b) Receive verbal prescriptions from a practitioner.

(c) Interpret and Identify prescription contents.

(d) Engage in consultation with a practitioner regarding interpretation of the prescription and data in a patient profile.

(e) Engage in professional communication with practitioners, nurses or other health professionals.

(f) Advise or consult with a patient, both as to the prescription and the patient profile record.

(g) Certify the finished prescription.

(2) When parenteral and bulk solutions of all sizes are prepared, regardless of the route of administration, the pharmacist must:

(a) Interpret and identify all incoming orders.

(b) Mix all extemporaneous compounding or be physically present and give direction to the pharmacy technician for reconstitution, for addition of additives, or for bulk compounding of the parenteral solution.

(c) Physically examine, certify to the accuracy of the final preparation, thereby assuming responsibility for the final preparation.

(d) Systemize all records and documentation of processing in such a manner that professional responsibility can be easily traced to a pharmacist.

(3) Only a pharmacist may make the final check of the completed prescription thereby assuming the complete responsibility for is preparation and accuracy.

(4) The pharmacist, as an integral aspect of dispensing, shall be directly and immediately available to the patient or the patient's agent for consultation and shall not dispense to a third party. No prescription shall be deemed to be properly dispensed unless the pharmacist is personally available.

(5) The pharmacist performing in this state any of the acts defined as "the practice of the profession of pharmacy" in Section 465.003(13), Florida Statutes, shall be actively licensed as a pharmacist in this state, regardless of whether the practice occurs in a permitted location (facility) or other location.

(6) A pharmacist may take a meal break, not to exceed 30 minutes in length, during which the pharmacy department of a permittee shall not be considered closed, under the following conditions:

(a) The pharmacist shall be considered present and on duty during any such meal break if a sign has been prominently posted in the pharmacy indicating the specific hours of the day during which meal breaks may be taken by the pharmacist and assuring patients that a pharmacist is available on the premises for consultation upon request during a meal break.

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

(c) The activities of pharmacy technicians during such a meal break shall be considered to be under the direct and immediate personal supervision of a pharmacist if the pharmacist is available on the premises during the meal break

to respond to questions by the technicians, and if at the end of the meal break the pharmacist certifies all prescriptions prepared by the pharmacy technicians during the meal break.

(7) The delegation of any duties, tasks or functions to interns and pharmacy technicians must be performed subject to a continuing review and ultimate supervision of the pharmacist who instigated the specific task, so that a continuity of supervised activity is present between one pharmacist and one pharmacy technician. In every pharmacy, the pharmacist shall retain the professional and personal responsibility for any delegated act performed by interns and pharmacy technicians in the licensee's employ or under the licensee's supervision.

Specific Authority 465.005, 465.0155 FS. Law Implemented 465.003(11)(b),(13), 465.014, 465.026 FS. History—New _____.

64B16-27.103 Oral Prescriptions and Copies.

(1) Only a ~~Florida registered~~ pharmacist or registered pharmacy intern acting under the direct personal supervision of a ~~Florida registered~~ pharmacist may, in the State of Florida, accept an oral prescription of any nature. Upon so accepting such oral prescription it must immediately be reduced to a hard copy, ~~and~~

(2) ~~Only a Florida registered~~ pharmacist or registered pharmacy intern acting under the direct personal supervision of a ~~Florida registered~~ pharmacist may, in the State of Florida, prepare a copy of a prescription or read a prescription to any person for purposes of providing reference concerning treatment of the person or animal for whom the prescription was written, and when said copy is given a notation shall be made upon the prescription that a copy has been given, the date given, and to whom given.

Specific Authority 465.005, 465.0155, 465.022 FS. Law Implemented 465.003(13), 465.022, 893.07(1)(b) FS. History—Amended 5-19-72, Repromulgated 12-18-74, Formerly 21S-1.18, 21S-1.018, 21S-27.103, 61F10-27.103, Amended 9-19-94, Formerly 59X-27.103, Amended 10-15-01, _____.

64B16-27.1003 Transmission of Prescription Orders.

Prescriptions may be transmitted from prescriber to dispenser in written form or by any means of communication. Prescriptions may be transmitted by facsimile systems as provided in Section 465.035, Florida Statutes, and federal law. Any direct transmission of prescriptions, including verbal, facsimile, telephonic or electronic data transmission, shall only be with the approval of the patient or patient's agent. The pharmacist receiving any such transmitted prescription shall not participate in any system that the pharmacist knows or should have reason to know restricts the patient's choice of pharmacy. The pharmacist shall take such measures necessary to ensure the validity of all prescriptions received.

Specific Authority 465.005, 465.0155, 465.022 FS. Law Implemented 465.022, 465.026, 893.07 FS. History—New _____.

64B16-27.104 Conduct Governing Registered Pharmacists and Pharmacy Permittees.

(1) through (4) No change.

(5) Pursuant to Section 465.018, F.S., that requires that a permit for a community pharmacy may not be issued unless a licensed pharmacist is designated as the prescription department manager responsible for maintaining all drug records, providing for the security of the prescription department and following such other rules as relate to the practice of the profession of pharmacy. ~~It is the Board's position that in most cases a pharmacist cannot effectively carry out these statutory duties if he is responsible for more than one prescription department. Accordingly, the The Board shall not register a prescription department manager as the manager of more than one pharmacy. The Board may grant an exception to this requirement upon application by the permittee and the prescription department manager showing circumstances such as proximity of permits and limited pharmacist workload that would allow the manager to carry out all duties and responsibilities required of a prescription department manager.~~ requires that no pharmacist may be registered as the prescription department manager of more than one pharmacy; provided, however, that the Board on application by the permittee and prescription department manager showing circumstances such as proximity of permits and limited pharmacist's workload wherein a single pharmacist could effectively act as manager of more than one prescription department and carry out all his duties and responsibilities with regard to more than one prescription department, may grant an exception to this requirement.

Specific Authority 465.005, 465.0155, 465.018, 465.022 FS. Law Implemented 465.018, 465.022, 465.024 FS. History—New 10-20-81, Formerly 21S-1.20, 21S-1.020, Amended 7-30-91, Formerly 21S-27.104, 61F10-27.104, 59X-27.104, Amended _____.

64B16-27.210 General Terms and Conditions to Be Followed by a Pharmacist When Ordering and Dispensing Approved Medicinal Drug Products.

A pharmacist Pharmacists may order a the medicinal drug products listed in Rule 64B16-27.220, F.A.C. set forth in each rule subject to the following terms and limitations:

(1) A pharmacist shall establish a valid pharmacist-patient relationship. The relationship shall not be based solely on an electronic medical questionnaire or a telephonic consultation.

(2) A medicinal drug in an injectable dosage form ~~Injectable products~~ shall not be ordered by the pharmacist.

(3)(2) An ~~No~~ oral medicinal drugs shall not be ordered by a pharmacist for a pregnant patient or nursing mother.

(4)(3) The In any case of dispensing hereunder, the amount or quantity of a medicinal drug dispensed shall not exceed a 34-day supply or standard course of treatment unless subject to the specific limitations in this rule. A Ppatients shall be advised to ~~that they should~~ seek the advice of an appropriate

health care provider if ~~the their~~ present condition, symptom, or complaint does not improve upon the completion of the regimen.

~~(5)(4)~~ Directions The directions for use of all prescribed medicinal drugs shall not exceed the manufacturer's recommended dosage.

~~(6)(5)~~ No change.

~~(7)(6)~~ A The pharmacist who orders and dispenses a medicinal drug shall create a prescription ~~when ordering and dispensing a medicinal drug product~~ which shall be maintained in the prescription files of the pharmacy.

~~(8)~~ A The pharmacist shall place the trade or generic name and quantity dispensed on the prescription label, in addition to all other label requirements.

~~(9)(7)~~ A The pharmacist shall maintain a patient profiles, separate from the prescription order, for ~~a all~~ patients for whom the pharmacist orders and dispenses medicinal drug products and shall initial and date each profile entry. ~~The Such~~ profiles shall be maintained at the pharmacy ~~wherein the ordering and dispensing originated~~ for a period of ~~two (2)~~ seven (7) years.

~~(10)(8)~~ The patient profile shall document a valid pharmacist-patient relationship that includes: In the patient profiles, the pharmacist shall record as a minimum the following information if a medicinal drug product is ordered and dispensed:

- (a) No change.
- ~~(b) A statement regarding the pPatients's medical history.~~
- ~~(c) A statement regarding the pPatients's current complaint which may include; onset, duration, or and frequency of the problem.~~
- ~~(d) Documentation of a physical assessment.~~
- ~~(e)(d)~~ The Medicinal drug ordered and dispensed.
- ~~(f)(e)~~ Date and initials of the pharmacist ~~The pharmacist ordering and dispensing the medicinal drug product shall initial the profile.~~
- ~~(g)(f)~~ The Prescription number shall be recorded in the patient's profile.

~~(11)~~ The history and evaluation of the patient shall be adequate to support the medicinal drug order.

~~(12)(9)~~ A medicinal drug product shall be dispensed only by the pharmacist who ordered the drug may be ordered, and dispensed only by the pharmacist so ordering.

~~(13)(10)~~ Only legend medicinal drugs may be ordered prescribed by a pharmacist. Over-the-counter drugs are exempt from the requirements of this rule and shall be recommended as over-the-counter products.

~~(14)(11)~~ A Pharmacy interns or technician shall and supportive personnel may not be involved in the ordering of the medicinal drugs permitted in this Rule.

Specific Authority 465.186(2) FS. Law Implemented 465.186 FS. History-New 5-1-86, Formerly 21S-18.002, 21S-27.210, 61F10-27.210, 59X-27.210, Amended _____.

64B16-27.211 Prescription Refills.

No prescription may be filled or refilled in excess of one (1) year from the date of the original prescription was written. No prescription for a controlled substance listed in Schedule II may be refilled. No prescription for a controlled substance listed in Schedules III, IV, or V may be filled or refilled more than five (5) times within a period of six (6) months after the date on which the prescription was written.

Specific Authority 465.005, 465.016(1), 465.022(1)(a), 893.04 FS. Law Implemented 465.022 FS. History-New _____.

64B16-27.220 Medicinal Drugs Which May Be Ordered by Pharmacists.

A Pharmacist may order and dispense from the following formulary, within their professional judgment, subject to the stated conditions:-

(1) Oral analgesics for mild to moderate pain:- The pharmacist may order these drugs for minor pain and menstrual cramps for patients with no history of peptic ulcer disease. The prescription shall be limited to a six (6) day supply for one treatment. If appropriate, the prescription shall be labeled to be taken with food or milk.

- (a) Magnesium ~~magnesium~~ salicylate/phenyltoloxamine citrate,-
- (b) Acetylsalicylic ~~acetylsalicylic~~ acid (Zero order release, long acting tablets),-
- (c) Choline ~~choline~~ salicylate and magnesium salicylate,-
- (d) Naproxen ~~naproxen~~ sodium,-
- (e) Naproxen, ~~naproxen~~, and

(f) Ibuprofen. ~~ibuprofen for minor pain and menstrual cramps for patients with no history of peptic ulcer disease; limited to a six (6) day supply for one treatment. When appropriate, such prescriptions shall be labeled to be taken with food or milk.~~

(2) Urinary analgesics,- Phenazopyridine, phenazopyridine not exceeding a two (2) day supply. The Such prescriptions shall be labeled about as to the tendency to discolor urine. If appropriate the prescription and when appropriate shall be labeled to be taken after meals.

(3) Otic analgesics,- Antipyrine ~~antipyrine~~ 5.4%, benzocaine 1.4%, glycerin, if clinical signs or symptoms of tympanic membrane perforation do not exist. The product which shall be labeled for use in the ear only.

- (4) Anti-nausea preparations,-
 - (a) Meclizine ~~Meclizine~~ up to 25 mg., except for a patient currently using a central nervous system (CNS) depressant. The prescription shall be labeled to advise the patient of drowsiness and to caution against concomitant use with alcohol or other depressants.

(b) Scopolamine not exceeding 1.5 mg. per dermal patch. Patient ~~shall to~~ be warned to seek appropriate medical attention if eye pain, redness or decreased vision develops. ~~“if eye pain develops, seek appropriate medical attention.”~~

(5) Antihistamines and decongestants. The following, including their salts, either as a single ingredient product or in combination, including nasal decongestants, may be ordered for a patient ~~patients~~ above 6 years of age.:

1. ~~(a)~~ Diphenhydramine.
2. ~~(b)~~ Carbinoxamine.
3. ~~(c)~~ Pyrilamine.
4. ~~(d)~~ Dexchlorpheniramine.
5. ~~(e)~~ Brompheniramine.
- (f) Loratadine (maximum 14 days supply only).
- (g) Fexofenadine.
- (h) Azelastine.

~~The patient should be warned that antihistamines should not be used by patients with bronchial asthma or other lower respiratory symptoms, glaucoma, cardiovascular disorders, hypertension, prostate conditions and urinary retention. Antihistamines shall be labeled to advise the patient of drowsiness and caution against the concomitant use with alcohol or other depressants.~~

~~(b) Decongestants. The pharmacist shall not order an oral decongestant for use by a patient with coronary artery disease, angina, hyperthyroidism, diabetes, glaucoma, prostate conditions, hypertension, or a patient currently using a monoamine oxidase inhibitor.~~

- (i) Ephedrine:
 1. ~~(j)~~ Phenylephrine.
- (k) Phenyltoloxamine.
2. ~~(l)~~ Azatadine.
- (m) Diphenylpyraline.

~~Oral decongestants shall not be ordered for use by patients with coronary artery disease, angina, hyperthyroidism, diabetes, glaucoma, prostate conditions, hypertension, or patients currently using monoamine oxidase inhibitors.~~

~~(6) Anthelmintic: Pyrantel pamoate. The drug product may only be ordered for use by patients over 2 years of age.~~

~~(6)(7) Topical antifungal/antibacterials. The pharmacist shall warn the patient that any of the products should not be used near deep or puncture wounds and contact with eyes or mucous membranes should be avoided. Iodochlorhydroxyquin preparations shall be labeled about staining potential.:~~

- (a) Iodochlorhydroxyquin with 0.5% Hydrocortisone (not exceeding 20 grams).;
- (b) Haloprogin 1%.;
- (c) Clotrimazole topical cream and lotion. Nystatin topical cream, ointment, lotion or powder, miconazole nitrate topical cream;
- (d) Erythromycin erythromycin topical. The patient shall be warned that all of the above products should not be used near deep or puncture wounds, and Iodochlorhydroxyquin preparations shall be labeled as to the staining potential.

~~(7)(8) Topical anti-inflammatory. The pharmacist shall warn the patient that hydrocortisone should not be used on bacterial infections, viral infections, fungal infections, or by patients with impaired circulation. The prescription shall be labeled to advise the patient to avoid contact with eyes, mucous membranes or broken skin. Preparations preparations containing hydrocortisone not exceeding 2.5%. The patient shall be warned that hydrocortisone should not be used on bacterial infections, viral infections, fungal infections, or by patients with impaired circulation. Such prescriptions shall be labeled to avoid contact with eyes and broken skin.~~

~~(8)(9) Otic antifungal/antibacterial. Acetic acetic acid 2% in aluminum acetate solution which shall be labeled for use in ears only.~~

~~(9)(10) Keratolytics. Salicylic salicylic acid 16.7% and lactic acid 16.7% in flexible collodion, to be applied to warts, except for patients under two (2) years of age, and those with diabetes or impaired circulation. Prescriptions shall be labeled to avoid contact with normal skin, eyes and mucous membranes.~~

~~(10)(11) Vitamins with fluoride. (This does not include vitamins with folic acid in excess of 0.9 mg.)~~

~~(11)(12) Medicinal drug shampoos containing Lindane, may be ordered pursuant to the following conditions:~~

- (a) The pharmacist shall:
 - (a) Limit limit the order to the treatment of head lice only;
 - (b) Order no more than four (4) ounces per person; and
 - (c) Provide provide the patient with the appropriate instructions and precautions for use.

~~(b) The amount allowed per person shall be four ounces.~~

~~(13) Antidiarrheal: Loperamide 2 mg per dosage unit. No more than a two day supply may be dispensed.~~

~~(14) Smoking cessation products: Nicotine transdermal systems:~~

~~(a) Before prescribing, the pharmacist:~~

~~1. Must have successfully completed a comprehensive smoking cessation training program such as the American Cancer Society Physician Training Program or other ACPE approved certification program.~~

~~2. Must insure patient involvement in a behavior modification program.~~

~~3. Must insure that there are no medical contraindications for patient participation including pregnancy or breastfeeding, cardiovascular disease (postinfarction, arrhythmias, hypertension, peripheral vascular disease), pheochromocytoma, hyperthyroidism, or insulin dependent diabetes mellitus.~~

~~4. Must inform patients of all contraindications and hazards of drug therapy including drug, food, and nutritional interactions.~~

~~5. Must counsel patients on proper drug use of prescribed product.~~

(b) After prescribing, the pharmacist:

1. May dispense no more than a 14 day supply of nicotine transdermal patches.

2. May dispense smoking cessation products for no more than 24 consecutive weeks of drug therapy.

3. May prescribe these products for nicotine replacement only.

4. Must perform and document follow up counseling during therapy.

(12)(15) Ophthalmics: Naphazoline 0.1% ophthalmic solution.

(16) Cough suppressants:

(a) Guaifenesin.

(b) Dextromethorphan.

(17) Vaginal antifungals: Miconazole nitrate suppositories and/or miconazole nitrate cream.

(13)(18) Histamine H2 antagonists: The pharmacist shall advise the patient to seek medical attention if symptom persist longer than 14 days while using the medication or if stools darken or contain blood.

(a) Cimetidine.

(b) Famotidine.

(c) Ranitidine HCl.

~~Pharmacists shall advise patients that these agents may mask serious disorders.~~

(14) Acne products. Benzoyl Peroxide. The prescription shall be labeled to advise the patient to avoid use on the eye, eyelid, or mucous membranes.

(15)(19) Topical Antiviral:

(a) Acyclovir ointment may be ordered for the treatment of herpes simplex infections of the lips.

(b) Penciclovir.

(20) Acne product: Benzoyl peroxide.

Specific Authority 465.186(2) FS. Law Implemented 465.186 FS. History—New 5-1-86, Amended 10-7-90, Formerly 21S-18.003, Amended 7-30-91, Formerly 21S-27.220, 61F10-27.220, Amended 3-12-97, Formerly 59X-27.220, Amended 6-15-98, 11-30-99, _____.

64B16-27.230 Fluoride Containing Products That May Be Ordered by Pharmacists.

No change.

Specific Authority 465.186(2) FS. Law Implemented 465.186 FS. History—New 5-1-86, Formerly 21S-18.004, 21S-27.230, 61F10-27.230, 59X-27.230, Amended 6-15-98.

64B16-27.300 Standards of Practice – Continuous Quality Improvement Program.

(1) through (2) No change.

(3)(a) Each pharmacy shall establish a Continuous Quality Improvement Program which program shall be described in the pharmacy's policy and procedure manual and, at a minimum shall contain:

1. Provisions for a Continuous Quality Improvement Committee that may be comprised of staff members of the pharmacy, including pharmacists, pharmacy interns, pharmacy technicians, clerical staff, and other personnel deemed necessary by the prescription department manager or of the consultant pharmacist of record;

2. through 4. No change.

(b) through (c) No change.

(4) No change.

(5) Records maintained as a component of a pharmacy Continuous Quality Improvement Program are confidential under the provisions of Section 766.101, F.S. In order to determine compliance the Department may review the policy and procedures and a Summarization of Quality-Related Events. The summarization document shall analyze remedial measures undertaken following a Quality-Related Event. ~~At a minimum, the review shall consider the effects on quality of pharmacy systems due to staffing levels, workflow, and technological support.~~ No patient name or employee name shall be included in this summarization. The summarization shall be maintained for two years. Records are considered peer-review documents and are not subject to discovery in civil litigation or administrative actions.

Specific Authority 465.0155 FS. Law Implemented 465.0155 FS. History—New 7-15-99, Amended 1-2-02, 6-16-03, _____.

64B16-27.410 Pharmacy Technician 1:1, 2:1 or 3:1 Ratio.

Pharmacy technicians may assist a ~~Florida licensed~~ pharmacist in performing professional services within a community pharmacy or institutional pharmacy environment provided that no licensed pharmacist shall supervise more than one pharmacy technician unless otherwise permitted by the Florida Board of Pharmacy. A pharmacist's supervision of a pharmacy technicians ~~in a 1:1 ratio working environment~~ requires that a pharmacy technicians be under the direct and immediate personal supervision of a ~~Florida licensed~~ pharmacist. Pharmacy technicians may also perform in a ratio of two or three pharmacy technicians to one pharmacist. The prescription department manager or consultant pharmacist is required to submit a request and receive approval from the Board of Pharmacy prior to practicing with either a 2:1 or 3:1 ratio of supervision. All pharmacy technicians shall identify themselves as pharmacy technicians by wearing a type of identification badge that is clearly visible which specifically identifies the employee by name and by status as a "pharmacy technician", and in the context of telephone or other forms of communication, pharmacy technicians shall state their names and verbally identify themselves (or otherwise communicate their identities) as pharmacy technicians. Pursuant to the direction of the ~~licensed~~ pharmacist, pharmacy technicians may engage in the following functions to assist the ~~licensed~~ pharmacist:

(1) Prepackaging and labeling of unit and multiple dose packages pursuant to appropriate procedures. The pharmacist shall directly supervise and conduct in-process and final checks, and affix his/her initials to the record. Such pharmacy technician activities would include the maintenance of controlled substance control records;

(2) through (4) No change.

(5) Initiate communication to a prescribing practitioner or their medical staffs (or agents) regarding patient prescription refill authorization requests. Such pharmacy technician activities allow initiating calls to the practitioner or agent, communicating the refill request and confirming the patients' name, medication, strength, quantity, directions and date of last refill. Any response to the above refill request that indicates a change in the order must be directly received by the pharmacist or and/or pharmacy intern.

(6) Under the direction and supervision of a licensed pharmacist, initiate communication to a prescribing practitioner or their medical staff (or agents) to obtain clarification on missing or illegible dates, prescriber name, brand/generic preference, quantity or DEA and/or license numbers. Nothing in this rule shall be construed to allow a technician to obtain information which will result in a change concerning a dosage or directions to the patient.

(7) Community pharmacies may have a pharmacy technician enter prescription information into a computer.

(8) Community pharmacies servicing nursing homes and community or special pharmacies providing parenteral and/or enteral services may allow a pharmacy technician to:

- (a) Enter prescription information into a computer.
- (b) Prepackage and label unit dose medication.
- (c) Reconstitute bulk parenteral/enteral preparations to be sorted for dispensing at a later date.
- (d) Refill unit dose mobile transport systems (carts).
- (e) Distribute bulk medicinal drugs, appliances and other auxiliary health care products to other departments.

(9) Institutional pharmacies and nuclear pharmacies may allow a pharmacy technician to:

- (a) Enter prescription information into a computer.
- (b) Prepackage and label unit dose medication.
- (c) Reconstitute bulk parenteral/enteral preparations to be sorted for dispensing at a later date.
- (d) Refill unit dose mobile transport systems (carts).
- (e) Distribute bulk medicinal drugs, appliances and other auxiliary health care products to other departments.

(10) Nuclear pharmacy permits allow the pharmacy technician to receive diagnostic orders only. Therapy or blood product procedure orders must be received by a pharmacist.

Specific Authority 465.005 FS. Law Implemented 465.014, 893.07(1)(b) FS. History—New 2-14-77, Amended 3-31-81, Formerly 21S-4.02, Amended 8-31-87, Formerly 21S-4.002, Amended 9-9-92, Formerly 21S-27.410, 61F10-27.410, Amended 1-30-96, Formerly 59X-27.410, Amended 2-23-98, 10-15-01, _____.

64B16-27.530 Duty of Pharmacist to Inform Regarding Drug Substitution.

Prior to the delivery of the prescription, it is the finding of the Board of Pharmacy that a pharmacist must have the affirmative duty to inform the person presenting a prescription of any substitution of a generic drug product for a brand name drug product, of any retail price difference between the two, and of the person's right to refuse the substitution. This information must be communicated to the person at a meaningful time such as to allow the person to make an informed choice as to whether he wishes to exercise the option to refuse substitution without undue inconvenience to the presenter of the prescription or to the consumer of the drug. This information shall be communicated to the person presenting the prescription in a manner determined to be appropriate by the pharmacist using his professional discretion and judgment. The person presenting the prescription must be informed of his right to refuse substitution prior to delivery of the prescription product.

Specific Authority 465.005 FS. Law Implemented 465.025(3)(a) FS. History—New 11-10-80, Formerly 21S-5.04, 21S-5.004, 21S-27.530, 61F10-27.530, 59X-27.530, Amended _____.

64B16-27.615 Possession and Disposition of Sample Medicinal Drugs.

(1) Pharmacies may not be in possession of sample medicinal drugs except:

(a)(1) Pharmacies may possess the sample medicinal drugs that are listed within Rule 64B16-27.220, F.A.C., Medicinal Drugs That Which May be Ordered by Pharmacists, and

(b)(2) Institutional pharmacies may possess sample medicinal drugs upon the written request of the prescribing practitioner. Such possession must be in accordance with the provisions of Section 499.028(3)(e)2., F.S., and

(c)(3) No change.

(2) Sample packages of medicinal drugs that are found to be unsuitable for dispensing by reason of physical condition or failure to meet requirements of state or federal law shall be returned to the company of origin in accordance with the requirements of Chapter 499, F.S.

Specific Authority 465.005, 465.022, 499.028 FS. Law Implemented 465.018, 465.019, 465.022, 465.186, 499.028 FS. History—New 11-4-93, Formerly 61F10-27.615, 59X-27.615, Amended _____.

64B16-27.700 Definition of Compounding.

“Compounding” is the professional act by a pharmacist or other practitioner authorized by law, employing the science or art of any branch of the profession of pharmacy, incorporating ingredients to create a finished product for dispensing to a patient or for administration by a practitioner or the practitioner's his agent; and shall specifically include the professional act of preparing a unique finished product containing any ingredient or device defined by Sections 465.003(7) and (8), F.S. The term also includes the preparation of nuclear pharmaceuticals and diagnostic kits incident to use

of such nuclear pharmaceuticals. The term “commercially available products,” as used in this section, means any medicinal product as defined by Sections 465.003(7) and (8), F.S., that are legally distributed in the State of Florida by a drug manufacturer or wholesaler.

(1) No change.

(2) The preparation of drugs or devices for sale or transfer to pharmacies, practitioners, or entities for purposes of dispensing or distribution is not compounding and is not within the practice of the profession of pharmacy. Except that the supply of patient specific compounded prescriptions to another pharmacy under the provisions of Section 465.0265, F.S., and Rule 64B16-28.450, F.A.C., is authorized.

Specific Authority 465.005 FS. Law Implemented 465.003(12), 465.0155, 465.0265 FS. History—New 10-1-92, Formerly 21S-27.700, 61F10-27.700, 59X-27.700, Amended 11-2-03, _____.

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

(1) through (3) No change.

(4) A pharmacist may dispense a drug pursuant to a prescription where the practitioner indicates on the prescription “formulary compliance approval” either in the practitioner’s own handwriting or preprinted with a box where the practitioner indicates approval by checking the box when:

(a) The pharmacist receives a formulary change as a consequence of the patient’s third party plan or Medicaid.

(b) The product that the third party formulary designates as its preferred product is a therapeutic equivalent for the prescribed product. A therapeutic equivalent is a product that is in the same therapeutic class as the prescribed drug.

(c) The pharmacist, within 24 hours of the formulary compliance substitution, shall provide to the practitioner either in writing or by facsimile a statement indicating that the pharmacist engaged in formulary compliance and the therapeutic equivalent that the pharmacist dispensed.

(d) The pharmacist has complied with the requirements of Rule 64B16-27.530, F.A.C., with regard to notification to the patient.

The pharmacist may make adjustments in the quantity and directions to provide for an equivalent dose of the preferred formulary therapeutic alternative.

(5)(4) No change.

Specific Authority 465.005, 465.0155 FS. Law Implemented 465.003(13), 465.0155, 465.022(1)(b) FS. History—New 4-4-00, Amended _____.

64B16-27.831 Standards of Practice for the Dispensing of Controlled Substances for Treatment of Pain.

~~(1) The Board of Pharmacy recognizes that principles of quality pharmacy practice dictate that the people of the State of Florida have access to appropriate and effective pain relief. The appropriate application of up-to-date knowledge and treatment modalities can serve to improve the quality of life for those patients who suffer from pain as well as reduce the~~

~~morbidity and costs associated with untreated or inappropriately treated pain. The Board encourages pharmacies to view effective pain management as a part of quality pharmacy practice for all patients with pain, acute or chronic, and it is especially important for patients who experience pain as a result of terminal illness. All pharmacists should become knowledgeable about effective methods of pain treatment as well as statutory requirements for prescribing and dispensing controlled substances.~~

~~(2) Inadequate pain control may result from pharmacists’ lack of knowledge about pain management or an inadequate understanding of addiction. Fears of investigation or sanction by federal, state, and local regulatory agencies may also result in inappropriate or inadequate treatment of chronic pain patients. Pharmacists should not fear disciplinary action from the Board or other state regulatory or enforcement agencies for dispensing controlled substances for a legitimate medical purpose. Accordingly, these guidelines have been developed to clarify the Board’s position on pain control, specifically as related to the use of controlled substances, to alleviate pharmacist uncertainty and to encourage better pain management.~~

~~(3) The Board of Pharmacy is obligated under the laws of the State of Florida to protect the public health and safety. The Board recognizes that inappropriate dispensing of controlled substances may lead to drug diversion and abuse by individuals who seek them for other than legitimate medical use. Pharmacists should be diligent in preventing the diversion of drugs for illegitimate purposes.~~

~~(1)(4) An order purporting to be a prescription that is not issued for a legitimate medical purpose not in the usual course of professional treatment nor in legitimate and authorized research is not a prescription and the pharmacist knowingly filling such a purported prescription shall be subject to penalties for violations of the law.~~

~~(2) The following criteria shall should cause a pharmacist to question whether a prescription was issued for a legitimate medical purpose:~~

~~(1) through (5) renumbered (a) through (e) No change.~~

~~(3) If any of the these criteria in (2) is met, the pharmacist shall:~~

~~(a) Require should insist that the person to whom the medication is dispensed provide picture identification and the pharmacist should photocopy such picture identification for the pharmacist’s records. If a photocopier is not available, the pharmacist should document on the back of the prescription complete descriptive information from the picture identification. If the person to whom medication is dispensed has no picture identification, the pharmacist should confirm the person’s identity and document on the back of the prescription complete information on which the confirmation is based.~~

~~(b) Verify~~ The pharmacist should also verify the prescription with the prescriber. A pharmacist who believes a prescription for a controlled substance medication to be valid, but who has not been able to verify it with the prescriber, may determine not that he or she is unable to supply the full quantity and may dispense a partial supply, not to exceed a 72 hour supply. After verification by the prescriber, the pharmacist may dispense the balance of the prescription within a 72 hour time period following the initial partial filling, unless otherwise prohibited by law.

~~(4)(5)~~ No change.

~~(5)(6)~~ Any pharmacist who has reason to believes that a prescriber of controlled substances is involved in the diversion of controlled substances shall report such prescriber to the Department of Health.

~~(6)(7)~~ No change.

Specific Authority 465.005, 465.0155 FS. Law Implemented 456.072(1)(i), 465.0155, 465.016(1)(i),(o), 465.017(2) FS. History--New 8-29-02, Amended 2-24-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Pharmacy
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 17, 2004
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 22, 2004

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE CHAPTER TITLE: Reef Fish

RULE TITLE:

Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Exception, Wholesale/Retail Purchase Exemption

RULE NO.:

68B-14.0036

PURPOSE AND EFFECT: The federal Secretarial Fishery Management Plan for red grouper in the Gulf of Mexico lowers harvest rates by 9.4%. This was achieved by across-the-board reductions to both commercial and recreational sectors. The commercial reduction is implemented through quotas and season closures. The recreational harvest is reduced by setting the bag limit at two red grouper out of the five grouper aggregate limit. The purpose of this rulemaking pursuant to subsection (6) of Section 120.54, Florida Statutes, is to conform Florida's rule for recreational red grouper harvest to this reduction in the bag limit applicable in adjacent federal EEZ waters. The effect of this rule change should be to increase the health and abundance of the red grouper resource in the Gulf of Mexico.

SUMMARY: A new paragraph (2)(b) is inserted in Rule 68B-14.0036, F.A.C., to limit harvest and possession of red grouper in the Gulf of Mexico to 2 fish per day.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), FLORIDA STATUTES.

WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

Substantially affected persons may, within 14 days of the date of this notice, file an objection to this rulemaking with the agency. The objection shall specify the portions of the proposed rule to which the person objects and the specific reasons for the objection.

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-14.0036 Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Exception, Wholesale/Retail Purchase Exemption.

(1) No change.

(2) Grouper.

(a) Aggregate bag limit. Except as provided elsewhere in this rule, no recreational harvester shall harvest in or from state waters, nor possess while in or on state waters, more than a total of 5 grouper per day, in any combination of species.

(b) Red Grouper. Except as provided elsewhere in this rule, in all state waters of the Gulf of Mexico, within the aggregate bag and possession limit established in paragraph (a), no more than 2 fish may be red grouper. No recreational harvester may harvest in or from state waters of the Gulf of Mexico, nor possess while in or on the waters of the Gulf of Mexico, more than 2 red grouper.

~~(c)(b)~~ Gag and black grouper. Except as provided elsewhere in this rule, in all state waters of the Atlantic Ocean and all state waters of Monroe County, within the aggregate bag and possession limit established in paragraph (a), no more than 2 fish may be gag or black grouper, either individually or in combination. No recreational harvester may harvest in or from state waters of the Atlantic Ocean or in or from state

waters of Monroe County, nor possess while in or on the waters of the Atlantic Ocean or in or on state waters of Monroe County, more than 2 such fish.

~~(d)~~(e) Speckled hind and Warsaw grouper. No recreational harvester shall harvest in or from state waters, nor possess while in or on state waters, more than one speckled hind or more than one Warsaw grouper per day, and no more than one of each species shall be possessed aboard any vessel in or on state waters, at any time. Such fish shall be counted for purposes of the aggregate grouper bag and possession limit prescribed in paragraph (a).

~~(e)~~(d) Nassau grouper and goliath grouper. No person shall harvest in or from state waters, nor possess while in or on the waters of the state, or land, any Nassau grouper or goliath grouper. The purchase, sale, or exchange of any Nassau grouper or goliath grouper is prohibited.

(3) through (8) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-31-98, Amended 3-1-99, Formerly 46-14.0036, Amended 10-22-99, 1-1-00, 3-6-00, 3-1-01, 1-1-03, _____.

DEPARTMENT OF FINANCIAL SERVICES

Division of Risk Management

RULE TITLES:	RULE NOS.:
Certificate of Coverage	69H-2.004
Other Forms Adopted	69H-2.008
Property Damage Coverage for State-Owned Vehicles	69H-2.010

PURPOSE AND EFFECT: The amendment to Rule 69H-2.004, F.A.C., provides an addendum to assess the amount of reimbursement paid for property damage coverage and administrative costs associated with off-duty coverage for motor vehicles used by law enforcement officers.

SUMMARY: Essentially, state agencies that employ such officers will be assessed a premium for those officers so the Division of Risk Management can pay covered claims. This will establish transparency as to determination of charges and premiums to state agencies. The purpose of this amendment to Rule 69H-2.008, F.A.C., is to reflect changes to the Automobile Accident Form. The changes allow the user to include an accident map and allow the user to include a more descriptive summary of the accident. The purpose of the adoption of Rule 69H-2.010, F.A.C., is to establish a deductible for officers determined to be at fault in incidents involving approved activities in motor vehicles used by the officers. This creates cost expectations in budget planning for state agencies and officers. The rule also creates a structure for processing and adjusting claims in the Division of Risk Management. It will adjust claims by off-duty law enforcement officers involved in motor vehicle accidents.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 284.39, 284.311 FS.

LAW IMPLEMENTED: 284.30, 284.31, 284.40, 284.311 FS.

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

TIME AND DATE: 9:00 a.m., January 6, 2005

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: George Rozes, Senior Management Analyst II, Division of Risk Management, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0336, (850)413-4754

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 the person listed above.

THE FULL TEXT OF THE PROPOSED RULES IS:

69H-2.004 Certificate of Coverage.

(1) The Department shall adopt and use a Certificate of Coverage form indicating the insured agency and the coverage provided by the Fund.

(2) Form DI4-867, "State Employee Workers' Compensation and Employer's Liability Certificate of Coverage," rev. 3/01, which is hereby adopted and incorporated by reference, will be used to provide employee workers' compensation and employer's liability coverage to the agency named on the certificate.

(3) Form DI4-863, "General Liability Certificate of Coverage," rev. 3/01, which is hereby adopted and incorporated by reference, will be used to provide general liability insurance coverage to the agency named on the certificate.

(4) Form DI4-864, "Fleet Automobile Liability Certificate of Coverage," rev. 3/01, which is hereby adopted and incorporated by reference, will be used to provide fleet automobile liability coverage to the agency named on the certificate.

(5) Form DFS-D0-864A, "State Risk Management Trust Fund Addendum to Automobile Liability Certificate of Coverage for Off-Duty Law Enforcement Vehicle Property

Damage.” rev. 7/04, which is hereby adopted and incorporated by reference, will be used to provide addendum to automobile liability coverage to the agency named on the certificate.

~~(6)(5)~~ Form DI4-865, “Federal Civil Rights Liability and Employment Discrimination Certificate of Coverage,” rev. 3/01, which is hereby adopted and incorporated by reference, will be used to provide coverage for federal civil rights actions under 42 U.S.C.S. 1983 or similar federal statutes to the agency named on the certificate.

~~(7)(6)~~ Form DI4-862, “Court Awarded Attorney Fees Certificate of Coverage,” rev. 3/01, which is hereby adopted and incorporated by reference, will be used to provide coverage for court awarded attorney’s fees in other proceedings against the agency named on the certificate.

Specific Authority 284.39 FS. Law Implemented 284.31 FS. History—New 7-29-72, Formerly 4-30.05, 4-30.005, Amended 1-7-92, 6-28-01, Formerly 4H-2.004, Amended _____.

69H-2.008 Other Forms Adopted.

(1) The following forms are hereby adopted and incorporated by reference. These forms shall be used to aid the Division in the performance of its administrative duties by securing pertinent facts and information on claims filed against the Fund, as the circumstances of particular cases may require.

- (a) ~~DFS-D014-261~~ Automobile Accident Report rev. 1/03 ~~6/00~~
- (b) DI4-866 Mileage Reimbursement rev. 3/01
- (c) DI4-1403 General Liability Loss Report rev. 6/00
- (d) DI4-1404 Lien Disclosure Statement rev. 3/01
- (e) DI4-1406 Insurer’s Disclosure Statement Pursuant to Section 627.4137, F.S. rev. 6/00
- (f) DFS-D0-1407 Medical Authorization rev. 3/04
- (g) DI4-1410 Substitute Form W9 new 6/00

(2) Copies of each form adopted and incorporated by reference in this rule are available from the Division of Risk Management, Department of Financial Services, Larson Building, Tallahassee, Florida 32399-0336.

Specific Authority 284.39 FS. Law Implemented 284.30, 284.40 FS. History—New 1-7-92, Amended 6-28-01, Formerly 4H-2.008, Amended 7-4-04, _____.

69H-2.010 Property Damage Coverage for State-Owned Vehicles.

(1) Definitions: The following definitions shall apply to the property damage coverage established in this Rule:

(a) “Motor vehicle” – Any self-propelled vehicle with two or four or more wheels which is of a type both designed and required to be licensed for use on the highways of this state and any trailer or semi trailer designed for use with such vehicle. The term includes a “private passenger motor vehicle” which is any motor vehicle which is a sedan, station wagon, or jeep-type

vehicle and, if not used primarily for occupational, professional or business purposes, a motor vehicle of the pickup, panel, van, camper, or motor home type. The term also includes a “commercial motor vehicle” which is any motor vehicle that is not a private passenger motor vehicle. The term does not include a mobile home or any motor vehicle which is used in mass transit other than public school transportation, and designed to transport more than five passengers exclusive of the operator of the motor vehicle and which is owned by a municipality, a transit authority, or a political subdivision of the State.

(b) “At fault” – A law enforcement officer shall be deemed “at fault” if the “contributing cause” code on a Florida Traffic Crash Report Long Form is anything other than code “01”, (no improper driving action).

(c) “Actual cash value” – Replacement cost minus depreciation.

(d) “Property damage” – Physical damage to the covered motor vehicle due to collision or impact with another vehicle or object or due to other accidental loss.

(2) Coverage Provided.

(a) The State Risk Management Trust Fund (The Fund) will pay for property damage to a motor vehicle owned by a state agency when this property damage occurs while the motor vehicle is being used by a law enforcement officer, as defined in Section 943.10, F.S., for off-duty work for which the officer must reimburse the state, subject to the exclusions and deductible amounts, as defined in subsections (2)(d) and (2)(e) of this Rule. The Fund will pay reasonable repair costs or the actual cash value of the vehicle whichever is less.

(b) If an independent appraisal of the property damage is required, the Fund will pay for this expense. If the accidental loss results in the motor vehicle being declared a total loss, the Fund will pay the state agency the actual cash value of the motor vehicle (minus any applicable deductible amounts), and the Fund shall retain the salvage value of the motor vehicle.

(c) The Fund will reduce the payments for property damage to the state agency by any applicable deductible amount when the law enforcement officer is determined to be at fault in causing property damage to the motor vehicle.

(d) Exclusions: The Fund will not pay for property damage if:

1. The law enforcement officer was not in the course and scope of approved off-duty activities when the property damage occurred;

2. The law enforcement officer is found to have acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety or property;

3. The law enforcement officer does not have to reimburse the State for use of the motor vehicle;

4. The property damage is due to wear and tear or mechanical breakdown;

5. The property damaged is equipment owned by the state and unattached to the motor vehicle; or

6. The property damaged is the personal property of the law enforcement officer.

(e) Limit of Liability: The Fund's limit of liability will be the lesser of the actual cash value of the damaged property or an amount necessary to repair or replace the property with other property of like kind and quality. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss. If a repair or replacement results in better than like kind of quality, the Fund will not pay for the betterment.

(f) Secondary coverage: The coverage set forth in this Rule is secondary to any primary coverage available from any other source. A claim must first be presented under all existing primary coverages available to the claimant, after which a claim under this Rule may be made.

(3) Premium Assessments and Reimbursement.

(a) The Division of Risk Management (The Division) will determine the exposure base for the calculation of costs of providing physical damage coverage according to the number of law enforcement officers using state motor vehicles while performing off-duty employment.

(b) The Division will determine the experience base by the dollar amount paid on claims.

(c) Each state agency shall, no later than April 1 each fiscal year, report to the Division the estimated number of law enforcement officers using state motor vehicles while performing their off-duty employment for the upcoming fiscal year. A state agency shall use Form DFS-D0-861, "Exposure Base Inquiry", rev. 6/00, hereby adopted and incorporated by reference. Copies of this form are available from the Division of Risk Management, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0337;

(d) Premium calculation.

1. The Division will calculate the total premium based on agencies' experience and exposure (except for the first year). Assessment amounts will fluctuate each year depending on exposure and experience criteria.

2. The assessment amount will be the total anticipated cash payments to be made for property damage payments during the fiscal year, plus an additional charge to offset the Division's operating costs. The Division will calculate this additional charge by multiplying the total anticipated annual property damage payments by an industry average operating cost percentage.

3. The Division will apply any surplus or deficit amounts assessed in the fiscal year, less the administrative portion of the assessment, against the following fiscal year assessment.

4. The Division will assess each state agency according to its proportionate amount of the entire statewide assessment.

(e) Invoices.

1. Each fiscal year, the Division will invoice each state agency for the total amount of its assessment.

2. Each state agency shall pay the assessed amount to the Division within thirty days following the state agency's receipt of the assessment invoice. Payments will be provided from one of the agencies' standard operating categories.

3. Each state agency will administer and collect the law enforcement officers' portion of the agency assessment. The Division shall have no role in this administration and collection. Reimbursements will not be given to officers who leave state employment during the covered fiscal year. The premium is annualized, and will not be prorated for those officers who leave state employment or who request coverage during the covered fiscal year.

(f) Questions regarding this Rule will be addressed to the Finance and Accounting Director, Division of Risk Management, 200 East Gaines Street, Tallahassee, FL 32399-0337.

(4) Deductible Assessment.

(a) The Division will apply a deductible amount toward the costs of repairs and/or total loss payments, for accidents in which the off-duty officer is determined to be at fault.

(b) The Division will compute the deductible amount and adjust the amount at the beginning of each fiscal year. The Division will notify state agencies of the deductible amount no later than July 1 of each fiscal year.

(5) Claims Processing.

(a) Accidents shall be reported to the Division, using Form DFS-D0-261 "Automobile Accident Report", rev. 1/03, which is hereby adopted and incorporated by reference. Copies of the form adopted and incorporated by reference in this subsection are available from the Division of Risk Management, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0338.

(b) The state agency will submit all supporting documentation for the accident to the Division, including at a minimum the following:

1. The name of the state agency employing the law enforcement officer;

2. A statement certifying that: a) the employee is a law enforcement officer as defined in Section 943.10, Florida Statutes; b) the state agency approved the off-duty employment; c) the law enforcement officer was required to reimburse the agency for use of the motor vehicle; and d) the law enforcement officer purchased coverage by payment of a premium for the fiscal year in which the accident occurred, verified by a receipt from the Agency showing such payment or a copy of the law enforcement officer's pay stub showing such payment.

3. If the form described in subsection (5)(a) of this Rule is unavailable, then an opinion as to whether the state agency believes the law enforcement officer was at fault in causing the property damage;

4. Photographs of the vehicle damage if feasible;

5. If other than a total loss of the motor vehicle occurs, then two estimates for vehicle repairs, and invoices for the repairs; and

6. All available accident reports.

(c) The Division will adjust the claim and issue payment for the repairs to the state agency, according to its Policies and Procedures.

(d) In the event of a total loss claim, the Division will dispose of the salvage and retain any salvage value.

(e) The Division will pursue subrogation on claims caused by the negligence of another party, and will retain any funds recouped by it.

(f) Questions regarding this Rule will be addressed to the Insurance Specialist II, Automobile Appraisals, Division of Risk Management, 200 East Gaines Street, Tallahassee, FL 32399-0338.

Specific Authority 284.311 FS. Law Implemented 284.311 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
George Rozes, Senior Management Analyst II, Division of Risk Management, Department of Financial Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Trilly Lester, Director of Risk Management, Division of Risk Management, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 18, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 29, 2004

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1S-2.004
RULE TITLE: Voting Machine Equipment Regulation/Purchase, Use and Sale

NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule development, as noticed in Vol. 30, No. 22, May 28, 2004, Florida Administrative Weekly has been withdrawn.

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 NO.: 33-203.201
RULE TITLE: Inmate Trust Fund
NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 30, No. 36, (September 3, 2004), issue of the Florida Administrative Weekly:

33-203.201 Inmate Trust Fund.

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

(a) through (g) No change.

(h) Pursuant to Section 944.516, F.S., each inmate shall be charged an administrative processing fee of no more than \$6.00 ~~\$4.00~~ per month for banking services. The fee shall be based upon account activity for the month. An inmate whose account has no activity for the month shall not be assessed a fee for that month. Inmates shall be charged \$1.00 for each weekly draw, and \$0.50 for each deposit and each special withdrawal.

(2) through (12) No change.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NOS.: 59G-13.001
RULE TITLES: Providers Who Bill on the Non-Institutional 081
59G-13.110 Project AIDS Care Waiver Services
NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 30, No. 44, October 29, 2004, issue of the Florida Administrative Weekly. These changes are in response to written comments received prior to the public hearing.

The following language was added to Rule 59G-13.001, F.A.C., at the end of subsection (2), "These forms are available from the Medicaid fiscal agent."

The following language was added to Rule 59G-13.110, F.A.C., at the end of paragraph (3), "These forms, except for the Project AIDS Care Physician Referral and Request for Level of Care Determination, CARES Form 607, and the PHC Initial Care Management Assessment, AHF/FPHC © 06/2002, are available by photocopying them from the Florida Medicaid