Section II
Proposed Rules

DEPARTMENT OF STATE

Division of Cultural Affairs

RULE NO.: RULE TITLE:
1T-1.001 Division of Cultural Affairs

PURPOSE AND EFFECT: The purpose of this amendment is to establish in rule the most recent application forms and grant administrative criteria.

SUMMARY: The proposed rule incorporates by reference the Division's Regional Cultural Facilities Program application form and details grant administration criteria.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: There are no regulatory costs associated with the proposed rule.

Any person who wishes to provide information regarding the statement of 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: 265.284(5)(d), 265.286(1), 265.2861(2)(b), 265.702(8) FS.

LAW IMPLEMENTED: 215.97, 265.284, 265.286, 265.2861, 265.702, 286.011, 286.012, 286.25 FS.

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

DATE AND TIME: May 1, 2006, 9:00 a.m.

PLACE: Division of Cultural Affairs, Room 307, R. A. Gray Building, 3rd Floor, 500 South Bronough Street, Tallahassee, Florida 32399-0250

Should any person wish to appeal any decision made with respect to any matter considered at the above-required meeting, he/she may need to ensure verbatim recording of the proceeding in order to provide a record for judicial review. Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting Morgan Barr, ADA Coordinator for the Division of Cultural Affairs at (850)245-6356, by Fax (850)245-6497, or by email at mbarr@dos.state.fl.us.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sandy Shaughnessy, R. A. Gray Building, 3rd Floor, 500 South Bronough Street, Tallahassee, Florida 32399-0250

THE FULL TEXT OF THE PROPOSED RULE IS:

1T-1.001 Division of Cultural Affairs.

(1) through (19) No change.

(20) Regional Cultural Facilities Program. The purpose of this program is to accept and administer funds to provide grants for the renovation, construction, or acquisition of regional cultural facilities. It is not intended to fund project planning, such as feasibility studies and architectural drawings, or operational support.

(a) Administrative and Legal Eligibility. The applicant for a regional cultural facilities grant must:

1. Be a municipality, county, or qualified corporation as defined in Section 265.702(2), Florida Statutes.

2. Own an interest in the land upon which the regional cultural facility is to be built. Any entity that owns an interest in the land upon which the regional cultural facility is to be built must also meet the requirements in subsection 1.

3. Retain ownership of all improvements made under the grant.

4. Have satisfied the administrative requirements of previous grants received from the Division.

(b) Program Eligibility. All eligible applications shall consist of the following documents and information:

1. Until directed to submit electronically on the Division's website, applicants must submit in hard copy, a~~A~~ completed and signed Regional Cultural Facilities Program Application Form (#CA2E101, eff. 5/06 ~~10/03~~), available from the Division and incorporated by reference, including the number of required application copies, submitted to the Division on or before the announced postmark deadline.

2. A description of the Project Scope of Work which shall include a project narrative.

3. Project Budgets including a summary and detail, a matching funds statement, and match summary chart.

4. A description of educational and cultural programs as required by Section 265.702(5)(a) and (5)(b), Florida Statutes.

5. Documentation of a 150-mile service area as described in Section 265.702(5)(c), Florida Statutes.

6. Documentation of a proposed acquisition, renovation, or construction cost of at least $50 million.

7. Documentation that the applicant owns an interest in the land upon which the regional cultural facility is to be built.

8. An independent certified audit of the applicant's financial records. The publication date of the audit shall not be later than the date of the application for which the audit is submitted.

9. Cost Benefit Analysis/Feasibility Study.

10. An 8 1/2" x 11" reduction of current architectural plans.

11. Letters of Support: Submit letters or list of local officials lending support to this project.

(c) Funding.

1. The annual amount of the grant shall not exceed the amount permitted in Section 265.702(7), Florida Statutes. There is no minimum amount.

2. An applicant from the same organization shall not submit 2 or more applications under a single application deadline for the same facility, project, site, or phase.

3. An organization shall not submit a funding request to both the Cultural Facilities Program and the Regional Cultural Facilities Program for the same project, facility, site, or phase in the same fiscal year.

(d) Time Limits and Funding Cap. The total amount of grants awarded shall not exceed the amount permitted in Section 265.702(7), Florida Statutes. "Awarded" means July 1 of the fiscal year in which grant funds were appropriated by the Florida Legislature.

(e) Matching Funds.

1. Eligible matching funds provided by the grantee or third parties shall be on at least a two-to-one match of the amount requested, except for eligible Rural Economic Development Initiative (REDI) applicants.

2. Eligible matching funds provided by eligible REDI applicants shall be at least a one-to-one match of the amount requested.

3. At least 50% of the required match must be in cash. For the purposes of this program, cash shall include cash-on-hand, and cash expenditures made on the project during the three years immediately preceding the award of the grant.

4. At least 50% of the cash match must be cash-on-hand and dedicated to the project.

5. In-kind contributions of goods and services shall be subject to the restrictions of Section 265.702(6), Florida Statutes.

6. Municipalities and counties must submit a copy of the approved resolution or minutes from the commission meeting, with the original application, which includes the dollar amount dedicated and available to the project if the grant is awarded and the date the funds will be available. Resolutions that have not been approved by the application deadline cannot be used as match documentation. Local funding, as indicated by the resolution, must be made available within 90 days of state award notification.

(f) Application Review Committee.

1. The application review committee shall review each eligible application based on the following criteria: Scope of Work, up to 20 points; Project Budget and Matching Funds, up to 25 points; Educational and Cultural Programs, up to 30 points; and Service Area, up to 25 points.

2. All applications that receive an average score of at least 75 out of 100 possible points will be recommended for funding.

3. The committee shall develop a priority list based on the average score for each application.

4. The committee shall submit the priority list to the Florida Arts Council for review and recommendation.

5. The Florida Arts Council shall review the recommendations and submit a priority list of all projects that are recommended for funding to the Secretary of State.

(g) The Secretary of State shall review the recommendations of the Council and provide the Legislature with an approved priority list with funding recommendations.

(h) Retaining Projects on the next grant cycle priority list.

1. Projects that are approved and recommended by the Secretary but are not funded by the Legislature shall be retained on the priority list for the next grant cycle only.

2. All projects that are retained shall be required by the Division to submit the information in subparagraphs (b)1.-3. above in order to reflect the most current status of the project.

3. The deadline for the receipt of updated information shall be the rollover deadline as published in the Florida Administrative Weekly.

4. Rollover updates will not be re-scored, but rather merged with the new applications using the original scores and recommended funding.

5. Rollover updates that are determined by the Division to be incomplete or ineligible, changed in scope or venue, or increased the funding request shall be removed from the priority list.

(i) No changes in project scope or venue will be permitted.

(j) Grant Award Agreement. The Grant Award Agreement (CA2E102, eff. 5/06) ~~10/03~~ incorporated by reference and available from the Division is the document by which the organization enters into a contract with the State of Florida for the management of grant funds which shall include:

1. An update of the application project narrative and budget.

2. A completed Assurance of Compliance and Signature Authorization Form (Form CA2E059, eff. 6/00) incorporated by reference in subparagraph 1T-1.001(17)(k)2., Florida Administrative Code, and available from the Division.

3. Other provisions that shall be agreed to by both the grantee and the state.

(k) The Division will further extend the provisions in subsection (10) of the Agreement in the event the grantee can clearly demonstrate extenuating circumstances. Extenuating circumstances encompass situations beyond the control of the grantee that prevent the timely completion of the project. Such circumstances include natural disaster, death or serious illness of the individual responsible for the completion of the project, litigation, failure of the contractor or architect to provide the services for which they were hired. Extenuating circumstances do not include failure to read or understand grant administrative requirements or failure to raise sufficient matching funds.

(m) Reporting Requirements.

1. Interim Reports shall be submitted at six-month intervals until the project is complete. For the purpose of this program, a project is considered complete when all grant and match funds have been expended. The first Interim Report is due on January 31 of the fiscal year in which the grant was awarded.

2. Final Report. A Final Report shall be submitted 45 days after the completion of the project.

3. All reports shall include the following information:

a. A description of the work completed.

b. A financial statement showing the expenditure of grant and match.

c. A state grant expenditure log that includes check number, amount of check, date of check, name of payee, and a description of the expenditure.

(n) Definitions. For the purposes of paragraphs (n), (o) and (p) of section (20) of this rule, a "grantee" is an applicant that has received a Regional Cultural Facilities Program Grant Award. "Property owner" refers to the owner of land, building(s), or both situated upon the property. section 265.702(8), Florida Statutes, requires that the grantee and the property owner either record a restrictive covenant or purchase a bond to ensure that the facility is used as a regional cultural facility for (10) years following the execution date of the grant award agreement. A "regional cultural facility" means an existing or proposed fixed facility that is primarily engaged in the disciplines of dance, music, theater, visuals arts, literature, media arts, interdisciplinary and multidisciplinary, programs of museums, and able to satisfy the requirements of Section 265.702(5), Florida Statutes.

(o) If the recordation of a restrictive covenant is chosen by the grantee and the property owner(s), a completed and executed Restrictive Covenant Form must be filed with the Clerk of the Circuit Court in the county where the property is located, prior to release of the grant funds.

1. The grantee's legal interest in the land and/or building(s) determines which of the four restrictive covenant forms described below must be used.

a. A grantee that owns the land and the building(s) upon the property where the regional cultural facility is or will be located must complete Form CA2E113, eff. 5/06, incorporated by reference and available from the Division.

b. A grantee that owns the building(s) upon the property where the regional cultural facility is or will be located, but leases the underlying land, must complete Form CA2E114, eff. 5/06, incorporated by reference and available from the Division.

c. A grantee that leases the land and the building(s) upon the property where the regional cultural facility is or will be located must complete Form CA2E115, eff. 5/06, incorporated by reference and available from the Division.

d. A grantee that owns the land where the regional cultural facility is or will be located, but leases the building(s) upon the property where the regional cultural facility is or will be located must complete Form CA2E0116, eff 5/06, incorporated by reference and available from the Division.

(p)1. If a bond is chosen in lieu of recording a restrictive covenant, the grantee must:

a. Purchase a bond prior to the release of grant funds from an insurer authorized to do business in Florida as a surety;

b. Include Form CA2E117, eff. 5/06, incorporated by reference and available from the Division, as an addendum to the grant award agreement;

c. Include in the bond that the facility described in the grant award agreement be used as a regional cultural facility for (10) ten years following the execution date of the grant award agreement, and that failure to do so shall constitute a violation of the bond;

d. Include in the bond that in the event of violation, the surety shall reimburse the Division pursuant to the amortization schedule set forth below.

2. A certified copy of the bond must be provided to the Division prior to the release of grant award funds.

3. If the bond is violated, the surety shall reimburse the Division pursuant to the following amortization schedule:

a. If a violation occurs within three (3) years following the execution of the grant award agreement, 100% of the grant amount;

b. If a violation occurs more than three (3) but less than four (4) years following the execution of the grant award agreement, 80% of the grant amount;

c. If a violation occurs more than four (4) but less that five (5) years following the execution of the grant award agreement, 70% of the grant amount;

d. If a violation occurs more than five (5) but less than six (6) years following the execution of the grant award agreement, 60% of the grant amount;

e. If a violation occurs more than six (6) but less than seven (7) years following the execution of the grant award agreement, 50% of the grant amount;

f. If a violation occurs more than seven (7) but less than eight (8) years following the execution of the grant award agreement, 40% of the grant amount.

g. If a violation occurs more than eight (8) but less than nine (9) years following the execution of the grant award agreement, 30% of the grant amount; and

h. If a violation occurs more than nine (9) but less than ten (10) years following the execution of the grant award, 20% of the grant amount.

Specific Authority 255.043(4), 265.284(5)(d), 265.285(1)(c), 265.286(1), (4), (6), 265.2861(2)(b), 265.2865(6), 265.605(1), 265.608(1), 265.609(1), (4), 265.701(4), 265.702(8) FS. Law Implemented 215.97, 255.043, 265.284, 265.285, 265.286, 265.2861, 265.2865, 265.601-.603, 265.605-.607, 265.608, 265.609, 265.701, 265.702, 286.011, 286.012, 286.25 FS. History–New 11-23-82, Formerly 1T-1.01, Amended 10-1-96, 10-31-96, 2-2-97, 6-2-97, 7-17-97, 9-10-97, 1-4-98, 7-26-98, 8-2-98, 10-5-98, 10-25-98, 8-17-99, 8-1-02, 12-29-02, 10-14-03(17), 10-14-03(20), 11-16-03, 2-2-05, 5-16-05, _____.

NAME OF PERSON ORIGINIATING PROPOSED RULE: Donald R. Blancett

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sandy Shaughnessy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 29, 2006

DATE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 10, 2006

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Food Safety

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
5K-5	Food
RULE NO.:	RULE TITLE:
5K-5.014	Grading Services for Poultry

PURPOSE AND EFFECT: The Florida Department of Agriculture and Consumer Services provides grading services to food establishments that process poultry through a cooperative agreement with the U.S. Department of Agriculture. The Department charges the poultry processor an hourly fee to recover the costs of this service. This rule amendment increases the hourly fees charged to a processor.

SUMMARY: The rule amendment changes the fee and cost schedule for grading services provided by Department graders commensurate with increases in personnel salaries and benefits, insurance, travel and any other applicable costs.

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.

SPECIFIC AUTHORITY: 570.07(23), 583.04 FS.

LAW IMPLEMENTED: 583.051, 583.052 FS.

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

DATE AND TIME: April 28, 2006, 10:00 a.m., Eastern Time

PLACE: Division of Dairy Conference Room, Room 27, The Conner Building, 3125 Conner Boulevard, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours before the hearing by contacting Dr. John Fruin at (850)245.5520. If you are hearing or speech impaired, please contact the agency by calling 1 (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. John Fruin, Chief, Division of Food Safety, Bureau of Food and Meat Inspection, 3125 Conner Boulevard, Mail Stop C-18, Tallahassee, FL 32399-1650; telephone: (850)245-5520

THE FULL TEXT OF THE PROPOSED RULE IS:

5K-5.014 Grading Services for Poultry.

(1) through (2) No change.

(3) Under that agreement and to offset the cost of providing the services to the producer who orders them, the department establishes the following schedule:

(a) Grader's time per hour for:

1. Resident location	$<u>30.30</u> ~~27.50~~
2. Overtime	$<u>34.30</u> ~~31.00~~
3. Non-resident location	$<u>37.30</u> ~~34.00~~
4. Non-specified days	$<u>37.30</u> ~~34.00~~

5. In addition to the charge for the grader's time per hour, an additional charge of $1.40 per hour shall be charged to regular and overtime hours worked at a resident location on a shift beginning after 1:00 p.m.

(b) Travel time and costs:

1. Time for travel to and from the grader's headquarters for grading services at a non-resident or part-time resident location, or on non-specified days at a resident location shall be charged at the same rate as grading services provided.

2. Mileage and per diem to and from the grader's headquarters for grading services at a non-resident or part-time resident location, or on non-specified days at a resident location shall be reimbursed at the prevailing rates provided in Section 112.061, Florida Statutes.

(4) through (5) No change.

<u>PROPOSED EFFECTIVE DATE: July 1, 2006.</u>

Specific Authority 570.07(23), 583.04 FS. Law Implemented 583.051, 583.052 FS. History–New 8-13-92, Formerly 5E-7.014, Amended 9-30-96, 9-5-01, <u>7-1-06</u>.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. John Fruin, Chief, Division of Food Safety, Bureau of Food and Meat Inspection, Department of Agriculture and Consumer Services

NAME OF PERSON OR SUPERVISOR WHO APPROVED THE PROPOSED RULE: Dr. Marion Aller, Director, Division of Food Safety, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 3, 2006

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Office of Agricultural Water Policy

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
5M-6	Florida Container Nursery BMP Guide
RULE NOS.:	RULE TITLES:
5M-6.001	Purpose
5M-6.002	Approved BMPs
5M-6.003	Presumption of Compliance
5M-6.004	Notice of Intent To Implement
5M-6.005	Record Keeping

PURPOSE AND EFFECT: The purpose of this rule is to effect pollutant reduction through the implementation of non-regulatory and incentive based programs which may be determined to have minimal individual or cumulative adverse impacts to the water resources of the state.

SUMMARY: The purpose of Rule 5M-6, F.A.C., is to effect pollutant reduction through the implementation of non-regulatory and incentive based programs which may be determined to have minimal individual or cumulative adverse impacts to the water resources of the state. Rule 5M-6, F.A.C., references the document titled *Florida Container Nursery BMP Guide (March 2006)*, which provides details on the practices which will be used to achieve the purpose. The manual, which may be obtained from the FDACS Office of Agricultural Water Policy, 1203 Governor's Square Boulevard, Suite 200, Tallahassee, Florida 32301, (850)617-1700, lists approved BMPs for the container plant growers within the boundaries of the South Florida Water Management District.

Nursery growers wishing to participate in the program will file a *Notice of Intent to Implement* (NOI), and will agree to confirm implementation by preserving documentation sufficient for the purpose. Upon implementation of BMP practices, growers will be granted a presumption of compliance.

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

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

SPECIFIC AUTHORITY: 403.67(7)(c)2. FS.

LAW IMPLEMENTED: 403.67(7)(c)2. FS.

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

DATE AND TIME: April 28, 2006, 10:00 a.m. – 11:30 a.m.

PLACE: Florida Department of Agriculture and Consumer Services, Eyster Auditorium, Conner Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mr. Ken Kuhl, FDACS Office of Agricultural Water Policy, 1203 Governor's Square Boulevard, Suite 200, Tallahassee, Florida 32301, (850)617-1700

THE FULL TEXT OF THE PROPOSED RULES IS:

5M-6.001 Purpose.

The purpose of this rule is to effect pollutant reduction through the implementation of non-regulatory and incentive based programs which may be determined to have minimal individual or cumulative adverse impacts to the water resources of the state.

Specific Authority 403.067(7)(c)2. FS. Law Implemented 403.067(7)(c)2. FS. History–New .

5M-6.002 Approved BMPs.

The document titled *Florida Container Nursery BMP Guide (March 2006)* is hereby incorporated by reference in this rule for the container plant growers within the boundaries of the South Florida Water Management District. Copies of the document may be obtained from the FDACS Office of Agricultural Water Policy, 1203 Governor's Square Blvd. Suite 200, Tallahassee, FL, 32301 (850)617-1700.

Specific Authority 403.067(7)(c)2. FS. Law Implemented 403.067(7)(c)2. FS. History–New .

5M-6.003 Presumption of Compliance.

In order to obtain the presumption of compliance with state water quality standards and release from the provisions of Section 376.307(5), F.S., for those pollutants addressed by the practices the applicant must:

(1) Conduct an assessment of the subject properties using the *Florida Container Nursery BMP Guide (March 2006)* and the *Candidate BMP Checklist.*

(2) Submit a Notice of Intent to Implement as outlined in Rule 5M-6.004, F.A.C.

(3) Implement the non-regulatory and incentive-based programs identified as a result of the assessment of the subject properties and listed in the Notice of Intent to Implement.

(4) Maintain documentation to verify the implementation and maintenance of the non-regulatory and incentive-based programs.

Specific Authority 403.067(7)(c)2. FS. Law Implemented 403.067(7)(c)2. FS. History–New .

5M-6.004 Notice of Intent to Implement.

A *Notice of Intent to Implement* best management practices shall be submitted to FDACS, Office of Agricultural Water Policy, 1203 Governor's Square Boulevard, Suite 200, Tallahassee, Florida 32301.

(1) Such notice shall identify practices the applicant will implement. The notice shall also include: the name of the property owner; the location of the nursery(s); the property tax

ID number(s); a date for implementation; the gross acreage on which each practice will be implemented; the name and contact information of an authorized representative; and the signature of the owner, lease holder, or an authorized agent.

(2) Once filed with FDACS, the Notice of Intent to Implement shall enable the applicant to apply for assistance with implementation as identified in Section 403.067(7)(c)2., F.S.

Specific Authority 403.067(7)(c)2. FS. Law Implemented 403.067(7)(c)2. FS. History–New .

5M-6.005 Record Keeping.

All participants must preserve sufficient documentation to confirm implementation of the non-regulatory and incentive based programs identified in the Notice of Intent to Implement. All documentation is subject to FDACS inspection.

Specific Authority 403.067(7)(c)2. FS. Law Implemented 403.067(7)(c)2. FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Ken Kuhl: FDACS Office of Agricultural Water Policy, 1203 Governor's Square Boulevard, Suite 200, Tallahassee, Florida 32301, (850)617-1700

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Rich Budell: FDACS Office of Agricultural Water Policy, 1203 Governor's Square Boulevard, Suite 200, Tallahassee, Florida 32301, (850)617-1700

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 18, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 20, 2005

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 BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

RULE NO.: RULE TITLE:

61G5-30.001 Disciplinary Guidelines

PURPOSE AND EFFECT: The rule outlines the normal discipline imposed for penalty violations.

SUMMARY: The rule revises the Disciplinary Guidelines requirements.

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

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

SPECIFIC AUTHORITY: 455.2273, 477.016, 477.029(2) FS.

LAW IMPLEMENTED: 455.2273, 477.029(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Cosmetology, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G5-30.001 Disciplinary Guidelines.

(1) The Board shall act in accordance with the following guidelines when it finds the enumerated violations in disciplinary cases. The Board shall impose a penalty within the range of each applicable disciplinary violation set forth below unless the Board finds an aggravating or mitigating circumstance, in which case the board may deviate from the guideline penalty.

~~(1) When the Board finds that any person has committed any of the acts set forth in Section 477.029(1), F.S., it shall issue a final order imposing appropriate penalties as recommended in the following disciplinary guidelines.~~

~~(a) Holding oneself out as a cosmetologist or specialist unless duly licensed or registered as provided in Chapter 477, F.S. The usual recommended penalty shall be:~~

~~1. For an individual who has never been licensed in Florida, an administrative fine of $500.00;~~

~~2. For a licensee or registrant who fails to properly renew, an administrative fine of $50.00 per month or part of a month during which the licensee or registrant remained unlicensed or unregistered up to a total of $500.00.~~

~~(b) Operating any cosmetology salon unless it is duly licensed as provided in Chapter 477, F.S., the usual penalty shall be:~~

~~1. For a salon which has never been licensed, or for operation of an unlicensed salon within a residence, an administrative fine of $500.00;~~

~~2. For a salon license which has become delinquent, an administrative fine of $50.00 per month or part of the month during which such operation has taken place up to a total of $200.00;~~

~~3. For a salon license which has expired, an administrative fine of $500.00.~~

~~(c) Permitting an employed person to practice cosmetology or a specialty unless duly licensed or registered as provided in Chapter 477, F.S., unless such employed person is exempted pursuant to Section 477.0135(8), F.S. The usual recommended penalty shall be:~~

~~1. For employing an individual who has never been licensed or registered in Florida or who is not exempt, an administrative fine of $500;~~

~~2. For employing an individual who failed to properly renew or whose exemption has terminated, an administrative fine of $50 per month or part of a month during which such individual was employed up to a total of $500.~~

~~(d) Presenting as one's own the license or registration of another. The usual recommended penalty shall be an administrative fine of $500 and a reprimand.~~

~~(e) Giving false or forged evidence to the Department or the Board in order to obtain any license or registration provided for in Chapter 477, F.S. The recommended penalty shall be an administrative fine of $500 and refusal to recommend approval of said license or registration or revocation of any license or registration received as a result of such action.~~

~~(f) Impersonate any other licenseholder or registrant of like or different name. The usual recommended penalty shall be an administrative fine of $500 and a 6 month suspension of any other license or registration held by the licensee pursuant to Chapter 477, F.S.~~

~~(g) Using or attempting to use a license or registration that has been revoked. The usual recommended penalty shall be an administrative fine of $500 and a one year suspension of any other license or registration held by the licensee or registrant pursuant to Chapter 477, F.S.~~

~~(h) Violating any provision of Section 477.0265, 477.028 or 455.227(1), F.S. The usual recommended penalty shall be the penalty recommended in subsections (2) and (3) below or subparagraph (1)(i)2. below.~~

~~(i) Violating or refusing to comply with any provision of Chapter 477 or 455, F.S., or a rule or final order of the Board. The usual recommended penalty shall be:~~

~~1. For a violation of Chapter 477, F.S., the recommended penalty stated in this section for such violation;~~

~~2. For a violation of Chapter 455, F.S., imposition of a penalty within the range stated in Section 455.227, F.S., for violation thereof;~~

~~3. For a violation of a rule of the Board, the recommended penalty as stated in this section for such violation, and any further penalty deemed appropriate by the Board within the limits of subsection 61G5-30.001(5), F.A.C.;~~

~~4. For a violation of a final order of the Board, an administrative fine of $500 and a 6 month suspension.~~

~~(j) Violating the safety and sanitary requirements of subsections 61G5-20.002(3)-(7), F.A.C. The usual recommended penalty shall be an administrative fine of $50 per violation if less than 3 violations are found to have occurred, or an administrative fine of $250 if 3 or more violations are found to have occurred, or an administrative fine of $500.00 if 5 or more violations are found to have occurred at the time of this violation.~~

~~In any case where a salon is found to be operating without sterilization equipment the Board shall impose an administrative fine of $250.~~

(2) VIOLATION	PENALTY RANGE:
(a) Unlicensed cosmetology or specialty practice. (477.0265(1)(a) or 477.029(1)(a), F.S.)	For an individual who was never licensed,a fine of $500. For a licensee or registrant who fails to properly renew, a fine of $50 for every month or partial month during which the individual was unlicensed or unregistered, up to a maximum of $500.
(b) Unlicensed Salon and Delinquent Salon License. (477.0265(1)(b)1 or 477.029(1)(b), F.S.)	For a salon which has never been licensed, or for which the salon license has expired, a fine of $500. For a salon license which has become delinquent, a fine of $50 for every month or partial month of delinquency during which the salon has operated, up to a total of $500.
(c) Permitting a person without a license or registration, unless exempt, to perform cosmetology services or any specialty in a salon. (477.0265(1)(b)2, F.S.)	For a violation involving a person who was never licensed or registered in Florida, a fine of $250 to $500. For a violation involving a person who failed to properly renew or whose exemption has terminated, a fine of $50 for every month or partial month during which the violation took place, up to $500.

(d) Permitting an employee to practice Cosmetology or a specialty without being duly licensed, registered, or otherwise authorized. (477.0265(1)(d) or 477.029(1)(c), F.S.)	For employing a person who was never licensed or registered in Florida, or who is not exempt, a fine of $250 to $500. For employing a person who failed to properly renew or whose exemption has terminated, a fine of $50 for every month or partial month during which the person was employed, up to $500.
(e) Engage in willful or repeated violations of Chapter 477, F.S. or any rule adopted by the board. (477.0265(1)(c), F.S.)	For a first offense, a fine of $500. For a subsequent offense, a fine of $500 and suspension or revocation of any license or registration issued pursuant to Chapter 477, F.S.
(f) Obtain or attempt to obtain a license or registration for money, other than the required fee, or any other thing of value or by fraudulent misrepresentations. (477.0265(1)(e), F.S.)	A fine of $500 and denial or revocation of the license or registration.
(g) Using or attempting to use a suspended or revoked cosmetology license or specialty registration to practice cosmetology or a specialty. (477.0265(1)(f) or 477.029(1)(g), F.S.)	A fine of $500 and suspension for one year of any license or registration issued pursuant to chapter 477, F.S.
(h) Advertising or implying that skin care services or body wrapping are related to massage therapy, except as allowed by statute. (477.0265(1)(g), F.S.)	A fine of $100 to $200 for the first offense; a fine of $500 for subsequent offenses.
(i) Use or possess a product containing a liquid nail monomer containing any trace of methyl methacrylate (MMA): (477.0265(1)(h), F.S.)	A fine of $500 for the first offense; a fine of $500 and suspension or revocation for a subsequent offense.
(j) License or registration obtained by fraud or false or forged evidence. (477.028(1)(a), 477.028(2)(a) or 477.029(e), F.S.)	A fine of $500 and revocation of the salon license, cosmetology license, or specialty registration.
(k) Guilty of fraud, deceit, gross negligence, incompetency, or misconduct in practice or instruction of cosmetology or specialty, or in operation of the salon. (477.028(1)(b) or 477.028(2)(b), F.S.)	A fine of $200 to $500 and suspension or revocation of the of salon license, cosmetology license, or specialty registration.
(l) License or registration holder is guilty of aiding, assisting, procuring, or advising any unlicensed person to practice as a cosmetologist. (477.028(1)(c), F.S.)	A fine of $250 for the first offense. A fine of $500 and revocation or suspension of salon license, cosmetology license, or specialty registration for a subsequent offense.

(m) Present license of another as his or her own license. (477.029(1)(d), F.S.	A fine of $500 and a reprimand for the first offense. A fine of $500 and refusal to certify for licensure for a subsequent offense.
(n) Impersonate any other licenseholder of like or different name.	A fine of $500 and a 6 month suspension of any other license or registration held pursuant to (477.029)(1)(f) Chapter 477, F.S.
(o) Violate or refuse to comply with:	
1. Any provision of chapter 455, or final order of the Board or the department.	A fine of $500 and suspension, revocation, or refusal to certify to the department for licensure
2. Any provision of Chapter 477, F.S., or a rule of the Board or the Department except as otherwise provided;	A fine of 4100 to $200 for the first viloation. A fine of $300 to $500 for a subsequent violation. A fine of $500 and suspension or revocation of license or registration for a refusal to comply.
3. Salon requirements subsections 61G5-20.002(3)-(7), F.A.C., relating to sanitation and safety;or	A fine $50 per violation for less than three violations. A fine of $250 for three to four violations. A fine of $500 for five or more violations. A fine of $250 for a salon operating without sterilization equipment.
4. Display of documents subsection 61G5-20.004, F.A.C., relating to display of licenses and inspection sheets (477.029(1)(h)-(i), F.S.)	A fine of $100 for each violation for the first offense. A fine of $200 to $300 for each subsequent offense.

~~(2) When the Board finds that any person has committed any of the acts set forth in Section 477.0265(1), F.S., it shall also find that person to be in violation of Section 477.029(1)(h), F.S., and it shall issue a final order imposing appropriate penalties as recommended in the following disciplinary guidelines.~~

~~(a) Engaging in the practice of cosmetology or a specialty without an active license as a cosmetologist or a registration as a specialist issued by the Department pursuant to the provisions of Chapter 477, F.S. The usual recommended penalty shall be:~~

~~1. For an individual who has never been licensed or registered in Florida, an administrative fine of $500;~~

~~2. For a licensee or registrant who fails to properly renew, an administrative fine of $50 per month or part of a month during which the licensee remained unlicensed or registrant remained unregistered up to a total of $500.~~

~~(b) Owning, operating, maintaining, opening, establishing, conducting, or having charge of, either alone or with another person or persons, a cosmetology salon or specialty salon which is not licensed or registered under the provisions of Chapter 477, F.S. The usual recommended penalty shall be an administrative fine of $50 per month or part of a month during which such operation has taken place up to a total of $500.~~

~~(c) Owning, operating, maintaining, opening, establishing, conducting, or having charge of, either alone or with another person or persons, a cosmetology salon or specialty salon in which a person not licensed as a cosmetologist or registered as a specialist and who is not exempt pursuant to Section 477.0135(8), F.S., is permitted to perform cosmetology services or any specialty. The usual recommended penalty shall be:~~

~~1. For a violation involving a person who has never been licensed or registered in Florida, an administrative fine of $500.~~

~~2. For a violation involving a person who failed to properly renew or whose exemption has terminated, an administrative fine of $50 per month or part of a month during which each violation took place.~~

~~(d) Engaging in willful or repeated violations of Chapter 477, F.S., or any rule adopted by the Board. The usual recommended penalty shall be an administrative fine of $500 and suspension or revocation of any license or registration issued pursuant to Chapter 477, F.S.~~

~~(e) Permitting an employed person to engage in the practice of cosmetology or of a specialty unless such person holds a valid, active license as a cosmetologist or registration as a specialist unless such person is exempted pursuant to Section 477.0135(8), F.S. The usual recommended penalty shall be:~~

~~1. For a violation involving an employed person who has never been licensed or registered in Florida or who is not exempt, an administrative fine of $500;~~

~~2. For a violation involving an employed person who failed to properly renew or whose exemption has terminated, an administrative fine of $50 per month or part of a month during which such violation took place.~~

~~(f) Obtaining or attempting to obtain a license or registration for money, other than the required fee, or any other thing of value or by fraudulent misrepresentations. The usual recommended penalty shall be an administrative fine of $500 and a refusal to recommend approval of said license or registration or revocation of any license or registration received as a result of such action.~~

~~(g) Using or attempting to use a license to practice cosmetology or a registration to practice a specialty which license or registration is suspended or revoked. The usual recommended penalty shall be an administrative fine of $500 and a suspension, for a period of up to one year, of any other license or registration held by the licensee or registrant pursuant to Chapter 477, F.S.~~

(3) through (7) No change.`

Specific Authority 455.2273, 477.016, 477.016, 477.029(2) FS. Law Implemented 455.2273, 477.029(2) FS. History–New 10-20-86, Amended 10-18-87, 1-10-90, 1-30-92, 4-15-93, Formerly 21F-30.001, Amended 4-23-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Cosmetology
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Cosmetology
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 22, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 17, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE NO.:	RULE TITLE:
61J2-3.010	License Reactivation Education for Brokers and Sales Associates

PURPOSE AND EFFECT: The Commission proposes to change the rule to add two different 14 hour Commission-prescribed continuing education courses in place of a 14 hour Commission-prescribed continuing education course.
SUMMARY: The change to the rule effects the continuing education courses from a 14 hour Commission-prescribed course to two different 14 hour Commission-prescribed courses.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 475.05 FS.
LAW IMPLEMENTED: 475.04, 475.17, 475.182, 475.183, 475.451 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-3.010 License Reactivation Education for Brokers and Sales Associates.

(1) through (2) No change.

(3) A licensee may reactivate a license, which has been involuntarily inactive for 12 months but less than 24 months, by satisfactorily completing two different ~~a~~ 14-hour Commission-prescribed continuing education courses for each 2-year license period.

(4) through (5) No change.

Specific Authority 475.05 FS. Law Implemented 475.04, 475.17, 475.182, 475.183, 475.451 FS. History–New 1-1-80, Amended 8-24-80, 9-16-84, Formerly 21V-3.10, Amended 10-13-88, 6-28-93, Formerly 21V-3.010, Amended 12-30-97, 10-25-98, 1-18-00, 3-15-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 29, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 6, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE NO.:	RULE TITLE:
61J2-5.014	Registration of Corporation

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify that a corporation shall operate as a real estate broker when receipt of written notification from the Department that the corporation has been properly registered.
SUMMARY: The Board proposes the rule amendment to clarify when a corporation shall operate as a real estate broker.
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: 475.05 FS.
LAW IMPLEMENTED: 455.227, 475.15, 475.17 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: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-5.014 Registration of Corporation.

Unless the Commission or BPR shall have information that the corporation has been in violation of Chapters 475 and 455, Florida Statutes, or the rules promulgated under said chapters, it will be assumed to be qualified for registration if its officers and directors are qualified and if the answers to questions in the application, or in supplemental inquiries, are satisfactory. Otherwise, investigation and other proceedings, as in cases of individual applicants, shall commence. No registration shall be granted or renewed for any corporation if it shall appear that the individual(s) having control of the corporation has been denied, revoked, or suspended and not reinstated, or if a person having control of the corporation has been convicted of a felony in any court and has not had civil rights restored for at least 5 years, or if an injunction has been entered against the individual for operating as a real estate licensee without a license. A person shall be deemed to be in control of a corporation where such person or spouse, children, or member of the household shall own or control, directly or indirectly, more than 40 percent of the voting stock of such corporation. No corporation shall operate as a real estate broker until they have received written notification from the Department that the corporation has been properly registered.

Specific Authority 475.05 FS. Law Implemented 455.227, 475.15, 475.17 FS. History–New 1-1-80, Amended 7-15-84, Formerly 21V-5.14, Amended 7-20-93, Formerly 21V-5.014, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 29, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 6, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE NO.: RULE TITLE:
61J2-10.025 Advertising
PURPOSE AND EFFECT: The Board proposes the rule amendment to include phone numbers for the licensed brokerage firms in real estate advertisements.
SUMMARY: The rule requires each brokerage firm to include its telephone number in its advertisements.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 120.53, 475.05 FS.
LAW IMPLEMENTED: 475.01, 475.25, 475.42 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: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-10.025 Advertising.

(1) All advertising must be in a manner in which reasonable persons would know they are dealing with a real estate licensee. All real estate advertisements must include the licensed name and phone number of the brokerage firm. No real estate advertisement placed or caused to be placed by a licensee shall be fraudulent, false, deceptive or misleading.

(2) through (3)(b) No change.

Specific Authority ~~120.53~~, 475.05, 475.25(1)(c) FS. Law Implemented 475.01, 475.25, 475.42~~, 475.421~~, 475.4511 FS. History–New 1-1-80, Amended 2-17-81, 3-14-85, Formerly 21V-10.25, Amended 12-29-91, 7-20-93, Formerly 21V-10.025, Amended 4-18-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 15, 2005
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 6, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE NO.: RULE TITLE:
61J2-14.008 Definitions

PURPOSE AND EFFECT: The purpose of the rule is to require documentation on the sales contract and documentation of the deposit, when escrow funds are placed with a title company or an Attorney.

SUMMARY: When escrow funds are placed with an Attorney or title company, the rule requires identification on the sales contact of the escrow holder, with address, as well as documentation to verify the deposit was made.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 475.05 FS.

LAW IMPLEMENTED: 475.25(1)(k) 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: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-14.008 Definitions.

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

(2)(a) "Trust" or "escrow" account means an account in a bank or trust company, title company having trust powers, credit union, or a savings and loan association within the State of Florida. Only funds described in this rule shall be deposited in trust or escrow accounts. No personal funds of any licensee shall be deposited or intermingled with any funds being held in escrow, trust or on condition except as provided in subsection 61J2-14.010(2), Florida Administrative Code.

(b) When escrow funds are placed with a title company or an attorney, the licensee shall indicate on the sales contract the name and address of said entity. The licensee shall obtain and retain written verification of said deposit upon delivery of the funds to the title company or attorney.

(3) No change.

Specific Authority 475.05~~, 475.25 (1)(k)~~ FS. Law Implemented 475.25(1)(k) FS. History–New 1-1-80, Formerly 21V-14.08, Amended 10-13-88, 12-29-91, 7-20-93, Formerly 21V-14.008, Amended 7-5-95, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 15, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 6, 2006

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 Occupational Therapy

RULE NO.: RULE TITLE:
64B11-3.0021 Application by Endorsement

PURPOSE AND EFFECT: The Board proposes to consider promulgating a new rule section to clarify application by endorsement for occupational therapy assistant licensure.

SUMMARY: The Board proposes a new rule section to clarify application by endorsement for occupational therapy assistant licensure.

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

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

SPECIFIC AUTHORITY: 468.204, 468.213(1) FS.

LAW IMPLEMENTED: 468.213(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: Susan Love, Executive Director, Board of Occupational Therapy/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B11-3.0021 Application by Endorsement.

The Board shall waive the examination requirements of Section 468.211, Florida Statutes, and Rule 64B11-2.006, F.A.C., for an occupational therapy assistant by endorsement applicant who demonstrates proof of current certification as an occupational therapy assistant by a national certifying organization, if the requirements for such certification are equivalent to the examination, education, and supervised

fieldwork experience requirements contained within Sections 468.209(1)(b),(c); 468.211, Florida Statutes, and Rules 64B11-2.006; 64B11-2.011, F.A.C.

Specific Authority 468.204, 468.213(1) FS. Law Implemented 468.213(1) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Occupational Therapy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 27, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 17, 2006

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE NO.: RULE TITLE:
64B11-4.005 Citations

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify citations set to impose penalties for practicing with a retired status license and failure to maintain a current address or to timely notify the Board of a change of address.
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: 456.077, 468.204 FS.
LAW IMPLEMENTED: 456.072, 456.077 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: Susan Love, Executive Director, Board of Occupational Therapy/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B11-4.005 Citations.

(1) through (3) No change.

(4) The Board designates the following as citation violations:

(a) through (b) No change.

(c) Practicing with a retired status license, up to six months, for which the Board shall impose a $100.00 per month penalty for each full month or partial month the license is in retired status.

(c) through (e) renumbered (d) through (f) No change.

(g) Failure to maintain on file a current address, or failure to timely notify the Board of a change of address, as required by Rule 64B11-4.007, F.A.C.

(5) through (6) No change.

Specific Authority 456.077, 468.204 FS. Law Implemented 456.072, 456.077 FS. History–New 1-1-92, Formerly 21M-15.005, 61F6-15.005, Amended 11-13-96, Formerly 59R-63.005, Amended 2-20-02, 7-26-04, 8-2-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Occupational Therapy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2005
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 10, 2006

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE NO.: RULE TITLE:
64B11-5.003 Requirements for Reactivation of an Inactive License

PURPOSE AND EFFECT: The Board proposes the amendment to the rule to clarify the requirements for reactivation of an inactive license and to update specific authority.
SUMMARY: The proposed rule amendments are to clarify the requirements for reactivation of an inactive license and to update specific authority.
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: 456.036, 468.104, 468.219 FS.
LAW IMPLEMENTED: 456.036, 468.219 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: Susan Love, Executive Director, Board of Occupational Therapy/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B11-5.003 Requirements for Reactivation of an Inactive License.

(1) through (4) No change.

(5) The provisions of Rules 64B11-2.012, 64B11-3.009, F.A.C., are not applicable to licensees reactivating ~~an~~ inactive licenses.

Specific Authority 456.036, 468.20~~14~~, 468.219 FS. Law Implemented 456.036, 468.219 FS. History–New 4-17-95, Formerly 59R-64.020, Amended 10-18-01, 8-2-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Occupational Therapy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2005
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 10, 2006

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Children's Mental Health

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
65E-9	Licensure of Residential Treatment Centers
RULE NOS.:	RULE TITLES:
65E-9.001	Applicability
65E-9.002	Definitions
65E-9.003	Licensure
65E-9.004	Administrative Enforcement
65E-9.005	Operating Standards
65E-9.006	Program Standards
65E-9.007	Staffing
65E-9.008	Admission
65E-9.009	Treatment Planning
65E-9.010	Length of Stay
65E-9.011	Discharge and Discharge Planning
65E-9.012	Rights of Children
65E-9.013	Restraint, Seclusion, and Time Out
65E-9.014	Medication Administration and Use of Psychotropic Medications

PURPOSE AND EFFECT: The purpose and effect of this chapter is to implement the provisions of Section 394.875(10), F.S., with respect to residential treatment centers for children and adolescents which specify licensure standards for admission; length of stay; program and staffing; discharge and discharge planning; treatment planning; seclusion, restraint and time out; rights of patients; use of psychotropic medications; and standards for operation of such centers.
SUMMARY: The subject area addressed is Section 394.875(10), Florida Statutes. The department, in consultation with the agency, must adopt rules governing a residential treatment center for children and adolescents which specify licensure standards for: admission; length of stay; program and staffing; discharge and discharge planning; treatment planning; seclusion, restraints, and time-out; rights of patients under s. 394.459, F.S.; use of psychotropic medications; and standards for the operation of such centers.
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 394.875(10), 394.875 FS.
LAW IMPLEMENTED: 394.875 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 WITH REGARD TO THE PROPOSED RULES IS: Michael Sorrell, 1317 Winewood Blvd., Bld. 6, Room 261, Room 290, Tallahassee, Florida 32399-0700

THE FULL TEXT OF THE PROPOSED RULES IS:

65E-9.001 Applicability.

These rules shall apply to all residential treatment centers, including therapeutic group homes, under contract with the department or the agency to provide treatment services to children with an emotional disturbance or serious emotional disturbance who are admitted to services pursuant to Chapter 39 or Chapter 394, Florida Statutes. These rules shall also apply to providers that serve children through age 20 who are committed under Section 985.223, F.S.

Specific Authority 39.407, 394.875(10) FS Law Implemented 394.875 FS. History–New _____.

65E-9.002 Definitions.

(1) "Abuse" means any willful or threatened act that results in any physical, mental, or sexual injury or harm that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

(2) "Administrator" means the chief executive or administrative officer of a residential treatment center or therapeutic group home or his or her designee.

(3) "Agency" or "AHCA" means the Agency for Health Care Administration and the terms are used interchangeably to refer to the Agency for Health Care Administration.

(4) "Assessment" means the appraisal or evaluation of a child's current condition based on but not limited to clinical and functional data, physical examination, medical history, and current symptomatology.

(5) “Behavior analysis” is the science in which procedures derived from the principles of behavior are systematically applied to increase skill acquisition and reduce problematic behavior, to improve socially significant behavior to a meaningful degree and to demonstrate experimentally that the procedures used were responsible for the improvement in behavior.

(6) “Child” means any person under the age of 18 and, as used in this rule unless otherwise specified, includes the term “adolescent” as defined in Section 394.492(1), F.S.

(7) “Collocation” means the simultaneous operation by a provider of two or more programs on the same grounds or in the same building with complete separation of the children served by the programs.

(8) “Cultural competence” means attaining and applying knowledge, skills, and attitudes that respect the child and family's individual values and beliefs, so far as to enable administrators and staff to provide effective care and treatment for diverse populations.

(9) “Department” means the Department of Children and Families (DCF) unless otherwise specified.

(10) “DSM” means the latest edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

(11) “Direct care staff” means a staff member who has direct contact with the child and has primary responsibility, identified in their job description, for providing personal care, assistance, and supervision to a child.

(12) “Drug used as restraint” means the administration of any drug to help control a child’s behavior or restrict the child’s freedom of movement, and is not a standard treatment for the child’s medical or psychiatric condition.

(13) “Emergency safety intervention” means the use of restraint or seclusion as an immediate response to an emergency safety situation.

(14) “Emergency safety situation” means unanticipated child behavior that places the child or others at immediate risk for serious injury if no intervention occurs.

(15) “Employee” means all salaried and hourly wage personnel of the residential treatment center, including therapeutic group home, as well as contracted persons, who may be professionals and licensed or certified pursuant to Florida law or other persons who may meet qualifications as set forth in this rule.

(16) “Family” means the child’s biological, adoptive or foster parent(s), guardian, siblings, grandparents, aunts and uncles, and other related or unrelated persons who have a significant relationship with the child. For children placed pursuant to Chapter 39, F.S., the term family also includes the child’s guardian ad litem.

(17) “Family centered care” means an approach to the planning, delivery and evaluation of health care services that is governed by mutually beneficial partnerships between health care providers and the family. Family centered care is characterized by collaborating with the family, focusing on the families' strengths, recognizing the families' expertise, fostering family empowerment, promoting information sharing among all parties in a complete and unbiased manner, and programs that are flexible.

(18) “Governing body” means the board of trustees, the partnership, the corporation, the association, or the person or group of persons who maintain and control the provider organization and which is legally responsible for the operation of the provider organization.

(19) “Mechanical restraint” means any device attached or adjacent to a child’s body that the child cannot easily remove that restricts freedom of movement or normal access to the child’s body. However, mechanical restraint does not include physical devices, such as orthopedic prescribed appliances, surgical dressings and bandages, protective helmets and supportive body bands, or other physical holding when necessary for routine physical examinations and tests for orthopedic, surgical and other similar medical treatment purposes or when used to provide support for the achievement of functional body position or proper balance or to protect a patient from falling out of bed or to permit a patient to participate in ongoing activities without the risk of physical harm.

(20) “Medically Stable” means good physical health, with no acute or chronic health problems for which medical treatment beyond routine medical care is required or anticipated. Children with a chronic, but stable illness, managed with medication and routine monitoring, such as diabetes or a well controlled seizure disorder, may be considered medically stable.

(21) “Medication administration” means the obtaining and giving of a single dose of medication, prescription or over-the-counter, by an authorized person to a child for his or her consumption.

(22) “Neglect” means when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child shall not, for that reason alone, be considered a negligent parent or legal custodian. Neglect of a child includes acts or omissions.

(23) "Physical restraint" means the application of physical force without the use of any device, for the purpose of restricting the free movement of a child's body. The term restraint does not include briefly holding without undue force a child in order to calm or comfort him or her, or holding a child's hand to safely escort him or her from one area to another. Such term may also be known as "personal restraint.

(24) "Plan of correction" means a written document that specifies actions a provider will take and the time frame within which the provider will come into compliance with Chapter 394, F.S., or these rules.

(25) "Primary diagnosis" means the principal mental disorder, per the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, that is the medically necessary reason for clinical care and the primary focus of treatment.

(26) "Provider" means an individual, organization, corporation, including subcontractor, that is under contract with the department to provide children's mental health services in a residential treatment center.

(27) "Psychotropic medication" means any drug prescribed with the primary intent to stabilize or improve mood, mental status, behavioral self-control, or mental illnesses.

(28) "Residential treatment center" means a 24-hour residential program, including a therapeutic group home, which provides mental health treatment and services to children as defined in Section 394.492(5) or (6), F.S., and which is a private for-profit or not-for-profit corporation under contract with the department or the agency. This rule does not change the Chapter 419, F.S., designation of a program as a "community residential home."

(29) "Restraint" means a "drug used as restraint", "mechanical restraint" or "personal or physical restraint", as defined in this section. Physical escort is excluded from this definition.

(30) "Screening" means the act of assessing the background of personnel and volunteers.

(31) "Seclusion" means the involuntary confinement of a resident alone in a room or an area that the resident is physically prevented from leaving.

(32) "Serious injury" means any significant impairment of the physical condition of the child as determined by qualified medical personnel. This includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else as defined in 42 C.F.R., § 483.352.

(33) "Staff" means all owners, operators, employees, whether full-time, part-time and/or volunteers working in a residential treatment center, or other facility licensed by this rule, who may be employed or contracted by or do volunteer work for a person, corporation, or organization. The term does not include those who do not work on the premises where treatment is provided or either have no direct contact with a child or have no contact with a child outside of the presence of the child's parent or guardian.

(34) "Supervision of self-administration of medications" means the provision of overseeing, guiding and assisting a child in the self-administration of a dose of medication, including prescription and over-the-counter medications.

(35) "Therapeutic group home" means a 24-hour residential program providing community-based mental health treatment and mental health support services in a home-like setting to no more than 12 children who meet the criteria in Section 394.492(5) or (6), F.S.

(36) "Time-out" means the restriction of a child for a brief period of time (30 minutes or less) to a designated area from which the child is not physically prevented from leaving, for the purpose of providing the child an opportunity to regain self-control and when the use is consistent with the child's treatment plan. This procedure is sometimes known as "brief isolation." Regardless of name, the actions taken define the procedure and are therefore subject to this rule.

(37) "Treatment" means the planned, individualized program of medical, psychological, and/or rehabilitative services designed to promote resiliency and facilitate recovery of function, in part through remediation of symptoms of a primary diagnosis, and/or other medical or behavioral condition that significantly impacts the treatment of a primary diagnosis.

(38) "Treatment plan" means the written summary of the child's individualized treatment goals, measurable objectives and treatment services to be provided. The treatment plan is the goal-oriented, time limited, individualized plan of action, which directs the treatment and services provided for the child and family.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History–New .

65E-9.003 Licensure.

(1) An entity that holds itself out to be or acts as a residential treatment center, including therapeutic group homes, shall obtain annually and maintain active licensure from the agency, unless specifically excluded from being licensed under the provisions of Section 394.875(5), F.S.

(2) Buildings that are separated from one another in which a similar level of residential care and treatment is provided may be licensed as one facility under the following circumstances:

(a) Such buildings are not separated by another building, part of a building, or buildings used for other purposes; and

(b) Such buildings are not separated by obstructions that impede the rapid movement of staff between them.

(3) License fee. An application fee shall be submitted with the initial application, change of licensed operator application, and with the annual renewal application. The fee is $115 per

bed annually. For capacity increases, the application fee shall be the per bed fee for each additional bed to be added to the license. A per bed fee is not required for a capacity reduction unless the agency must make an on-site visit to the facility. All fees are non-refundable. The fee shall be reasonably calculated annually and adjusted by the agency to cover the cost of regulation.

(4) Initial license – New construction, new operation, or change of licensed operator. Applicants for an initial license shall submit a completed AHCA Form 3180-5004, June 2004, "Residential Treatment Centers for Children and Adolescents," which is incorporated by reference and may be obtained from the agency. The application must be submitted to the agency at least 60 days prior to the date the facility would be available for inspection. The applicant shall provide all the information required by Sections 394.875 and 394.876, F.S., and any other information determined to be needed by the agency. The application shall be under oath and must be accompanied by the appropriate license fee in order to be accepted and considered timely. The following information shall be submitted with the application:

(a) The name and mailing address of the applicant, and each person or entity controlling five percent or more interest in the corporation.

(b) The name, address, and federal employer identification number or taxpayer identification number of the applicant and each person or entity controlling five percent or more interest in the corporation.

(c) The licensed name by which the provider is to be known.

(d) The total number of beds or capacity requested, as applicable.

(e) The street address, mailing address, telephone number, facsimile number, and any e-mail address of the provider for which application is made.

(f) The name of the administrator and financial officer. The name and telephone number of a contact person should be provided for questions regarding the application.

(g) The following additional documentation shall be submitted with the application:

1. Fiscal information including a current balance sheet and a statement of operations projecting revenues, expenses, taxes, extraordinary items, and other credits and charges for the first six months of operation to determine the ability of the applicant to carry out its financial responsibilities;

2. Proof of liability insurance coverage from an authorized insurer in an amount no less than $300,000 per occurrence with a minimal annual aggregate of no less than $1,000,000;

3. Affidavit of compliance with Section 394.4572, F.S.

4. Affidavit of compliance with Section 381.0035, F.S.

5. Copy of a satisfactory fire safety inspection report completed within the last 365 days by the local fire authority having jurisdiction or the local fire marshal.

6. Copy of a satisfactory sanitation inspection report completed within the last 365 days by the local county public health unit.

7. Proof of the right to occupy the premises. Proof may be a warranty deed, lease agreement, quit claim deed, or similar document that confirms the applicant's right to operate at the street address on the application form.

8. Proof that the corporation is active with the Florida Department of State, Division of Corporations. Proof may be a copy of a current certificate of status issued by the Division of Corporations or a copy of the corporation's completed annual report form and a copy of both sides of the cancelled check submitted for payment of the corporation's renewal fee.

9. A copy of the current signed contract with the department.

10. For facilities that would be considered a community residential home under Chapter 419, F.S., provide a completed DCF Form 1786, "Community Residential Home Sponsor Form," which is incorporated by reference and may be obtained from the department. For all other residential treatment centers, provide a report or letter from the zoning authority dated within the last six months indicating the street location is zoned appropriately for its use.

11. A copy of the center's occupational license.

(5) Accredited Programs. Programs accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), CARF – The Rehabilitation Accreditation Commission, Council on Accreditation (COA), or National Committee for Quality Assurance (NCQA) shall provide proof of accreditation as required by Section 394.741, F.S. Application for licensure by accredited programs does not preclude monitoring by the department, the AHCA, county public health unit, local fire authority having jurisdiction and fire marshal, and compliance with the provisions of these rules.

(6) New Programs. A newly developing program may be provided a 90-day probationary license when the application has been verified for compliance with applicable statutes and rules. The probationary period may be extended for an additional 90 days if the applicant has substantially complied with the requirements for licensure and if action has been initiated to satisfy all requirements of applicable statutes and rules. When it is determined that the facility is endangering the health and safety of persons receiving services, the probationary license will be cancelled by the AHCA.

(7) Renewal License.

(a) All applications, fees, and supporting materials for licensure shall be provided to the AHCA 60 days before the expiration of the existing license.

(b) All applicants shall submit an application on AHCA Form 3180-5004, June 2004~~.~~, "Residential Treatment Centers for Children and Adolescents Application~~,~~", which is incorporated by reference, which is provided by the AHCA. The application is available on the agency's web site at:

http://www.acha.myflorida.com/MCHQ/Health_Facility_Regulation/Hospital_Outpatient/index.shtml.

The application shall include: all information required by Sections 394.875 and 394.876, F.S., and any other information determined to be needed by the agency; and

(c) The information required by paragraphs (4)(a) through (g) of this section.

(d) For accredited facilities, provide copies of any correspondence to or from the accrediting organization that have not been submitted previously to the agency since the current accreditation was awarded. A copy of the accreditation award letter, accreditation certificate, and accreditation report must be submitted only if a new accreditation period has been awarded since the initial application or last renewal application was filed with the agency.

(8) Failure to apply for the renewal of a license prior to the expiration date renders the license null and void and the former licensee may not be issued another license until the corporation applies for a new initial license and meets all current qualifications for licensure, including zoning, construction standards, and fire safety standards, where applicable.

(9) An applicant for initial licensure due to a change of licensed operator must submit a complete application package at least 60 days prior to the date of the anticipated change of licensed operator.

(a) The transferor shall be responsible and liable for:

1. The lawful operation of the facility until the date the transferee is licensed by the agency.

2. All penalties imposed against the facility for violations occurring before the date of the transfer of ownership unless the penalty imposed is a moratorium on admissions or denial of the license. The moratorium on admissions or denial of the license remains in effect after the transfer of ownership, unless the agency has approved the transferee's corrective action plan or the conditions that created the moratorium or denial have been corrected, and may result in denial of license to the transferee in accordance with Chapter 120, F.S.

3. Any outstanding liability to the state, unless the transferee has agreed as a condition of sale or transfer to accept the outstanding liabilities and to guarantee payment therefore; except that, if the transferee fails to meet these obligations, the transferor shall remain liable for the outstanding liability and shall honor such liability by payment to the state prior to issuance of the new license or by executing such documents of indebtedness as the state shall require as a condition of this licensing process.

a. The transferor of a facility, the license of which is denied pending an administrative hearing, shall, as a part of the written transfer-of-licensed operator contract, advise the transferee that a plan of correction shall be submitted by the transferee and approved by the agency at least seven (7) days before the transfer of licensed operator and that failure to correct the condition which resulted in the moratorium on admissions or denial of the license shall be grounds for denial of the transferee's license.

b. The transferee shall provide the agency with proof of legal right to occupy the property before a license may be issued. Proof may include copies of warranty deeds, or copies of a lease or rental agreement, contracts for deeds, quit claim deeds, or other such documentation satisfactory to the agency.

c. When the provider receives notification that the agency has determined that the application package for a change of licensed operator contains all required documentation and the required fee has been paid, a 90-day probationary license may be issued. The probationary period may be extended for an additional 90 days if the applicant has substantially complied with the requirements for licensure, and if action has been initiated to satisfy all of the remaining requirements.

(10) For any other application or request, the applicant must submit the application or request at least 60 days prior to the requested effective date.

(11) Upon receipt of an application for a license, the agency shall examine the application and, within 30 days after receipt, notify the applicant of any apparent errors or omissions and request any additional information required. Requested information omitted from an application for licensure, license renewal, capacity increase, capacity decrease, or change of licensed operator must be filed with the agency within 21 days after the agency's request for omitted information, or the application shall be deemed incomplete, shall be withdrawn from further consideration, and the fees forfeited.

(12) The failure to file a timely application and license fee shall result in a late fee charged to the licensee as authorized under Section 394.879(4), F.S.

(13) Within 60 days after the receipt of a complete application package, the agency shall:

(a) Approve or deny the application; or

(b) Authorize an inspection be conducted, if required by Section 394.90, F.S.

(14) Each license issued shall indicate the name of the licensee, the type of license issued, type of service that the licensee is required or authorized to operate or offer, the effective date of the license, the expiration date of the license, the maximum capacity of the licensed premises, and any other information required or deemed necessary by the agency.

(15) The license shall be displayed in a conspicuous location inside the facility.

(16) Program Closure. If the licensee voluntarily closes the facility, the licensee shall notify the department and AHCA in writing at least 90 days prior to such closure. The program which is closing, with the assistance of the department and the AHCA, shall attempt to place all persons receiving services, with their valid lawful consent, in other programs to which respective clinical records shall be transferred at the time the

resident is relocated. The licensee shall notify the AHCA and the department where the files of previously discharged residents will be stored.

(17) Program Closure Following Receivership Proceedings. By accepting a license under this chapter, the licensee agrees to cooperate with the department and the AHCA in accepting the adversely affected individuals when closure of a program follows receivership proceedings as defined in Section 394.903, F.S.

(18) Enforcement of these rules shall be in accordance with Section 394.879 and Section 394.902, F.S.

Specific Authority 39.407, 394.875(10) FS Law Implemented 394.875 FS. History–New .

65E-9.004 Administrative Enforcement.

(1) Provider staff shall cooperate with the agency and department personnel during surveys, complaint investigations, monitoring visits, implementation of correction plans, license application and renewal procedures, and other activities necessary to ensure compliance with Chapter 394, F.S., and this rule.

(2) Administrative Sanctions shall be imposed as authorized in Section 394.879(4), F.S., for:

(a) deficiencies which are not corrected within the time frame set by the agency and for repeat deficiencies;

(b) exceeding the licensed capacity;

(c) violating a moratorium on admissions imposed under the provisions of this rule; and

(d) Failure to timely submit a renewal application in compliance with subsection 65E-9.003(7), F.A.C., or a change of ownership application in compliance with Rule 65E-9.003, F.A.C.

(3) Moratorium on admissions.

(a) An immediate moratorium on admissions shall be placed on the facility when it has been determined that any condition in the facility presents an immediate or direct threat to the health, safety, and well being of children in the facility. The following situations are examples of threats constituting grounds for a moratorium:

1. Inappropriate or excessive use of restraint and seclusion;

2. The presence of children who need more care than can be provided by the facility;

3. Food supply inadequate to provide proper nutrition to children;

4. Lack of sufficient staff who are skilled and competent to provide for or to meet the immediate needs of the children;

5. Notification by the local fire marshal's office or county health department that conditions exist which impose an immediate threat to the children; or

6. Significant or repeated staff error resulting in failure to administer medications as prescribed.

(b) Moratoriums shall not be lifted until the deficiencies have been corrected and the agency has determined through an appraisal visit that there is no danger or threat to the children's health, safety, or well being. The removal of the moratorium shall be conveyed by a telephone call and confirmed by written notification.

(c) During the moratorium, no new children or previously discharged children shall be admitted to the facility. Children for whom the provider is holding a bed may return to the facility only after the child's parent or guardian has been informed that the facility is under a moratorium on admissions and with the prior approval of the local agency field office.

(d) When a moratorium is placed on a facility, the agency notice of the moratorium shall be posted and visible to the public at the facility until the moratorium is lifted.

Specific Authority 39.407, 394.875(10) FS Law Implemented 394.875 FS. History–New .

65E-9.005 Operating Standards.

(1) Governing body.

(a) Each provider shall have a governing body that exercises authority over the provider’s operation, policies and practices, and compliance with this rule.

(b) For-profit and not-for-profit organizations shall maintain advisory boards that review the operational policies and practices, inspect facilities and programs, conduct interviews with children and staff members, and review matters affecting the care of and treatment for children.

(c) The governing body shall meet no less than once per year. Membership of the governing body shall not be fewer than five (5) members. The provider shall maintain a list of its members, which shall be available to the agency and the department and shall:

1. Include the names, address, and terms of membership of each member; and

2. Identify each office and the term of that office.

(d) Responsibilities of the governing body:

1. Ensure organizational policies are in place for the administration and operation of the residential treatment center, including a qualified administrator;

2. Evaluate in writing the administrator’s performance annually;

3. Approve the annual budget of anticipated income and expenditures necessary to provide the services described in its statement of purpose and approve the annual financial audit report;

4. Establish and ensure compliance with written personnel practices;

5. Maintain written minutes of all meetings, which shall be open to inspection by the agency and the department, upon request;

6. Develop written policies for selection criteria and rotation of its members;

7. Develop and follow a written plan for the storage of records, including children's records, in the event of the closing of the program;

8. Ensure implementation of an effective quality improvement program that addresses at least the following components:

a. Credentials review and granting of clinical privileges to health care providers including but not limited to physicians, Advanced Nurse Practitioners, psychologists and other staff who oversee/supervise the delivery of mental and behavioral health services;

b. Monitoring of quality indicators; and

c. Mortality reviews.

9. Staff development plan for at least 15 hours per year on job related training to each staff whose duties require direct observation or contact with children.

(2) Written procedures. The provider shall establish and implement written procedures that ensure compliance with all provisions of this rule.

(3) Organization.

(a) Program. The provider shall have a written description of its philosophy, purpose, objectives, treatment program, services and methods of service delivery. This document shall be available to the agency, the department, referral sources, the parent(s), guardian or foster parent(s) and the public upon request. The program description shall include:

1. A description of the population of children served, including age and gender, types of disorders, and financial requirements;

2. The intake and admission process;

3. The types of treatment the provider can offer, based on a child's individual needs;

4. Methods for involving the parent or guardian in assessment, treatment, discharge, and follow-up care plans; and

5. An organizational chart describing each unit or division and its services, goals, procedures, staffing patterns and relationship to other services and divisions and how these contribute to the goals of the program.

(b) Administration. The provider shall have a written organizational plan, including an organizational chart, for administrative and clinical staff, which clearly explains the responsibilities of staff for services provided by the program. This plan shall include:

1. Lines of authority, accountability and communication; and

2. The names and credentials of the provider's clinical director and all clinical staff assigned responsibility on any shift for supervision of direct care staff. All clinical staff assigned supervisory responsibility shall have training or experience in child care activities and in the handling of medical and psychiatric emergencies.

(c) Budget. The provider shall prepare a written budget annually.

(d) Audit. The provider shall have financial records audited annually.

(e) Fees. For children placed by the department and funded in full or in part by state, Medicaid, or local matching funds, a sliding fee schedule shall be developed consistent with the provisions Section 394.674(4), F.S. If fees are charged, the provider shall have a written policy describing the relationships between fees and services provided and the conditions under which fees are charged or waived. This policy shall be available to any person upon request.

(f) Solicitation of funds. If provider funding is obtained through public solicitation, a charitable permit for such solicitation shall be procured.

(g) Notification of changes. The provider shall provide written notification within 30 days to the department and the agency of changes in the provider's administrator, statement of purpose, program, or admission criteria.

(h) Personnel policies, procedures and records.

1. Personnel policies and practices shall be designed, established, followed and maintained to promote the objectives of the provider's program and to ensure there are sufficient staff to support a high quality of care and treatment.

2. All paid personnel and volunteers shall be screened prior to employment, which shall include employment history checks, checks of references, local criminal records checks through local law enforcement agencies, fingerprinting, statewide criminal records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation.

3. The provider shall have and implement written personnel procedures covering the following areas: job classification; pay plan; staff selection; probation or work-test period; tenure of office; dismissal; salary increases; health evaluations; holidays; leave policies; new employee training/orientation; ongoing staff development training; performance evaluation; employment benefits; and personnel records.

4. Each new employee shall be given a copy of the written personnel procedures when hired and documentation of receipt shall be maintained in the employee's personnel file. A procedure shall be established and implemented on an ongoing basis for notifying employees of changes in established policies and procedures.

5. There shall be clear job descriptions for all staff, including position title, immediate supervisor, responsibilities and authority, which shall be used as a basis for periodic evaluations by the supervisor.

6. Accurate and complete personnel records shall be maintained on each employee. Content shall include:

a. Current background information, including the application, references, proof of satisfactory background screening results as required by Section 394.4572, F.S., and documentation to justify initial and continued employment of the individual. Applicants for positions requiring licensure, certification or accreditation shall be employed only after the provider has verified the license or accreditation. Evidence of renewal of license as required by the licensing agent shall be maintained in the employee's personnel record;

b. Current performance evaluation;

c. Record of any continuing education or staff development programs completed.

(i) Need for service. The provider's written policies shall include a description of the specific services it offers or proposes to offer.

(j) Incorporation. Organizations incorporated outside of the State of Florida must be authorized to do business under Florida law and such proof of authorization to do business in Florida must be maintained in the provider's licensing file. A copy of the annual report filed with the Florida Department of State, Division of Corporations and a copy of the cancelled check verifying payment of the fee or a current certificate of status issued by the Florida Division of Corporations shall constitute proof of authority to operate in Florida.

(k) Delegation of authority. To protect the health and safety of children served, any delegation of an administrator's authority pursuant to Chapter 394, F.S., or these rules shall be documented in writing prior to exercising the delegated authority. This documentation shall be placed in the individual's employee record. Routine delegations of authority shall be incorporated in the provider's written procedures.

(l) Incident notification.

1. The provider shall comply with the department's and the agency's procedures for reporting incidents that pose risk of serious psychological and physical harm to children being served.

2. The provider shall develop and implement on an ongoing basis a written procedure for incident notification, reflecting the requirements of the department's operating procedure CFOP 215-6, which is incorporated by reference.

(4) Fiscal accountability.

(a) The provider shall maintain separate accounting and fiscal records and all providers receiving state funds shall permit audits of such records and accounts, at any reasonable time, by the agency, the department and all funding agencies to ensure that contracted services are being provided as required by their contract and that the standards of the department and agency are met.

(b). The provider shall have and follow a schedule of public rates and charges for all services provided and these shall be made available to all referral sources and families.

(c). The provider shall have and maintain an insurance coverage that provides comprehensive liability insurance with minimum coverage of $300,000 per claim and $1,000,000 aggregate.

(d) Providers shall return to the department and agency any funds paid for services not actually performed or any funds owed the department or agency because of unallowable expenditures, as stipulated in the contract and within the timeframe defined in the contract.

(5) Facility standards.

(a) Buildings, grounds and equipment.

1. If the facility accepts children with physical handicaps, the facility shall be handicap accessible.

2. Grounds shall have space for children's activities, which shall be designed based on the type of activities offered and age appropriateness. The grounds shall be maintained in a safe and reasonably attractive manner and kept free of standing water, debris, garbage, trash and other hazardous conditions.

3. Indoor and outdoor recreation areas shall be provided with equipment and safety measures designed for the needs of children according to age, physical and mental ability.

4. Safety regulations shall be established and followed for all hazardous equipment and children shall be prohibited from the use of such equipment.

5. Pools. Facilities licensed for eight or more children shall meet the public swimming pool requirements of Chapter 514, F.S. Facilities licensed for one through seven children shall meet the residential swimming pool requirements for Chapter 515, F.S.

6. The interior and exterior of buildings and the furniture and furnishings shall be safe, comfortable, reasonably attractive, in good repair and shall function for the purpose for which such building and furniture has been designed.

7. All heating, air conditioning, electrical, mechanical, plumbing and fire protection systems shall function properly and be in compliance with local codes.

8. Therapeutic group homes beds shall meet the requirements of Chapter 419, F.S., Community Residential Homes.

(b) Interior accommodations.

1. The facility's space and furnishings shall enable staff to respect the child's right to privacy and provide adequate supervision.

2. The facility shall have a common area large enough to accommodate group activities for the informal use by children.

3. The facility shall have one or more dining areas large enough to comfortably accommodate the number of persons normally served.

4. The facility shall have indoor recreation space large enough to accommodate the number of children scheduled for indoor activities.

5. Study areas shall have tables, chairs, appropriate lighting and bookshelves suitable for children's use.

6. For residential treatment centers, if administrative offices are housed in the facility, they shall be separated from the children's living area. Administrative offices do not include nursing or staff monitoring stations. Therapeutic group homes may have an office space in the facility for administrative purposes, including storage of children's records.

7. There shall be a room available, which may be used for multiple purposes, to allow staff and children to talk privately and without interruption.

8. Potable drinking water shall be readily available and easily accessible to children.

9. Clocks and calendars shall be provided.

10. Bathrooms shall be provided and shall be separated from halls, corridors and other rooms by floor to ceiling walls. Children shall not have to go through another child's bedroom to get to a bathroom. Each bathroom shall have:

a. At least one toilet, washbasin, and tub or shower easily accessible to the bedroom area for each six children;

b. When multiple toilets are located in a single room, they shall be separated by individual toilet stalls to provide individual privacy;

c. Bathrooms with non-slip surfaces in showers or tubs;

d. Toilet paper and holders, individual hand towels or disposable paper towels and soap dispensers;

e. Distortion-free mirrors at a height convenient for use by children;

f. A place for toiletry storage; and

g. In a facility that houses children with physical handicaps that limit mobility, all toilet and bathing area shall meet the requirements of the Florida Building Code for accessibility.

11. Bedrooms.

a. Children shall not share sleeping areas with adolescents, and children or adolescents shall not share sleeping areas with adults.

b. Separate sleeping areas shall be provided for boys and girls.

c. The provider shall not permit children with physical handicaps that limit mobility to sleep above the first floor.

d. Bedrooms shall have at least 50 square feet of usable floor space per resident.

e. Bedrooms with multiple occupancy shall be limited to a maximum of 4 occupants.

f. Bedrooms for children shall be separated from halls, corridors, and other rooms by floor to ceiling walls.

g. Children's bedrooms shall be ventilated, well-lighted and located convenient to a bathroom and shall have at least one operable exterior window.

h. Each bedroom shall be furnished with the following equipment for each child: personal storage space, such as a dresser; space for hanging clothes; a bed and mattress in good repair, which is at least 36 inches wide and 72 inches long, bedding suited to the seasons and a pillow.

i. Clean sheets, pillow cases, and blankets shall be provided for each child upon arrival. Sheets and pillowcases shall be laundered at least weekly unless greater frequency is indicated. A bedspread must be provided. Blankets or quilts must be available for use during cold weather. Bedspreads and blankets or quilts must be laundered at least quarterly, or more often, as needed.

j. Sleeping areas shall be assigned based on children's individual needs for group support, privacy or independence and shall be appropriate to their ages, developmental levels and clinical needs.

k. Children shall be allowed to keep and display personal belongings and to add personal touches to the decoration of their rooms. The provider shall have and follow written procedures specifying what types of decoration are acceptable.

12. A seclusion room must meet the following standards:

a. Be a single room of at least 50 square feet and shall be constructed to minimize the child's hiding, escape, injury or suicide;

b. Allow staff full view of the resident in all areas of the room;

c. Doors.

1. Doors will be made of solid-core hardwood, metal or other hard, shatter-resistant material.

2. Doors may open outward and lock using a keyless locking device that will unlock upon activation of building fire alarm and will fail safe open on loss of power to the device.

3. The door will have no other features greater than eighteen inches from the floor to which cloth or other material may be securely hung or tied.

d. Floors and Walls.

1. Floors and walls will be solid, smooth, and high impact resistant without metal or other protrusions.

2. Walls will lack features that are higher than eighteen inches from the floor to which cloth or other material may be securely hung or tied.

3. Floor tiles and baseboards are acceptable if attached securely to the floor and walls.

e. Ceilings less than nine feet above the floor shall be monolithic with no appendages that can be securely grasped or tied onto with cloth or other material.

f. Vents less than nine feet above the floor will be covered with small wire mesh, a metal plate, or other high impact resistant material (with holes no larger than three-sixteenth inch) in such a way that one would be unable to securely tie or hang cloth or other material from it and have no exposed sharp edges.

g. Lighting.

1. Lighting less than nine feet above the floor will:

a. Be recessed and covered with shatter-resistant material;

b. Have no sharp exposed edges and lack space between it and the ceiling (or other mounting surface);

c. Not possess features to which cloth or other material can be securely tied or hung;

2. The lighting fixture need not be recessed if it is security-rated to withstand high impact and has a shatter-resistant cover.

3. Material used to fill space between the fixture and the mounting surface will be hard epoxy or other material that cannot be easily removed.

h. Mirrors and cameras. If mirrors and cameras are located in the seclusion room and are less than nine feet above the floor, they will:

1. Be covered with shatter-resistant material;

2. Have no sharp exposed edges and lack space between them and the ceiling (or other mounting surface);

3. Not possess features to which cloth or other material can be securely tied or hung;

i. Sprinklers. Sprinklers less than nine feet above the floor will:

1. Be recessed inside a cone-shaped or other suitable housing onto which cloth or other material cannot be securely tied or hung; sprinkler systems shall be installed in accordance with National Fire Protection Association Standard 13.;

2. Lack space between the base of the housing and the surface to which it is attached;

3. Will use material to fill between the fixture and the ceiling that is hard epoxy or other material that cannot be easily removed.

j. Windows.

1. Windows, when present, will be made of shatter-resistant material.

2. Any glass window that is not shatter resistant will be covered with a security-rated screen or other material that prevents access to the glass.

3. Window cranks will be flush with the window.

k. A toilet room shall be conveniently located near the seclusion room without entering into or through a common use area. It shall not open directly into or be located within the seclusion room. Toilets and sinks will be smooth and devoid of handles or parts to which cloth or other material could be securely tied or hung.

l. Smoke detectors.

1. Smoke detectors less than nine feet above the floor will be recessed in the wall or ceiling, or enclosed in small wire mesh or other suitable material housing that prevents access to the smoke detector.

2. The wire mesh or other enclosure will have holes that are not larger that three-sixteenth inch and lack features to which cloth or other material can be securely tied or hung and shall not prevent smoke detector from properly functioning in accordance with National Fire Protection Association, 72, National Fire Alarm Code.

m. Electrical outlets.

1. Electrical outlets are not permitted.

2. Electrical switches, e.g. to adjust lighting, are permissible if switches cannot be removed by the child or otherwise manipulated to gain access to the wiring.

3. Switches will not protrude so far that they permit serious self-injury.

n. Beds when present will:

1. Be made of metal, heavy molded plastic, or other solid impact resistant material;

2. Be secured to the floor or wall to prevent the child from standing it upright and using it as a prop; and

3. Lack features to which cloth or other material can be securely tied, if it is higher that twenty-four inches above the floor.

o. Mattresses and blankets.

1. Each child placed in seclusion will have immediate access to one plastic or vinyl-covered mattress and at least one fire retardant, triple-stitched blanket made of tear resistant material.

2. Mattresses and blankets will be cleaned after each use, prior to being used by another child.

p. Each seclusion room will be inspected and certified as compliant with the above standards at least yearly and at any time damage or structural change occur.

12. Ventilation and lighting.

a. The facility shall provide outside ventilation by means of windows, louvers, air conditioners, or mechanical ventilation in rooms used by children. Windows and doors used for outside ventilation shall be operable and shall have screens in good repair.

b. All areas of the facility occupied by children shall be temperature-controlled in a manner conducive to comfort, safety and privacy. Unless otherwise mandated by federal or state authorities, a temperature of 72 to 82 degrees Fahrenheit during waking hours and 68 to 82 degrees Fahrenheit during sleeping hours shall be maintained in all areas used by children. Cooling devices shall be placed or adjusted in a manner that minimizes drafts. Table fans and floor fans shall have protective covers.

c. The facility shall provide sufficient lighting for the comfort and safety of children, including in classrooms, study areas, bathrooms and food service areas.

d. All incandescent bulbs and fluorescent light tubes shall be protected with covers or shields.

e. Hallways to bedrooms and bathrooms shall be illuminated at night.

f. The facility shall provide egress lighting that will operate if there is a power failure.

(6) Health, sanitation and safety.

(a) Before a license is issued, and annually thereafter, the facility shall be inspected by the local office of the Department of Health to review compliance with state and local ordinances and health codes. Current written approvals or certificates of health and sanitary conditions and inspection reports shall be on file in the facility.

(b) The provider shall have and follow written health, sanitation and safety procedures.

(c) The use of door or window locks or closed sections of the building shall comply with all applicable safety and fire code standards.

(d) The facility shall have telephones, centrally located and readily available for staff and children's use in each living unit of the facility. Emergency numbers such as the fire department, police, hospital, physician, poison control center, ambulance and Florida Abuse Hotline shall be posted by each telephone. There shall be at least one cellular telephone available for use at all times in the event of power and telephone line outages.

(e) Poisons and toxic substances shall be prominently and distinctly marked, labeled as to contents, kept stored under lock and key, kept inaccessible to children, and used in a manner as not to contaminate food or constitute a hazard to children.

(7) Housekeeping.

(a) The facility and its contents shall be kept free from dust, dirt, debris and noxious odors.

(b) All rooms and corridors shall be maintained in a clean, safe, and orderly condition, and shall be properly ventilated to prevent condensation, mold growth, and noxious odors.

(c) All walls and ceilings, including doors, windows, skylights, screens, and similar closures shall be kept clean.

(d) All mattresses, pillows, and other bedding; window coverings, including curtains, blinds, and shades, cubicle curtains and privacy screens; and furniture shall be kept clean.

(e) Floors shall be kept clean and free from spillage, and non-skid wax shall be used on all waxed floors.

(f) Aisles in storage areas shall be kept unobstructed.

(g) All garbage and refuse shall be collected daily, removed from the building and stored in a manner to make it inaccessible to insects and rodents.

(h) Garbage storage rooms and outside area shall be kept clean, vermin-proof, and large enough to store the garbage containers that accumulate. Outside storage of unprotected plastic bags, wet strength paper bags, or baled units containing garbage is prohibited. Garbage containers, dumpsters, and compactor systems located outside shall be stored on or above a smooth surface of non-absorbent material, such as concrete or machine-laid asphalt, that is kept clean and maintained in good repair.

(i) Garbage shall be removed from storage areas as often as necessary to prevent sanitary nuisance conditions. If garbage is disposed of on the premises, the method of disposal shall not create a sanitary nuisance and shall comply with the provisions of Chapter 62-701, F.A.C.

(j) Laundry facilities shall be located in an area separate from areas occupied by children. If children are allowed to participate in the laundering of their personal items, space for sorting, drying, and ironing shall be made available. If children are using laundry facilities, they shall be supervised by a staff member at all times.

(8) Codes and standards.

(a) Before a license is issued and annually thereafter, the facility shall be inspected by the State Fire Marshal's office or other person certified pursuant to Section 633.081, F.S., by the Division of State Fire Marshal as a fire safety inspector. A current report of inspections and satisfactory approval shall be on file in the facility.

(b) Residential treatment centers and therapeutic group homes shall comply with National Fire Protection Association 101, the edition adopted in Rule 69A-3.012, F.A.C., Chapter 32, F.S., for new residential board and care facilities or Chapter 33, F.S., for existing residential board and care facilities, as applicable. Secured (locked) facilities shall meet the requirements of Chapter 18, F.S., Health Care Occupancy for new facilities or Chapter 19, F.S., Health Care Occupancy for existing facilities, as applicable.

(c) All new residential unlocked facilities and additions and renovations to existing facilities shall be in compliance with the Florida Building Code, as described in Chapter 3 of Section 310.1 (R4) and new secured (locked) facilities and additions and renovations shall meet the requirements of Institutional Occupancy section 308.3 Group I-2 as described in the current edition of the Florida Building Code adopted by the Florida Building Commission and incorporated by reference in subsection 9B-3.047(1), F.A.C., by the Department of Community Affairs and obtainable from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206;

(d) All new residential unlocked facilities and additions and renovations to existing facilities and new secured (locked) facilities and additions and renovations shall meet the accessibility requirements of Chapter 11, Section 11-6.1(1), of the Florida Building Code, as adopted by the Florida Building Commission and incorporated by reference in subsection 9B-3.047(1), F.A.C., dated December 16, 2001, by the Department of Community Affairs and obtainable from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206.

(9) Transportation safety.

(a) Vehicles used to transport children shall be maintained in safe operating condition.

(b) The number of persons in a vehicle used to transport children shall not exceed the number of seats and seat belts. Seat belts shall be worn by all passengers when transporting children. Buses without seat belts are exempt from this requirement.

(c) Buses or vans used to transport children shall be equipped with a first aid kit and a non-expired fire extinguisher, rated 5BC.

(10) Disaster and emergency preparedness.

(a) The provider shall develop and implement on an ongoing basis procedures for fire and other emergencies including bomb threats, weather emergencies such as tornadoes and hurricanes. Disaster preparedness and evacuation procedures, that address where and how children are transported during disasters, staffing, notification of families and the department, and how the provider shall obtain and provide general and specialized medical, surgical, psychiatric, nursing, pharmaceutical, and dental services, shall be reviewed and approved by the county emergency management agency where the facility is located.

(b) Evacuation routes shall be posted in conspicuous places and reviewed with staff and children on a semi-annual basis. Evidence of these periodic reviews shall be maintained in the facility's files and available upon request.

(11) Aquatic safety. For facilities that offer aquatic programs, the provider shall have and implement on an ongoing basis procedures that include:

(a) Children shall not participate in an aquatic activity without continuous supervision by staff trained in water rescue and lifesaving procedures.

(b) Before allowing children to participate in an aquatic activity, their swimming ability levels shall be assessed.

(c) The provider shall not permit a child to participate in an aquatic activity requiring higher skills than the child's swimming abilities, except during formal swimming instruction.

(d) A method, such as the buddy system, shall be established and enforced during aquatic activities.

(e) Lifesaving equipment shall be immediately accessible during aquatic activities. Minimum lifesaving equipment shall include:

1. A whistle or other audible signal device;

2. A first aid kit; and

3. A ring buoy, rescue tube, life jacket or other appropriate flotation device with an attached rope of sufficient length for the area.

(f) Life jackets shall be worn during all boating activities.

(g) Before any extended travel in a water craft, drills shall be practiced to approximate "man overboard" and capsize situations.

Specific Authority 39.407, 394.875(10) FS Law Implemented 394.875 FS. History–New .

65E-9.006 Program Standards.

(1) Additional standards for therapeutic group homes. The primary mission of the therapeutic group home is to provide treatment of serious emotional disturbance. Distinguishing features of a therapeutic group home include the following:

(a) Meets the requirements of a single-family unit or community residential home as defined in Chapter 419, F.S.; the home is a non-secure or unlocked facility;

(b) The use of mechanical restraint or drugs used as restraint is prohibited;

(c) If physical restraint is used, the following conditions shall be met:

1. Physical restraint must be applied only during potential emergency or crisis situations for no more than 30 minutes;

2. If the use of physical restraint is required during the child's stay, the treatment team shall formally review the child's treatment plan, at least monthly, and revise at the time of the review if determined necessary, to actively address and eliminate it's use. As part of their review, the treatment team will determine whether implementation of an individual behavior plan is necessary, considering such factors as the frequency and duration of the physical restraint incidents and the age and cognitive ability of the child; and

3. The guidelines in Rule 65E-9.013, F.A.C, related to physical restraint shall be met in addition to those listed above.

(d) The use of seclusion is prohibited. If time out is used, the provider shall comply with the procedures outlined in subsection 65E-9.013(12), F.A.C.;

(e) Children or adolescents must be medically stable;

(f) Children or adolescents being served attend school in the community and engage in community recreational and social activities;

(g) Treatment plan includes treatment and support services, goals and objectives designed to enable children being served to transition to a less restrictive level of care or be reunited with their family; and

(h) Treatment and other mental health services are provided in a family-like setting, and the provider may employ professional parents to staff the home.

(2) Collocation.

(a) Upon written approval of the department and the agency, a provider may collocate other programs with programs serving children admitted under Chapter 394 or Section 39.407, F.S.

(b) The collocated programs may share administration and facility services, such as housekeeping, food preparation, and maintenance.

(c) Children admitted to these other programs shall be separated from the other children by staff supervision and shall not co-mingle or share a common space at the same time.

(3) Treatment and services.

(a) Treatment shall be individualized, child and family centered, culturally competent, based on the child's assessed strengths, needs, and presenting problems that precipitated admission to the program.

(b) Treatment services shall be provided as part of an individualized written services plan that complies with Rule 65E-9.009, F.A.C., of this rule.

(c) Treatment modalities and services shall be in accordance with the child's psychiatric, behavioral, emotional and social needs and be incorporated into their individualized treatment plan and discharge plan.

(d) The provider shall ensure that all staff caring for or providing treatment or services for the child:

1. Have current information about the child's treatment plan and goals, including the child's permanency goals if admitted pursuant to Section 39.407, F.S.; and

2. Direct all aspects of the child's treatment, services and daily activities toward meeting the child's specific treatment goals.

(e) The provider shall ensure that all staff providing a treatment modality to the child are qualified to provide that treatment modality.

(f) Discussions are held on an on-going basis with the individuals involved in implementing treatment.

(g) Treatment shall not be aversive, coercive, or experimental.

(h) Treatment provided, including behavior analysis services, shall be consistent with nationally recognized standards.

(i) When multiple modalities of treatment are provided, such as psychotherapy, behavior management, and medication, the treatment shall be coordinated among the treatment professionals.

(j) Treatment progress shall be monitored on a continuous basis and the treatment adjusted as needed to meet the child's individual treatment goals.

(4) Activities.

(a) Basic routines shall be outlined in writing and made available to staff and children on a continuing basis.

(b) The daily program shall be planned to provide a framework for daily living and periodically reviewed and revised as the needs of the individual child or the living group change.

(c) Daily routines shall be adjusted as needed to meet special requirements of the child's treatment plan.

(d) The facility shall have a written plan for a range of age-appropriate indoor and outdoor recreational and leisure activities provided for children, including activities for evenings and weekends. Such activities shall be based on the group and individual interests and developmental needs of the children in care.

(e) Books, magazines, newspapers, arts and crafts materials, radios and televisions shall be available in accordance with children's recreational, cultural and educational backgrounds and needs.

(f) Provisions shall be made for each child to have daily time for privacy and pursuit of individual interests.

(g) The facility shall have a written policy addressing the involvement of children in community activities and services, which includes how the appropriate level of community involvement is determined for each child.

(5) Education. The provider shall arrange for or provide an educational program for children, that complies with the State Board of Education, Chapter 65A-15, F.A.C.

(6) Food and nutrition.

(a) If the provider serves meals to staff members, they shall serve staff and children substantially the same food, except when age or special dietary requirements dictate differences.

(b) The provider shall serve three well-balanced meals a day in the morning, noon, and evening and provide snacks. If a child is admitted between meals, snacks will be provided. When children are attending school or are not present in the facility during mealtime, the provider shall make arrangements for the children's meals.

(c) The provider shall retain menus, with substitutions, for a 12-month period, which shall be available for review. Menus shall be posted 24 hours before serving of the meal. Any change shall be noted. Menus shall be evaluated by a consultant dietitian for nutritional adequacy at least annually. The provider shall maintain records of dietician's reviews.

(d) The provider shall plan and prepare special diets as needed (e.g., diabetic, bland, high calorie). No more than fourteen hours shall elapse between the end of the evening meal and the beginning of the morning meal where a protein is served. Meals shall meet general requirements for nutrition published by the department or currently found in the Recommended Daily Diet Allowances, Food and Nutrition Board; or by the Florida Dietetic Association.

(7) Health, medical, and emergency medical and psychiatric services.

(a) The provider shall develop and implement on an ongoing basis written procedures for health, medical, and emergency medical and psychiatric services describing how the provider obtains or provides general and specialized medical, psychiatric, nursing, pharmaceutical and dental services.

(b) The procedure shall clearly specify which staff are available and authorized to provide necessary emergency psychiatric or medical care, or to arrange for referral or transfer to another facility including ambulance arrangements, when necessary. The procedure shall include:

1. Handling and reporting of emergencies. Such procedures shall be reviewed at least yearly by all staff and updated as needed;

2. Obtaining emergency diagnoses and treatment of dental problems;

3. Facilitating emergency hospitalization in a licensed medical facility;

4. Providing emergency medical and psychiatric care; and

5. Notifying and obtaining consent from the parent or legal guardian in emergency situations. This procedure shall be discussed with the child's parent or guardian upon admission. The discussion shall be documented in the child's file.

(c) The provider shall have a staff member on duty at all times, when children are present in the facility, who is trained and currently certified to administer first aid and CPR.

(d) The provider shall immediately notify the child's parent or guardian and the placing organization or the department of any serious illness, any incident involving serious bodily injury, or any severe psychiatric episode requiring the hospitalization of a child.

(e) The provider shall have available, either within the provider organization or by written agreement with health care providers, a full range of services for treatment of illnesses and maintenance of general health. Agreements shall include provisions for on-site visits, office visits, and hospitalization.

(f) Children who are physically ill shall be cared for in surroundings familiar to them, if medically feasible, as determined by a physician. If medical isolation is necessary, it shall be provided. There shall be a sufficient number of qualified staff available to give care and attention within a setting designed for such care.

(g) A complete physical examination shall be provided for each child in the provider's care every 12 months and more frequently, if indicated.

(h) Immunization of all children shall be kept current in accordance with the American Academy of Pediatrics guidelines.

(i) Each staff member shall be required to report to the program's physician and note in the child's record any illnesses or marked physical dysfunction of the child.

(j) All staff shall have training in the handling of emergency medical situations.

(k) Emergency medical services shall be available within 45 minutes, 24 hours a day, seven days a week.

(l) The program physician's name and telephone number shall be clearly posted in areas accessible by staff and others within the facility.

(m) There shall be a first aid kit available to staff for each unit or building for facilities with multiple units or buildings and one per facility for single unit or building facilities. Contents of the first-aid kits shall be selected by the medical staff.

(n) The provider shall have a written agreement with a licensed hospital verifying that routine and emergency hospitalization will be available.

(8) Administration of medication.

(a) Pharmaceutical services, if provided, shall be maintained and delivered as described in the applicable sections of Chapters 465 and 893, F.S., and the Board of Pharmacy rules.

(b) All medicines and drugs shall be kept in a double locked location. Prescription medications shall be prescribed only by a duly licensed physician or an ARNP or physician's assistant working under the direction of a licensed physician.

(c) An accurate log shall be kept of the administration of all medication including the following:

1. Name of the child for whom it is prescribed;

2. Physician's name, and reason for medication;

3. Quantity of medication in container when received;

4. Method of administration of medication (i.e., orally, topically, or injected);

5. Amount and dosage of medication administered;

6. Time of day and date medication is to be administered or self-administered and time of day and date medication was taken by the child; and

7. Signature of staff member who administered or supervised self-administration of the medication.

(d) The provider shall not permit medication prescribed for one child to be given to another child.

(e) Children capable of self-medication shall be supervised by a staff person who has been trained in medication supervision.

(f) For children not capable of self-medication, only a licensed nurse or unlicensed staff who has received training as required by this rule shall administer medications.

(9) Religious and ethnic heritage. The provider shall offer opportunities for children to participate in religious services and other religious and ethnic activities within the framework of their individual and family interests, treatment modality and provider setting. The option to celebrate holidays in the child's traditional manner shall be provided and encouraged.

(10) Interpreters, translators and language options. The provider shall establish procedures for identifying and assessing the language needs of each child and providing:

(a) A range of oral and written language assistance options, including American Sign Language;

(b) Written materials in languages that are spoken by the child other than English; and

(c) Oral language interpretation for children identified with limited English proficiency.

(11) Clothing and personal needs.

(a) The provider shall complete a written inventory of personal belongings of each child upon admission and account for all personal belongings upon discharge. This written inventory shall be maintained in the child's case file and a copy given to the parent or guardian at admission and discharge.

(b) The provider shall ensure each child has individual personal hygiene and grooming items readily available and has training in personal care, hygiene, and grooming appropriate to the child's age, gender, race, culture and development.

(c) The provider shall involve the child in the selection, care and maintenance of personal clothing as appropriate to the child's age and ability. Clothing shall be maintained in good repair, sized to fit the child and suited to the climate and season.

(d) The provider shall allow a child to possess personal belongings. The provider may limit or supervise the use of these items while the child is in care.

(e) When needed, protection from the weather or insects shall be provided, such as rain gear and insect repellent.

(f) The provider shall return all of the child's personal clothing and belongings to the parent or guardian when the child is discharged from the facility.

(12) Child's record.

(a) The provider shall have written procedures regarding children's records, including provisions to ensure that clinical records are maintained in accordance with Section 394.4615, F.S.

(b) The provider shall develop an individualized record for each child. The form and detail of the records may vary but shall, at a minimum, include:

1. Identification and contact information, including the child's name, date of birth, Social Security number, gender, race, school and grade, date of admission, and the parent or guardian's name, address, home and work telephone numbers;

2. Source of referral;

3. Reason for referral to residential treatment, e.g., chief complaint, presenting problem(s);

4. Record of the complete assessment;

5. DSM diagnosis;

6. Treatment plan;

7. Medication history;

8. Record of medication administered by program staff, including type of medication, dosages, frequency of administration, persons who administered each dose, and method of administration;

9. Documentation of course of treatment and all evaluations and examinations, including those from other facilities, such as emergency rooms or general hospitals;

10. Progress notes;

11. Treatment summaries;

12. Consultation reports;

13. Informed consent forms;

14. A chronological listing of previous placements, including the dates of admission and discharge, and dependency and delinquency actions affecting the minor's legal status;

15. Written individual education plan for the child, when applicable;

16. The discharge summary, which shall include the initial diagnosis, clinical summary, treatment outcomes, assessment of child's treatment needs at discharge, the name, address and phone number of person to whom the child was discharged and follow-up plans. In the event of death, a summary shall be added to the record and shall include circumstances leading to the death. All discharge summaries shall be signed by the clinical or medical director;

17. For out of state children, copies of completed interstate compact ICPC 100A and ICPC 100B forms (February 2002) and a copy of each Interstate Compact Transmittal Memorandum and any attachments thereto that were sent to the Residential Treatment Center by the department's Interstate Compact on the Placement of Children Office;

18. Documentation of any use of restraint, seclusion or time out;

19. A copy of each incident report that includes a clear description of each incident; the time, place, and names of individuals involved; witnesses; nature of injuries, if any; cause, if known; action(s) taken; a description of medical services provided, if any; by whom such services were provided; and any steps taken to prevent a recurrence. Incident reports shall be completed by the individual having first hand knowledge of the incident, including paid and volunteer staff, emergency or temporary staff, and student interns; and

20. Documentation that all of the various notices and copies required by these rules were properly given.

(c) Records of discharged children shall be completed within 15 business days following discharge.

(d) Recording. Entries in the child's record shall be made by staff having pertinent information regarding the child. Staff shall legibly sign and date each entry. Symbols and abbreviations shall be used only when there is an explanatory notation. Final diagnosis, both psychiatric and physical, shall be recorded in full without the use of symbols or abbreviations.

(e) Maintenance of records.

1. Each provider shall maintain a master filing system, including a comprehensive record of each child's involvement in the program.

2. Records for children currently receiving services shall be kept in the unit where the child is being treated or be directly and readily accessible to the clinical staff caring for the child.

3. The program shall maintain a system of identification and coding to facilitate prompt location and ongoing updating of the child's clinical records.

4. Records may be removed from the program's jurisdiction and safekeeping only as required by law or rule.

5. The provider shall establish procedures regarding the storage, disposal, or destruction of clinical records, which is compatible with the protection of rights.

6. Records for each child shall be kept for at least five years after discharge.

7. The provider shall maintain a permanent admission and discharge register of all children served, including name of the child, the child's parent or guardian, address, date of admission and discharge, child's date of birth, custody status, person to which the child was discharged, and address to which discharged.

(13) Quality assurance program. The provider shall develop and follow a written procedure for a systematic approach to assessing, monitoring and evaluating its quality of care and treatment, improving its performance, ensuring compliance with standards, and disseminating results. The quality assurance program shall address and include:

(a) Appropriateness of service assignment, intensity and duration, appropriateness of resources utilized, and adequacy and clinical soundness of care and treatment given;

(b) Utilization review;

(c) Identification of current and potential problems in service delivery and strategies for addressing the problems;

(d) A written system for quality improvement, approved by the provider's governing board that includes:

1. A written delineation of responsibilities for key staff;

2. A policy for peer reviews;

3. A confidentiality policy complying with all statutory confidentiality requirements, state and federal;

4. Written, measurable criteria and norms assessing, evaluating, and monitoring quality of care and treatment; and

(e) A description of the methods used for identifying and analyzing problems, determining priorities for investigation, resolving problems, and monitoring to assure desired results are achieved and sustained;

(f) A systematic process to collect and analyze data from reports, including, but not limited to, incident reports, grievance reports, department and agency monitoring or inspection reports and self-inspection reports;

(g) A systematic process to collect and analyze data on process outcomes, client outcomes, priority issues chosen for improvement, and satisfaction of clients;

(h) A process to establish the level of performance, priorities for improvement, and actions to improve performance;

(i) A process to incorporate quality assurance activities in existing programs, processes and procedures;

(j) A process for collecting and analyzing data on the use of restraint and seclusion to monitor and improve performance in preventing situations that involve risks to children and staff. The provider shall:

1. Collect and regularly analyze, at least quarterly, restraint and seclusion data to ascertain that restraint and seclusion are used only as emergency interventions, to identify opportunities for reducing the rate and improving the safety of restraint and seclusion use, and to identify any need to redesign procedures;

2. Aggregate quarterly restraint and seclusion data by all settings, units or locations, including:

a. Shift;

b. Staff who initiated the procedure;

c. Details of the interactions prior to the event;

d. Details of the interactions during the event;

e. The duration of each episode;

f. Details of the interactions immediately following the event;

g. Date and time each episode was initiated and concluded;

h. Day of the week each episode was initiated;

i. The type of restraint used;

j. Whether injuries were sustained by the child or staff; and

k. Age and gender of each child for which emergency safety interventions had been found necessary.

3. Prepare and submit a report quarterly to the district/region mental health program office, including the aggregate data and:

a. Number and duration of each instance of restraint or seclusion experienced by a child within a 12 hour timeframe;

b. The number of instances of restraint or seclusion experienced by each child; and

c. Use of psychoactive medications as an alternative for or to enable discontinuation of restraint or seclusion.

(k) Analysis of the use of time-out shall be conducted quarterly by the treatment team and shall include:

1. Patterns and trends, for example, by shift, staff present, or day of the week;

2. Multiple instances of time-out within a 12 hour timeframe;

3. Number of episodes per child; and

4. Instances of extending time-out beyond 30 minutes.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History–New _____.

65E-9.007 Staffing.

(1) Personnel procedures. The provider shall have written personnel procedures that, at a minimum, address the following items:

(a) The recruitment, retention, training and effective performance of qualified staff;

(b) The types and numbers of clinical, managerial and direct care staff needed to provide children with care and treatment in a safe and therapeutic environment;

(c) The requirement of the provider, as a mandated reporter, to report all suspected cases of child abuse, neglect and exploitation involving any employee, volunteer, or student to the Abuse Registry and the department, in accordance with Chapter 39 and Section 394.459, F.S.

(2) Staff communication. The provider's personnel procedures shall ensure and require the inter-communication among staff of information regarding children necessary to the performance of each staff responsibility, including between working shifts, staff changes and consultations with professional staff. Where one staff member or one program group relies upon information provided through this required free interchange of information, these interactions shall be documented in writing and maintained in the respective children's case files.

(3) Staff composition. The provider shall have the following staffing, any of which may be part-time, if the required equivalent full-time coverage is provided, except for those positions with a required specified staffing ratio:

(a) Psychiatrist.

1. For residential treatment centers, the provider shall have on staff or under contract a psychiatrist, licensed under Chapter 458, F.S., who is board certified or board eligible in child and adolescent psychiatry to serve as medical director for the program and such position shall oversee the development and revision of the treatment plan and the provision of mental health services provided to children. A similarly qualified psychiatrist who consults with the board certified psychiatrist may provide back-up coverage. A psychiatrist shall be on call 24 hours a day, seven days a week, and shall participate in staffings. For children committed under Section 985.223, F.S., a psychologist as defined in paragraph 65E-9.007(3)(d), F.A.C., may be used in lieu of the medical director to oversee the development and revision of the treatment plan and the provision of mental health services provided to children.

2. For Therapeutic Group Homes, the provider shall have on staff or under contract a board certified or board eligible psychiatrist or have a definitive written agreement with a board certified or board eligible psychiatrist or an organization to provide psychiatric services to children in the home, including participation in staffings.

(b) Medical Doctor. The provider shall have an agreement with a pediatrician, family care physician, medical group or prepaid health plan to provide primary medical coverage to children in the facility.

(c) Registered nurse.

1. For residential treatment centers that use seclusion or restraint in their program, a registered nurse shall supervise the nursing staff. At a minimum, a licensed practical nurse shall be on duty 24-hours-a-day, 7-days-a-week. During the times that the children are present in the facility and normally awake, the nursing staff to child ratio shall be no less than 1:30, and during normal sleeping hours, the nursing staff to child ratio shall be no less than 1:40.

2. For residential treatment centers that do not use restraint or seclusion in their program, the provider is not required to have a registered nurse or other nursing staff on duty, but shall have definitive written agreements for obtaining necessary nursing services.

(d) Psychologist. Each provider shall have on staff or under contract, at a minimum, one licensed psychologist or have definitive written agreements with an individual psychologist or psychological organization to provide such services as needed.

(e) Direct care staff. At a minimum, two (2) direct care staff shall be awake and on duty at all times. In addition, the following direct care staff-to-child ratios shall be provided and maintained:

1. During hours when children are present in the facility and normally awake, the direct care staff to child ratio shall be no less than 1:4; and

2. During hours when the children are normally asleep, the direct care staff to child ratio shall be no less than 1:6; and

3. While residents are away from the facility, the staffing ratio for those residents shall be no less than 1:4. The need for more intensive staffing will be determined by the child's physician.

4. Direct care staff shall not divide time on their shift between programs located in other areas of the facility or other buildings.

5. While transporting residents, the driver shall not be counted as the direct care staff providing care, assistance or supervision of the child.

(f) If the provider's program includes behavior analysis services, a certified behavior analyst, a master's level practitioner, or professionals licensed under Chapters 490 or 491, F.S. with documented training and experience in behavior management program design and implementation shall be employed on staff or under contract, either full or part time, to provide ongoing staff training and quality assurance in the use of the behavior management techniques, which may include, but are not limited to those listed in paragraph 65E-9.007(5)(c), F.A.C.

(g) The provider shall be able to demonstrate and provide as necessary, upon request, the ability to acquire and the past uses of the consultation services of dieticians, speech, hearing and language specialists, recreation therapists, and other specialists, when same will be or has been needed.

(4) Staff qualifications.

(a) The administrator shall have a master's degree in administration or be of a professional discipline such as social work, psychology, counseling, or special education and have at least two years administrative experience. The administrator may be a corporate administrator, who is not located onsite. If the administrator is not routinely located on site, an individual qualified by training and experience who is routinely located on site must be appointed in writing to act as the administrator's designee. A person with a baccalaureate degree may also qualify for administrator with seven years experience of child and adolescent mental health care and three years administrative experience. Persons occupying this position upon promulgation of this rule may be allowed to continue in this position.

(b) The medical director shall have experience in the diagnosis and treatment of child and adolescent mental health and be board certified or board eligible in psychiatry with the American Board of Psychiatry.

(c) The clinical director shall have minimum of a Master's degree and at least two years of "specialty" experience in a clinical capacity with severely emotionally disturbed children. If the clinical director is not full-time, there shall be a full-time service coordinator who is a master's level practitioner.

(d) Individual, group and family therapy shall be provided by a licensed practitioner, pursuant to Florida Statutes, that includes a psychiatric advanced registered nurse practitioner, psychologist, psychiatrist, clinical social worker, mental health counselor or a master's level individual working under the direct supervision of a licensed practitioner, as listed above.

(e) Staff responsible for treatment and discharge planning shall have a minimum of a bachelor's degree in psychology, counseling, social work, special education, health education or related human services field with at least two years of experience working with children with emotional disturbance. These staff shall be supervised by a master's level clinician.

(f) Direct care staff employed to work directly with children shall be at least 18 years of age and have a high school diploma or general education development (GED) certificate. Persons occupying this position upon promulgation of this rule may be allowed to continue in this position.

(5) Staff orientation and training.

(a) The provider shall have, and implement on an ongoing basis, a written plan for the orientation, ongoing training, and professional development of staff.

(b) The provider shall implement orientation and training programs for all new employees and ongoing staff training to increase knowledge and skills and improve quality of care and treatment services.

(c) The provider shall conduct orientation for each new employee during the first 2 months of employment. The orientation shall include specific job responsibilities, policies and procedures, care and supervision of children, and competency-based first aid and CPR.

(d) The provider shall document training received by staff, including staff name and position, training subject, date completed and signature of instructor. The documented training shall be filed in the staff member's personnel record and be available for review by the department and the agency.

(e) The provider shall implement a minimum of 40 hours of in-service training annually for all staff and volunteers who work directly with children. Continuing education for professional licenses and certifications may count towards training hours if the training covers the appropriate areas. This training shall cover all policies and procedures relevant to each position and shall, at a minimum, include each of the following:

1. Administrative:

a. Administrative policies and procedures and overall program goals;

b. Federal and state laws and rules governing the program;

c. Identification and reporting of child abuse and neglect;

d. Protection of children's rights; and

e. Confidentiality.

2. Safety:

a. Disaster preparedness and evacuation procedures;

b. Fire safety;

c. Emergency procedures;

d. Violence prevention and suicide precautions; and

e. First aid and CPR, with competency demonstrated annually.

3. Child development:

a. Child supervision skills;

b. Children's physical and emotional needs;

c. Developmental stages of childhood and adolescence;

d. Family relationships and the impact of separation;

e. Substance abuse recognition and prevention; and

f. Principles and practices of child care.

4. Treatment services:

a. Individualized treatment that is culturally competent;

b. Treatment that addresses issues the child may have involving sexual or physical abuse, abandonment, domestic violence, separation, divorce, or adoption;

c. Behavior management techniques include, but are not limited to: preventing problem behavior, defining and teaching expectations, teaching and encouraging the child's long-term use of new skills as alternative behaviors, contingency management, teaching and promoting choice making and self-management skills, time out, point systems or level systems, de-escalation procedures, and crisis prevention and intervention;

d. Treatment plan development and implementation;

e. Treatment that supports the child's permanency goals; and,

f. The provider shall ensure ongoing training and be able to produce documentation of such training on the use of restraint and seclusion, physical escort, time-out, de-escalation procedures and crisis prevention and intervention.

1. Before staff may participate in any use of restraint or seclusion, staff shall be competency trained to minimize the use of restraint and seclusion, to use alternative, non-physical, non-intrusive behavioral intervention techniques to handle agitated or potentially violent children, and to use restraints and seclusion safely.

2. Staff shall complete a training course in the safe and appropriate use of seclusion and restraint and in the use of alternative non-intrusive behavior management techniques. The training course shall be provided by individuals qualified by education, training, and experience to provide such training. Competencies shall be demonstrated on a semiannual basis. Training requirements for all staff who participate in the use of restraint and seclusion shall include:

a. An understanding of the underlying causes, e.g., medical, behavioral and environmental, of consequential behaviors exhibited by the children being served;

b. How staff behaviors can affect the behaviors of others, especially children with a history of trauma;

c. The use of non-physical interventions, such as de-escalation, mediation, active listening, self-protection and other techniques, such as time-out for the purpose of preventing potential and intervening in emergency safety situations;

d. Recognizing signs of respiratory and cardiac distress in children;

e. Recognizing signs of depression and potential suicidal behaviors;

f. Certification in the use of cardiopulmonary resuscitation (CPR). Competency based re-certification in CPR is required annually;

g. How to monitor children in restraint or seclusion; and

h. The safe use of approved restraint techniques, including physical holding techniques, take-down procedures, and the proper application, monitoring and removal of restraints.

3. Training requirements for staff who are authorized to monitor a child's condition and perform assessments while the child is in seclusion or restraint shall include:

a. Taking vital signs and interpreting their relevance to the physical safety of the child;

b. Tending to nutritional and hydration needs;

c. Checking circulation and range of motion in the extremities;

d. Addressing hydration, hygiene and elimination;

e. Addressing physical and psychological status and comfort;

f. Assisting children to de-escalate to a point that would allow for the discontinuation of restraint or seclusion;

g. Recognizing when the emergency safety situation has ended and the safety of the child and others can be ensured so the restraint or seclusion can be discontinued; and

h. Recognizing the need for and when to contact a medically trained licensed practitioner or emergency medical services in order to evaluate and treat the child's physical status.

(6) Volunteers and students.

(a) A provider that uses volunteers to work directly with children shall:

1. Screen the volunteers in accordance with Section 394.4572, F.S.;

2. Develop descriptions of duties and specific responsibilities expected of each volunteer;

3. Provide orientation and training, including policies and procedures, the needs of children in care, and the needs of their families;

4. Ensure that volunteers who perform any services for children have the same qualifications and training as a paid employee for the position and receive the same supervision and evaluation as a paid employee; and

5. Keep records on the hours and activities of volunteers.

(b) A provider that accepts students who will have direct contact with residents shall:

1. Screen the students in accordance with Section 394.4572, F.S.;

2. Develop, implement, and maintain on an ongoing basis a written plan describing student tasks and functions. Copies of the plan shall be provided to each student and his or her school;

3. Designate a staff member to supervise and evaluate the students conduct orientation and training, including policies and procedures, the needs of children in care and the needs of their families;

4. Ensure that students do not assume the total responsibilities of any paid staff member (students shall not be counted in the staff to client ratio).

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History–New .

65E-9.008 Admission.

(1) The following admission procedures do not apply to children placed in accordance with Chapter 985, F.S.

(2) The provider shall have and utilize written admission procedures that address:

(a) Admission criteria;

(b) List of materials and forms required from the parent, guardian or referring organization;

(c) Outline of the pre-placement procedures for the child, parent or guardian, the referring organization and the department; and

(d) Orientation for the child and parent or guardian, and guardian ad litem.

(3) Acceptance of a child for residential treatment in a residential treatment center, including therapeutic group home, (excluding children placed under Chapter 985, F.S.) shall be based on the assessed needs of the child, the determination that the child requires treatment of a comprehensive and intensive nature and the provider's ability to meet those needs.

(4) Children placed by the department (excluding children placed under Chapter 985, F.S.) and funded in full or in part by state, Medicaid, or local matching funds shall be admitted only after they have been personally examined and assessed for suitability for residential treatment by a licensed psychologist or psychiatrist who has at least three years of experience in the diagnosis and treatment of serious emotional disturbances in children and adolescents and who has no actual or perceived conflict of interest with any inpatient facility or residential treatment center, whose written findings are that:

(a) The child has an emotional disturbance as defined in Section 394.492(5), F.S., or a serious emotional disturbance as defined in Section 394.492(6), F.S.;

(b) The emotional disturbance or serious emotional disturbance requires treatment in a residential treatment center;

(c) All available treatment that is less restrictive than residential treatment has been considered or is unavailable;

(d) The treatment provided in the residential treatment center is reasonably likely to resolve the child's presenting problems as identified by the qualified evaluator;

(e) The provider is qualified by staff, program and equipment to give the care and treatment required by the child's condition, age and cognitive ability;

(f) The child is under the age of 18; and

(g) The nature, purpose and expected length of the treatment have been explained to the child and the child's parent or guardian and guardian ad litem.

(5) Children in the legal custody of the department shall be placed in accordance with Section 39.407, F.S., and the Amendment To The Rules of Juvenile Procedure, FLA. R. JUV. P. 8.350.

(6) The provider may establish additional admission criteria to ensure that the program admits only children the program is capable of serving.

(7) Admission packet. The provider shall require documentation in the child's admission packet, including:

(a) The child's parent or guardian has given expressed and informed consent to treatment;

(b) A funding source has been secured for the expected duration of the treatment. If the department is the funding source, there shall be written authorization from the department's mental health program office that approved the funding;

(c) The admission packet shall request the identification of a discharge placement for the child upon their completion of treatment and the identification of a contact person who will participate in treatment and discharge planning;

(d) The location of the parent or legal guardian or court ordered custodian with responsibility for medical and dental care, including consent for medical and surgical care and treatment and a statement signed by the parent or legal guardian, and a copy given to the parent or legal guardian, requiring the parent or legal guardian to notify the provider of any change in the parent's or legal guardian's address or telephone number;

(e) Order of court commitment or a voluntary placement agreement with parents, guardian, or legal custodian;

(f) Arrangements for family participation in the program, including phone calls and visits with the child;

(g) Arrangements for clothing and allowances;

(h) Arrangements regarding the child leaving the facility with or without the clinical director's consent;

(i) Written policies specifying the child's rights as defined in Rule 65E-9.012, F.A.C;

(j) Written acknowledgment of receipt and understanding by the parent or legal guardian and guardian ad litem of the provider's policy regarding the use of restraint or seclusion during an emergency safety situation;

(k) Psychiatric and psychological evaluations with diagnosis and prior treatment history and psychosocial evaluations, including family relationships, legal status and prior placement history;

(l) Educational evaluation, including current individual education plan and school placement; and

(m) Medical information, including a listing of current medications:

1. If a physical examination was not performed within the 90 days prior to admission and documentation of such examination was not provided, a physical examination by a licensed physician shall be initiated within 24 hours of admission;

2. The child's medical history;

3. Written consent from the child's parent or guardian for the provider to authorize routine medical and dental procedures for the child, and to authorize emergency procedures when written parental consent cannot be obtained; and

4. Immunization status and completion according to the U.S. Public Health Service Advisory Committee on Immunization Practices and the Committee on Control of Infectious Diseases of the American Academy of Pediatrics.

(8) Placement agreement. The provider shall have and make available upon request a written agreement between the provider, the child's parent, guardian, and the department, which shall be kept in the child's file and available for review by the department and agency. The written agreement shall be

signed and dated by each of the parties involved. Any revisions or modifications to the written agreement shall be signed and dated. The agreement shall include, at a minimum:

(a) The frequency and types of regular contact between the child's family and the provider staff;

(b) A plan for sharing information about the child's care and development with the parent, guardian, the guardian ad litem, and the department;

(c) The family and the provider's participation in the ongoing evaluation of the child's needs and progress;

(d) The designation of staff responsible for working with the child's parent, guardian, guardian ad litem and the organization that signs the placement agreement;

(e) Visitation plans for the child's parent, guardian, guardian ad litem or the department. The visitation plans must be flexible to accommodate work and other important schedules of the child's family;

(f) Provisions for service plan reviews;

(g) The financial plan for payment of care and any fees to be covered;

(h) The conditions under which the child will be released from the program;

(i) A designation of responsibility for aftercare services. If the child is assessed as needing transition to adult mental health services, designation of responsibility for assisting with the transition will be documented;

(j) A written description of complaint procedures, including a method of appeal to the provider management for complaints not resolved to the satisfaction of the child or parent or guardian; and

(k) A statement signed by the parent or guardian acknowledging they are aware of their responsibility to keep the provider aware of any changes in their address or telephone number.

(9) Interstate compact.

(a) Before the provider accepts placement of a child from out-of-state, the provider shall receive written approval from the department's Office of the Interstate Compact on the Placement of Children. In order to receive written approval from the department, the provider shall require as part of the admission process that the person responsible for the child prepare an interstate compact placement request package and send it to the state Interstate Compact on the Placement of Children Office in their state of residence for processing and mailing to the department's Interstate Compact on the Placement of Children Office in Florida.

(b) This interstate compact placement request package shall contain an ICPC 100A Interstate Compact Placement Request, Form CF 794, February 2002, which is hereby incorporated by reference, or a substantially similar form used by the state or jurisdiction of residence of the sending organization or person. It shall also contain a letter on the Florida Residential Treatment Center letterhead stationery indicating that the child has been accepted for placement, or that the child is being considered for placement, and any other supporting documents that may be required under Article III of the Interstate Compact. The signed, dated and approved ICPC 100A shall be evidence of the approval required by the department and shall be placed and maintained in the child's record.

(c) Within 10 business days of physical arrival of a child from out-of-state, the provider shall complete, date, and sign an ICPC 100B Interstate Compact Report on Child's Placement Status, Form CF 795, February 2002, which is hereby incorporated by reference, place a copy of the form in the child's record, and mail the original and two copies to: Office of the Interstate Compact on the Placement of Children, Child Welfare Program Office, Florida Department of Children & Families, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History–New .

65E-9.009 Treatment Planning.

(1) Within fourteen business days after admission, a written treatment plan shall be developed with input from, interpreted and provided to, and signed and dated by the child, the child's parent(s) or guardian, child welfare or community based care case manager, foster parents and guardian ad litem, if applicable, and any other party involved in the development of the plan. If a child is determined to be incapable of signing the treatment plan, a written justification of the determination must be documented in the child's record.

(2) The provider shall explain the treatment plan to the child, the child's parent and/or child welfare or community based care case manager, and the guardian ad litem and submit a copy of the plan to these individuals and the department's district/regional office.

(3) The multi-disciplinary professional staff, including the psychiatrist, shall participate in the preparation of the treatment plan and any major revisions.

(4) The treatment plan shall, with input from the child and parent or guardian, guardian ad litem, and other stakeholders (e.g.; child welfare or community based care case manager, other community agencies or organizations) as necessary; include:

(a) Clinical consideration of the child's physical, behavioral, and psychological needs, developmental level and chronological age, primary diagnosis, family situation, educational level, expected length of stay, and the designated person or organization to whom the child will be discharged;

(b) Service agencies with which the child will be involved and other support systems that may contribute to the success of treatment;

(c) Documentation that all substance abuse, behavioral and mental health needs identified, unless adequate clinical justification is written in the child's record for not doing so;

(d) Documentation reflecting the child and family's strengths and needs and the child's social and recreational needs and interests;

(e) A clear description of the presenting problem(s), including descriptions of behaviors and reason(s) for admission, and the treatment and services to be provided in response to the presenting problem(s) that necessitate residential treatment;

(f) Observable and measurable goals and objectives that are time-limited and written in behavioral and measurable terms, based on the child and family's strengths and needs;

(g) Written objectives of what the child and family, when applicable, will do or accomplish;

(h) Written interventions of what the staff will do;

(i) The frequency of treatment services and treatment modalities, projected time frames for completion and the staff member prescribing the treatment and/or those responsible for ensuring its provision specified for each major problem or need;

(j) Goals that reflect improved functioning which when attained, constitutes the criteria for discharge for the particular need or problem;

(k) The expected degree of the parent or guardian's involvement and planned regular provider contact with the child's parent or guardian.

(5) The provider shall review the treatment plan within 30 days of admission and at least monthly thereafter with input from the child and parent or guardian, guardian ad litem, and other stakeholders (e.g.; child welfare or community based care case manager, other community agencies or organizations) to assess the appropriateness and suitability of the child's placement in the program, to evaluate the child's progress toward treatment goals, to review and modify, when necessary, the treatment plan and treatment approaches, to review and update the discharge plan and to determine if the child is ready to move to a less restrictive placement.

(6) The provider shall prepare a written report of findings at a minimum of every 30 days and submit the report, and pending discharge plans, to the department and parent(s) or legal guardian.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History–New .

65E-9.010 Length of Stay.

(1) The provider shall involve the child and the child's parent or guardian to the fullest extent possible at all stages of treatment planning and discharge planning toward the goal of reintegrating the child into the community.

(2) The child's discharge plan shall be reviewed and, if necessary, revised during each review of the treatment plan.

(3) The provider shall design individualized services and treatment for the child to address the child's presenting problems on admission with a goal of discharge to the community or to a step-down program within 120 days of admission for residential treatment centers and 365 days for therapeutic group homes.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History–New .

65E-9.011 Discharge and Discharge Planning.

(1) The provider shall have and use on an ongoing basis a written procedure on discharge planning and aftercare services that specifies the availability of services and the persons responsible for implementation of the aftercare plan.

(2) Discharge planning shall begin at the time of admission. A discharge plan shall be developed, written and interpreted in collaboration with the child, parent or guardian, department, foster parents and guardian ad litem, if applicable, within ten days of admission, and a projected date for discharge shall be included in the child's treatment plan. A copy of the discharge plan shall be given to the parent or guardian, the guardian ad litem, and the department.

(3) Discharge planning shall include input from the child, the child's parent or guardian, foster parents, department, and guardian ad litem.

(4) Discharge planning may include a period of transition into the community, such as home visits and meetings with community mental health service providers.

(5) Discharges shall be approved and signed by the treating psychiatrist.

(6) A child may be discharged only to the parent, guardian or placing organization, unless the provider is otherwise ordered by the court.

(7) The provider shall finalize the discharge plan and have it approved and signed by the treatment team. A copy of this discharge plan shall be provided to the parent or legal guardian, guardian ad litem and department at least 30 days before the proposed discharge date, which, at a minimum, shall include:

(a) The initial formulation and diagnosis;

(b) A summary of treatment and services which have been provided, the outcomes of treatment in relation to the child's presenting problem on admission, and identification of needs for continuing treatment and services in the community following discharge;

(c) Recommendations for the child and parent or guardian following release from care, including referrals for community-based mental health services;

(d) The projected date of discharge and the name, address, telephone number and relationship of the person or organization to whom the child will be discharged; and

(e) A copy of the child's medical, dental, educational, medication and other records for the use of the person or organization who will assume care of the child following discharge.

(8) Aftercare plans shall be developed by the provider staff under the guidance of the clinical director and shall encourage the active participation of the child and parent or guardian and guardian ad litem.

(9) The provider shall have and utilize written procedures for follow-up care, including a written plan for follow-up services and at least one contact with the discharged child and his parent or guardian and guardian ad litem within the first 30 days following discharge.

(10) For children age 17, the provider shall assess their needs for continuing services in the adult mental health service system and assist them in planning for and accessing those services.

(11) Within 10 business days of the physical departure of a child placed from out-of-state, the provider shall complete, date, and sign an ICPC 100B Interstate Compact Report on Child's Placement Status, Form CF 795, Oct 96, which is hereby incorporated by reference, place a copy of the form in the child's record, and mail the original and two copies of the form to: Office of the Interstate Compact on the Placement of Children, Child Welfare Program Office, Florida Department of Children & Families, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700.

(12) Notwithstanding paragraphs 1-11 of Rule 65E-9-001, F.A.C., Providers who serve children committed under Section 985.223, F.S., shall abide by the follow standards with regard to discharge planning:

(a) The provider shall finalize the discharge summary and have it approved and signed by the treatment team. At least 30 days before the proposed discharge, a copy of the discharge summary shall be sent to the child's home district. The provider and district shall coordinate with each other to assist the district in the development of the discharge plan based on the provider's recommendations for services after discharge.

(b) Once noticed by the court of a pending hearing related to child's competency to proceed, the discharge summary shall be copied to the parties identified in Section 985.223, F.S.

(c) A copy of this discharge summary shall be provided to the parent or legal guardian, guardian ad litem and department at least 30 days before the proposed discharge date, which, at a minimum, shall include:

1. The initial formulation and diagnosis;

2. A summary of treatment and services which have been provided, the outcomes of treatment in relation to the child's presenting problem on admission, and identification of needs for continuing treatment and services in the community following discharge;

3. Recommendations for the child and parent or guardian following release from care,

4. The name, address, telephone number and relationship of the person or organization to whom the child will be discharged; and

5. A copy of the child's medical, dental, educational, medication and other records for the use of the person or organization who will assume care of the child following discharge.

(13) Discharge summaries shall be developed by the provider staff under the guidance of the clinical director and shall encourage the active participation of the child and parent or guardian and guardian ad litem.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History–New .

65E-9.012 Rights of Children.

(1) The provider shall protect children's rights under the federal and state constitutions and as specified in Section 394.459 and Section 394.4615, F.S. The provider shall also ensure that:

(a) Physical punishment and treatment modalities that place the child at risk of physical injury or pain or death, including electroconvulsive or other convulsive therapy, "cocoon therapy," or other hazardous procedures shall never be used.

(b) Children shall not be subjected to cruel, severe, unusual or unnecessary punishment or assigned excessive exercise or work duties, nor shall they be subjected to physical or mental abuse or corporal punishment.

(c) The simultaneous use of seclusion and mechanical restraint is prohibited.

(d) Children shall not be subjected to hazing, verbal abuse, coercion or remarks that ridicule them, their families or others.

(e) Children shall not be denied food, water, clothing, or medical care.

(f) Children shall not be exploited or required to make public statements to acknowledge gratitude to the provider program or perform at public gatherings.

(g) Identifiable pictures of children shall not be used without prior written consent of the parent or guardian. The signed consent form for any such usage shall be event-specific, indicate how the pictures will be used, and placed in the child's clinical record.

(2) Discipline. The provider shall have and implement written procedures on an ongoing basis regarding methods used for the discipline of children. The procedures shall include identification of staff authorized and trained to impose discipline, staff training requirements, methodology, monitoring, incident reporting, and quality improvement.

(3) Child abuse and neglect.

(a) The provider, as a mandated reporter, shall report to the department and the Abuse Registry all suspected cases of child abuse, neglect, and exploitation in accordance with Chapter 39 and Section 394.459, F.S.

(b) Each child shall have ready access to a telephone in order to report an alleged abuse, neglect or exploitation. The provider shall inform each child verbally and in writing of the procedure for reporting abuse. A written copy of that procedure, including the telephone number of the abuse hotline and reporting forms, shall be posted in plain view within eighteen inches of the telephone(s) designated for use by the children.

(c) The provider shall establish and implement a written procedure for the immediate protection of the alleged victim and prevention of a recurrence of the alleged incident pending investigation by the department or law enforcement.

(d) The provider shall require each paid and volunteer staff member, upon hiring and every 12 months thereafter, to read and sign a statement summarizing the child abuse and neglect laws and outlining the staff member's responsibility to report all incidents of child abuse and neglect. Such signed statements shall be placed in each employee's personnel file.

(e) Residents' rights posters, including those with the telephone numbers for the Florida Abuse Hotline, Statewide Advocacy Council and the Advocacy Center for Persons with Disabilities, shall be legible, a minimum of 14 point font size, and shall be posted immediately next to telephones which are available for residents' use.

(4) Confidentiality related to HIV-infected children. The provider shall protect the confidentiality of HIV-infected children as specified in Section 381.400, F.S. The provider shall also ensure that:

(a) The identity of any child upon whom an HIV test is performed and the child's HIV test result shall be disclosed to an employee of the department or child-caring or child-placing organization directly involved in the placement, care or custody of such child only when the employee or organization needs to know such information to provide:

1. Case-specific services, such as assessing needs, determining eligibility, arranging care, monitoring case activities, permanency planning or providing care for the child;

2. Case-specific supervision or monitoring of cases for eligibility or legal compliance or casework services; or

3. Case-specific clerical and vouchering support.

(b) The identity of a child upon whom an HIV test is performed shall be disclosed to a foster family or child-caring or child-placing organization licensed pursuant to Florida Statutes, which is directly involved in the care of such child and has a need to know such information. The identity of the child shall be disclosed only after the following conditions have been met:

1. The department or child-placing or child-caring organization has provided to the foster family or child-caring or child-placing organization all available information, including HIV test results, social information and special needs, in a manner that does not permit identification of the child, and

2. The prospective placement has agreed to accept the child and the decision to place the child in that specific placement has been confirmed.

(c) The child's record shall contain documentation of the date and time that the written statement was given to the child-caring, child-placing organization or to the foster or adoptive parents.

(d) The case files of HIV-infected children shall not be segregated or flagged in any way that would permit their identification as case files of HIV-infected children or in any way different from the files of non-HIV-infected children.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History–New .

65E-9.013 Restraint, Seclusion, and Time-Out.

(1) General requirements.

(a) Providers shall comply with guidelines for the use of restraint, seclusion and time-out as specified in Chapter 394, F.S., in addition to the guidelines specified in this rule.

(b) Restraint or seclusion shall not result in harm or injury to the child and shall be used only:

1. To ensure the safety of the child or others during an emergency safety situation; and

2. Until the emergency safety situation has ceased and the child's safety and the safety of others can be ensured, even if the restraint or seclusion order has not expired.

(c) Restraint or seclusion shall not be used for purposes of punishment, coercion, discipline, convenience, or retaliation by staff or to compensate for inadequate staffing.

(d) An order for restraint or seclusion shall not be issued as a standing order or on an as-needed basis.

(e) Restraint or seclusion shall be used in a manner that is safe and proportionate to the severity of the behavior and the child's chronological and developmental age; size; gender; physical, medical and psychiatric condition, including current medications; and personal history, including history of physical or sexual abuse.

(f) Only staff who have completed a competency-based training program that prepares them to properly use restraint or seclusion shall apply these procedures to children.

(g) Restraint that impedes respiration (e.g., choke hold or basket hold), places weight on the child's upper torso, neck, chest or back, or restricts blood flow to the head is prohibited.

(h) Ambulatory or walking restraints (e.g., shackles that bind the ankles and waist-wrist shackles) may only be used during transportation under the supervision of trained staff. The use of ambulatory or walking restraints is prohibited except for purposes of off-premise transportation.

(i) The provider's medical or clinical director shall be responsible for providing oversight of ongoing monitoring, quality improvement and staff training in the use of restraint and seclusion and in the use of less intrusive, alternative interventions.

(2) Provider procedures. The provider's procedures shall address the use of restraint, seclusion and time out. A copy of the procedures shall be provided to children and their parents or guardians, foster parents and guardian ad litem, if applicable, upon admission, to all staff, and to the department. The procedures shall include provisions for implementing the requirements of this section and the provider's strategies to:

(a) Reduce and strive to eliminate the need for and use of restraint and seclusion;

(b) Prevent situations that might lead to the use of restraint or seclusion;

(c) Use alternative, non-intrusive techniques in the prevention and management of challenging behavior;

(d) Train staff on how restraint and seclusion are experienced by children and the effect they have on children with a history of trauma; and

(e) Preserve the child's safety and dignity when restraint or seclusion is used.

(3) Authorization of restraint or seclusion.

(a) Restraint or seclusion shall be used and continued only pursuant to an order by a board certified or board eligible psychiatrist licensed under Chapter 409, F.S., or licensed physician with specialized training and experience in diagnosing and treating mental disorders and who is the child's treatment team physician. If the child's treatment team physician is unavailable, the physician covering for the treatment team physician may meet these qualifications. Physicians allowed to order seclusion and restraint, pursuant to this rule, must be trained in the use of emergency safety interventions prior to ordering them.

(b) The ordering physician shall order the least restrictive intervention that is most likely to be effective in resolving the emergency safety situation.

(c) If the ordering physician is not available on-site to order the use of restraint or seclusion, a verbal telephone order shall be obtained by, at a minimum, a registered nurse or other licensed staff, such as a licensed practical nurse (LPN), at the time to restraint or seclusion is initiated or immediately after it ends. At the time the order is received, the registered nurse or other licensed staff, such as an LPN, shall consult with the ordering physician about the child's physical and psychological condition. The order and consultation shall be documented in the child's case file. If an emergency exists where restraint or seclusion is needed but the physician is not present or available by telephone, a psychiatric nurse, advanced nurse practitioner, physician assistant, or registered nurse may apply the restraint or place the child in seclusion, with follow up information provided to the physician as soon as is reasonably possible.

(d) The verbal order given by the physician shall be followed with their signature verifying the verbal order within seven calendar days and the signed verification shall be maintained in the child's case file.

(e) The ordering physician shall be available to staff for consultation, at least by telephone, throughout the period of the intervention.

(f) Each order for restraint or seclusion shall:

1. Be limited to no longer than the duration of the emergency safety situation;

2. Not exceed two hours for children or adolescents ages nine through seventeen or one hour for children under age nine; and

3. Be documented, whether verbal or written, and maintained in the child's case file.

(g) If restraint or seclusion exceeds a total of six hours within a 24-hour period for a child age nine through seventeen or a total of three hours for a child under age nine, there must be a written explanation as to why the child was not transferred to a more acute program.

(h) If a child requires the use of seclusion or restraint at any time during their stay, the treatment team shall formally review and actively address their use during the child's regularly scheduled treatment team review meetings, no less frequently than two times per month, until deemed no longer necessary. The reviews shall assess the frequency, patterns and trends, and identify ways to prevent the need for seclusion and restraint use. The treatment team's review of and efforts to eliminate seclusion and restraint use with a specific child shall be documented as part of the child's treatment team review. In addition, if a child is restrained a total of two times within a thirty day period, or is in seclusion a total of three times within a thirty day period, the treatment team will oversee the development and monitor the implementation of a formal child-specific plan to aggressively address the need for seclusion and restraint use with that child.

(i) Within one hour of the initiation of restraint or seclusion, the ordering physician or other licensed practitioner, as permitted by the state and facility, (including a psychiatric nurse, advanced nurse practitioner, physician assistant, or registered nurse) trained in the use of emergency safety interventions, shall conduct a face-to-face assessment of the physical and psychological well being of the child, including:

1. The child's physical and psychological status;

2. The child's current behavior;

3. The appropriateness of the intervention measures; and

4. Any physical or psychological complications resulting from the intervention.

(j) Each order for restraint or seclusion shall include:

1. The ordering physician's name;

2. The date and time the order was obtained; and

3. The emergency safety intervention ordered, including the length of time for which the physician authorized its use, which length of time shall not exceed the time limits set forth in subsection 65E-9.013(4), F.A.C.

(4) Documentation. Staff shall document the intervention in the child's record, with documentation completed by the end of each shift during which the intervention begins and continues. Documentation shall include:

(a) Each order for restraint or seclusion;

(b) The time the emergency safety intervention began and ended;

(c) The specific circumstances of the emergency safety situation, the rationale for the type of intervention selected, the less intrusive interventions that were considered or tried and the results of those interventions;

(d) Time-specific assessments of the child's physical and psychological condition;

(e) The name, position, and credentials of all staff involved in or witnessing the emergency safety intervention;

(f) Time and date of notification of the child's parent or guardian and guardian ad litem;

(g) The behavioral criteria and assistance provided by staff to help the child meet the criteria for discontinuation of restraint or seclusion;

(h) Summary of debriefing of the child with staff;

(i) Description of any injuries sustained by the child during or as a result of the restraint or emergency safety intervention and treatment received for those injuries;

(j) Review and revise, if necessary, the child's treatment plan, including a description of procedures designed to prevent the future need for and use of restraint or seclusion; and

(k) Before restraint or seclusion were ordered for the child, the ordering physician assessed whether there were pre-existing medical conditions or physical disabilities, history of sexual or physical abuse, or current use of psychotropic medication that could present a risk to the child and results of such review are documented in the order for restraint or seclusion and the child's record.

(5) Consultation with treatment team physician. If the physician ordering the use of restraint or seclusion is not the child's treatment team physician, the ordering authorized to receive the verbal order shall:

(a) Consult with the child's treatment team physician as soon as possible and inform the team physician of the emergency safety situation that required the child to be restrained or placed in seclusion; and

(b) Document in the child's record the date and time the team physician was consulted.

(6) Notification.

(a) Notification upon admission. At admission, the provider shall:

1. Explain and provide a written copy of the provider's procedures regarding the use of restraint and seclusion to the child, the child's parent or guardian, and guardian ad litem, if applicable. The provider shall document that the child and the parent or guardian, and guardian ad litem were informed of the provider's policies on the use of restraint and seclusion. This documentation shall be filed in the child's record.

2. Communicate the procedures in a language the child and the parent or guardian understand, including American Sign Language or through an interpreter or translator if needed.

3. Include in the procedures contact information, including phone number and mailing address, of the Advocacy Center for Persons with Disabilities, Inc.

4. Consult with the child's parent or guardian and foster parent and guardian ad litem, if applicable to determine if there are any known physical or psychological risks that would rule out the use of such interventions for the child. The results of such interview shall be documented in the child's record.

(b) Notification of use of restraint or seclusion.

1. As soon as possible, but no later than 24 hours after the initiation of each emergency safety intervention, the provider shall notify the parent or guardian that the child has been restrained or placed in seclusion.

2. The provider shall document in the child's record that the parent or guardian was notified, including the date and time of notification and the name of the staff person providing the notification.

(7) Monitoring of the child during and immediately after restraint.

(a) Staff trained in the use of emergency safety interventions shall be physically present and continually visually assessing and monitoring the physical and psychological well-being of the child and the safe use of restraint throughout the duration of the emergency safety intervention.

(b) If the emergency safety situation continues beyond the time limit of the physician's order for the use of restraint, the staff person authorized to receive the verbal order, as identified in paragraph 65E-9.013(4)(c), F.A.C., shall immediately contact the ordering physician to receive further instructions or new orders for the use of restraint and shall document such notification in the child's case file.

(c) A physician, or other licensed staff member as identified in paragraph 65E-9.013(4)(i), F.A.C., trained in the use of emergency safety interventions, shall evaluate and record the child's physical condition and psychological well-being immediately after the restraint is removed.

(8) Monitoring of the child during and immediately after seclusion.

(a) Staff trained in the use of emergency safety interventions and in assessment of suicide risk shall be physically present in or immediately outside the seclusion room, continually visually assessing, monitoring, and evaluating the physical and psychological well-being of the child in seclusion. Video or auditory monitoring shall not be used as substitutes for this requirement.

(b) If the emergency safety situation continues beyond the time limit of the physician's order for the use of seclusion, the staff person authorized to receive the verbal order, as identified in paragraph 65E-9.013(4)(c), F.A.C., shall immediately contact the ordering physician to receive further instructions or new orders for the use of seclusion and such notification shall be documented and maintained in the child's case file.

(c) A physician or other licensed staff member, as identified in paragraph 65E-9.013(4)(i), F.A.C., trained in the use of emergency safety interventions, shall evaluate the child's physical condition and psychological well-being immediately after the child is removed from seclusion and documentation of such evaluation shall be maintained in the child's case file.

(d) Staff shall immediately obtain medical treatment from qualified medical personnel for a child injured during or as a result of an emergency safety intervention.

(9) Discontinuation of restraint or seclusion. As early as feasible in the restraint or seclusion process, the child shall be told the rationale for restraint or seclusion and the behavior criteria necessary for its discontinuation that ensures the safety of the child and others. Restraint or seclusion shall be discontinued as soon as the child meets the behavioral criteria.

(10) Post-restraint or seclusion practices.

(a) After the use of restraint or seclusion, staff involved in an emergency safety intervention and the child shall have a face-to-face discussion, which is also known as a debriefing. Whenever possible, subject to staff scheduling, this discussion shall include all staff involved in the intervention. The child's parent or guardian shall be invited to participate in the discussion. The provider shall conduct the discussion in a language that is understood by the child and the child's parent or guardian. The discussion shall provide both the child and staff the opportunity to discuss the circumstances resulting in the use of restraint or seclusion and strategies to be used by the staff, the child, or others to prevent the need for the future use of restraint or seclusion. The discussion must occur within 24 hours of the emergency intervention, subject to the following exceptions:

1. Allowances may be made to accommodate the schedules of the parent(s) or legal guardian(s) of the child when they request an opportunity to participate in the debriefing and when staff deem their participation appropriate.

2. Allowances may be made to accommodate shift changes, vacation schedules, illnesses, and all applicable federal, state, and local labor laws and regulations.

(b) After the use of restraint or seclusion, the staff involved in the emergency safety intervention, and appropriate supervisory and administrative staff, shall conduct a debriefing session that includes a review and discussion of:

1. The emergency safety situation that required the intervention, including a discussion of the factors that caused or preceded the intervention;

2. Alternative, less intrusive techniques that might have prevented the need for the restraint or seclusion;

3. The procedures, if any, that staff are to implement in the future to prevent any recurrence of the use of restraint or seclusion; and

4. The outcome of the intervention, including any injuries that resulted from the use of restraint or seclusion and the treatment provided for those injuries.

(c) Staff shall document in the child's record that both debriefing sessions took place and shall include in that documentation the names of staff present for the debriefing, names of staff excused from the debriefing, and any changes to the child's treatment plan or facility procedures that resulted from the debriefings.

(d) The provider shall maintain a record of each emergency safety situation, the interventions used, and their outcomes. These records shall be maintained in a manner that allows for the collection and analysis of data for agency monitoring and provider performance improvement and shall be available for such purposes upon request.

(e) Staff shall document in the child's record all injuries that occur during or as a result of an emergency safety intervention, including injuries to staff resulting from that intervention.

(f) Staff involved in an emergency safety intervention that results in an injury to a child or staff shall meet with supervisory staff and evaluate the circumstances that caused the injury and develop a plan to prevent future injuries.

(g) The provider shall immediately notify the child's parent or guardian of any serious occurrence, including a child's death, a serious injury to a child, or a suicide attempt. The provider shall also report the serious occurrence to the Department, the agency, and the state advocacy council the same day or no later than close of business the next business day for a serious occurrence that occurs after 5 p.m. or over a weekend. The report shall include the name of the child involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the facility.

(11) Time-out.

(a) Time-out shall be used only for the purpose of providing a child with the opportunity to regain self-control and not as a consequence or punishment.

(b) If time-out is used with a child, child-specific guidelines for the use and duration of time-out, based on the professional judgment of the child's treatment team, shall be specified in the child's treatment plan, upon consideration of the child's age, maturity, health, and other factors. In addition, the child's parent or guardian shall sign an informed consent form detailing the circumstances under which time-out will be used and how the procedure is to be implemented.

(c) Time-out shall be initiated only by staff who have completed competency-based training in the use of time-out and such training shall be documented in their personnel record.

(d) Time-out may take place either in or away from the area of activity or other children, such as in the child's room.

(e) The designated area shall be a room or area that is part of the living environment the child normally inhabits or has access to during routinely scheduled activities and from which the child is not physically prevented from leaving.

(f) If the child requires physical contact in order to move to the area or room, staff shall end the contact immediately once the child is in the designated area.

(g) The child shall not be physically prevented from leaving the time-out area.

(h) The criterion for being able to end time-out without further intervention shall be specified to the child at this time in a neutral manner.

(i) Time-out shall be terminated after the child meets the behavioral criterion for the specified time period, which shall not exceed 5 minutes at a time. If the child meets the criterion earlier, staff shall end the procedure immediately.

(j) If the child has not been able to meet the criterion for exiting time-out within 30 minutes, staff shall notify the ranking clinician on duty or on-call, who shall assess how the procedure was implemented, assess the child's condition, and determine whether to end the procedure, reduce the exit criterion, or continue the procedure.

(k) When time-out is imposed, staff shall directly and continuously observe the child.

(l) The child's treatment team shall review the use of time-out during that child's treatment team meetings, but no less frequently than two times per month. This review shall consist of assessing the frequency, patterns and trends, questioning the function(s) of the behavior(s) that resulted in the use of time-out, possible ways to prevent the behaviors(s) and the appropriateness of the exit criteria used.

(m) For each instance that time-out is used, staff who initiate the procedure shall document in the child's record:

1. The circumstances leading to the use of time-out;

2. The specific behavior criteria explained to the child that would allow for discontinuation of time out;

3. When and how the child was informed of the behavior criteria;

4. The time the procedure started and ended; and

5. Any injuries sustained and treatment provided for those injuries.

(n) A separate time-out log shall be maintained that records:

1. The shift;

2. The staff who initiated the process;

3. The time the procedure started and ended;

4. The date and day of the week of each episode;

5. The age and gender of the child; and

6. Client ID.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History–New .

65E-9.014 Medication Administration and Use of Psychotropic Medications.

(1) The provider shall develop, implement and maintain written policies and procedures governing the administration of medication and the supervision of and assistance with self-administered medication. These policies and procedures shall include, but not be limited to, management of the medication administration program, training, inventory control, accounting, and disposal of medications. In addition, these policies and procedures shall be consistent with the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C.; Chapter 893, F.S., the Drug Abuse and Prevention and Control Act; DEA compliance policy guidelines on disposal of controlled substances, C.F.R. 21, Title 21, Section 1307.21, Disposal of Controlled Substances, and related department rules and regulations.

(2) Children shall never be permitted to have medication in their possession or to take any medication without direct supervision of an authorized person.

(3) Psychotropic medication shall not be used as a substitute for treatment, for the convenience of staff, or in quantities that interfere with the child's treatment progress.

(4) The use of psychotropic medication shall be described in the child's treatment plan and shall include the desired goals and outcomes of the medication.

(5) Informed consent for the administration of psychotropic medication.

(a) Informed consent from the parents or legal guardian of any child must be obtained by the provider, in accordance with Section 394.459, F.S., when the dosage of current approved medications are changed and when the type of medication is changed.

(b) The requirements for obtaining express and informed consent for a child in the care and custody of the state are governed by Section 39.407, F.S.

(6) If the circumstances requiring the administration of the medication constitute an emergency, such administration shall be governed by the provisions of Section 743.064 or 394.463(2)(f), F.S., as applicable.

(7) There shall be no pro re nata (PRN) orders for psychotropic medications.

(8) There shall be no standing orders for psychotropic medications.

(9) Children receiving antipsychotic medications shall be assessed for abnormal involuntary movements by a physician or registered nurse using a recognized standardized rating scale upon admission and quarterly thereafter.

(10) Refills for medications shall be ordered only by a physician or nurse licensed in the state of Florida. Prescriptions shall be timely refilled to prevent missed dosages.

(11) Administration of medication by unlicensed staff.

(a) For therapeutic group homes or residential treatment centers with 12 beds or less, where services are rendered in a smaller home-like setting, unlicensed staff employed by the facility, who have satisfactorily completed a competency-based training for administration of unit dose medication, shall administer prescribed prepackaged, pre-measured, oral medications, prescribed topical, otic, nasal and ophthalmic medications and rectal and vaginal suppository medications in accordance with Section 464.022(1), F.S.

(b) Medications requiring subcutaneous or intra-muscular administration will be administered, at a minimum, by a Florida licensed nurse.

(c) The medication administration course used to train unlicensed staff shall be eight hours, at a minimum, in length and must meet the following criteria:

1. The course must consist of at least the following topics:

a. Basic knowledge and skills necessary for safe and accurate medication administration and charting.

b. Roles of the physician, nurse, pharmacist, and direct care staff in medication ordering, dispensing, and administration.

c. Procedures for recording/charting medications.

d. Interpretation of common abbreviations used in administration and charting of medications.

e. Knowledge of facility medication system.

f. Safety precautions used in medication administration and charting.

g. Methods and techniques of medication administration.

h. Problems and intervention in the administration of medication.

i. Observation and reporting of medication side effects and adverse effects.

j. Observation and reporting of effects of medications including outcomes of psychotropic medication treatment.

k. Documenting and reporting of medication errors.

l. Appropriate storage of medications.

2. The content must be taught by a Florida licensed physician, consulting pharmacist, physician assistant, advanced registered nurse practitioner, or registered nurse.

3. Training must be competency-based and shall consist of lecture and a clinical practicum. This training shall be documented and such documentation filed in the staff member's personnel file.

4. During the practicum, the trainee must be observed twice administering medications error free during their regularly scheduled medication time. The observation must include error free charting completed by the trainee after the medication(s) has been administered. The practicum observations must be made by a Florida licensed physician, consulting pharmacist, physician assistant, advanced registered nurse practitioner, or registered nurse.

5. Training regarding the administration of prescribed topical, otic, nasal and ophthalmic medications and rectal and vaginal suppository medications will only be completed by unlicensed staff authorized to do so following competency-based training and observation of proficiency by a licensed practitioner.

6. Monitoring of medication administration shall be performed, at a minimum, quarterly by the supervising registered nurse for each facility. In addition, a Florida registered nurse must be available to facility staff via telephone or paging device 24 hours per day.

7. At a minimum, four (4) hours of continuing education is required on an annual basis.

8. When a psychotropic medication is initiated, a registered nurse or pharmacist will assure or make provisions for the instruction of the facility staff regarding side effects and adverse effects of the prescribed medication, including when to notify the physician if undesirable side effects or adverse effects are observed.

9. All staff identified to receive training in medication administration must be high school graduates or have passed an equivalency exam (GED).

(12) Self administration of medication.

(a) For therapeutic group homes or residential treatment centers with 12 beds or less unlicensed staff employed by the facility, who have satisfactorily completed competency-based training in administering medication and supervising children with self administration of unit dose medication, shall be authorized to supervise with self administration of prescription and over-the-counter medications.

(b) Only children who have been assessed by a physician and determined to be capable of self-administering their medications shall be permitted to do so under the supervision of an authorized person. Documentation of such assessment and determination shall be filed in the child's medical records.

(c) Staff involved with supervising and assisting with the self-administration of medications shall complete competency-based training of a minimum of four hours annually by a registered nurse or licensed pharmacist. This training shall be documented and filed in the staff member's personnel file.

(d) The course shall consist of at least the following topics:

1. Basic knowledge and skills necessary for providing supervision for self-administration of medication;

2. Understanding a prescription label;

3. Procedures for recording/charting medications in the medication log;

4. Interpretation of common abbreviations used in administration and charting of medications; and.

5. Observation and reporting of side effects, adverse effects and outcomes of psychotropic medication treatment.

6. Recognizing, documenting and reporting of medication errors.

(e) Upon completion of the course, the trainee shall be able to demonstrate the ability to:

1. Measure liquid medications, break scored tablets, and crush tablets in accordance with prescription directions;

2. Recognize the need to obtain clarification of an "as needed" prescription order;

3. Recognize a medication order which requires judgment or discretion, and advise the child, child's health care provider or facility employer of the inability to assist in the administration of such orders;

4. Complete a medication observation record;

5. Retrieve and store medication; and

6. Recognize the general signs of adverse reactions to medications and report such reactions.

(13) Storage of medications.

(a) All drugs, including nonprescription drugs, shall be stored under double lock (e.g., a locked cabinet within a locked room or in a locked container within a locked cabinet).

(b) External and internal medications and ophthalmic preparations shall be stored separately from each other.

(c) Each child's medications shall be stored separately from each other.

(d) Poisons and other toxic chemicals shall not be stored in a medication storage area.

(e) No medication shall be repackaged by facility staff.

(14) Telephone physician orders for medication may only be accepted by another physician, a licensed practical nurse, a registered nurse, a physician's assistant, ARNP or a licensed pharmacist. Telephone orders shall be immediately recorded in the child's medical record. Faxed physician orders are acceptable with a physician's signature. The original physician's order must be obtained within 72 hours of receipt of the faxed order.

Specific Authority 39.407, 394.875(10) FS. Law Implemented 394.875 FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Sorrell, Medicaid Program Analyst, Mental Health, Department of Children and Families

NAME OF PERSON OR SUPERVISOR WHO APPROVED THE PROPOSED RULE: Sue Ross, Chief, Children's Mental Health, Department of Children and Families

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 28, No. 47, November 22, 2002

DEPARTMENT OF FINANCIAL SERVICES

Division of Accounting and Auditing

RULE NO.:	RULE TITLE:
69I-21.003	Procedure for Processing Delinquent Accounts Receivable

PURPOSE AND EFFECT: To update the delinquent accounts receivable transmittal form and the procedures to be followed by state agencies.

SUMMARY: The proposed amendment updates the procedures for processing delinquent accounts receivable by state agencies.

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

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

SPECIFIC AUTHORITY: 17.29 FS.

LAW IMPLEMENTED: 17.03, 17.04, 17.20 FS.

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

DATE AND TIME: May 3, 2006, 9:30 a.m.,

PLACE: Room 430, Fletcher Building, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Norm Crew, Senior Management Analyst, Department of Financial Services, Bureau of Accounting, 200 East Gaines Street, Tallahassee, Florida 32399-0354 (850)413-5459

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program is asked to advise the Department at least 5 calendar days before the hearing by contacting the person listed above.

THE FULL TEXT OF THE PROPOSED RULE IS:

69I-21.003 Procedure for Processing Delinquent Accounts Receivable.

(1) Each agency shall be responsible for exercising due diligence in securing full payment of all accounts receivable and other claims due the State.

(2) Within six months after the date on which an account or other claim was due and payable, unless another period is approved pursuant to subsection (4), and after exhausting other lawful measures available to an agency, the delinquent account receivable must be reported to the Department for further action as authorized by Chapter 17, F.S., which includes possible assignment to a collection agency. A Delinquent Accounts Receivable Transmittal Form (DFS-AA-580) must be completed by the agency in as much detail as is available for each delinquent account reported. Other methods for

transmitting the information required on Form DFS-AA-580 may be used if approved in advance by the Department. This prior approval is necessary in order for the Department to properly perform its duties pursuant to Section 17.04, F.S. Delinquent Accounts Receivable Transmittal Form DFS-AA-580, revised 2/06 ~~11-20-94~~, is hereby incorporated ~~herein~~ by reference and is available from:

Department of Financial Services
Division of Accounting and Auditing
Bureau of Accounting
200 East Gaines Street
Tallahassee, Florida 32399-0354

Agencies will be notified, in writing, of the delinquent accounts assigned to a collection agency. Payment(s) received by an agency on accounts assigned to a collection agency must be reported, in writing, to the Bureau of Accounting within 30 days of receipt.

(3) An agency which has delinquent accounts receivable which it considers to be of such a nature that their assignment to a collection agency would be inappropriate may request, in writing, an exemption for those accounts. The request shall fully explain the nature of the delinquent accounts receivable and the reasons which the agency believes would preclude them from being assigned to a collection agency. The Department will disapprove the request in writing unless it is demonstrated ~~shown~~ that ~~a demonstrative~~ harm to the State of Florida will occur as a result of assignment of the account to a collection agency.

(4) through (6) No change.

(7) The contracted collection agent will send payment along with a remittance advice to each agency for accounts collected. ~~To facilitate the transfer of moneys collected, each agency shall designate one FLAIR revenue account code to which all collected moneys will be transferred by journal transfer and notify the Department of the account code so designated. Agencies will be provided a detailed listing of amounts collected and collection fees charged, for each account. The Department will also provide instructions in accordance with General Accepted Accounting Principles on the appropriate method of recording the difference between any moneys collected and the amount of the delinquent account; i.e., treat the difference as cost of collection or provide approval for adjusting the balance of the account pursuant to Section 17.04, F.S.~~

Specific Authority 17.29 FS. Law Implemented 17.03, 17.04, 17.20 FS. History–New 1-8-86, Formerly 3A-21.03, Amended 4-12-89, 6-3-90, 11-20-94, 5-12-97, Formerly 3A-21.003, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Norm Crew, Senior Management Analyst, Bureau of Accounting

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Doug Darling, Director, Division of Accounting and Auditing

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 28, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 10, 2006

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF LEGAL AFFAIRS

RULE NO.:	RULE TITLE:
2-41.001	RV Mediation and Arbitration Program Qualification, Reporting, Disqualification, Manufacturer Conduct

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. 32, No. 6, February 10, 2006, issue of the Florida Administrative Weekly. These changes are in response to written comments received from the Joint Administrative Procedures Committee.

Subsection (3) of the proposed rule is changed as follows:

(3) The department will ~~may~~ revoke the qualification of a program as to one or more participating manufacturers for any one of ~~conduct that includes, but is not limited to,~~ the following:

(a) Failure to adequately fund the program as demonstrated by:

1. Failure to pay the costs charged by the program in accordance with the contract or agreement entered into between the Program and the sponsoring manufacturer(s). The program administrator shall notify the department of a manufacturer's failure or refusal to make payment.

2. A history of ~~consistent~~ failure to pay the costs charged by the program within the time for payment specified by the program. The program administrator shall notify the department of a manufacturer's failure to make timely payment(s).

(b) Any attempt by a manufacturer, either directly, or indirectly, to exert undue influence or pressure upon the program administrator or staff in the performance of their duties, including, but not limited to, interference in the eligibility screening process, the determination of hearing locations, the initial assignment of mediators and arbitrators, except as provided by statute, this rule or the procedural rules of the program.

(c) Failure to provide documents requested by the program administrator under Section 681.1096(1)(k), F.S.