

## Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

### DEPARTMENT OF EDUCATION

#### Florida Institute of Phosphate Research

RULE NOS.:	RULE TITLES:
6J-1.001	Purpose
6J-1.002	Offices
6J-1.004	The Executive Director
6J-1.005	Meeting and Agenda
6J-1.006	Administration and Travel
6J-1.007	Grants

**PURPOSE AND EFFECT:** The purpose of revisions to Chapter Rule 6J-1, F.A.C., is to reduce the number of regularly scheduled meetings of the Institute’s Board of Directors from 4 per year to 3 per year and to update the rules to be consistent with current Institute operations.

**SUBJECT AREA TO BE ADDRESSED:** The Board of Director’s of the Florida Institute of Phosphate Research has decided to hold 3 regularly scheduled Board meetings each year instead of 4 in order to assure that funding of research projects is as closely aligned as possible to the Institute’s budget and needs.

Other changes in the rules are proposed so that the rules accurately reflect the current mode of operations of the Institute.

**SPECIFIC AUTHORITY:** 378.101(4)(f) FS.

**LAW IMPLEMENTED:** 378.101-.102 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT OR TO OBTAIN A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, AT NO CHARGE UPON REQUEST: Shannon E. Medley, Coordinator Administrative Services, Florida Institute of Phosphate Research, 1855 West Main Street, Bartow, FL 33830, phone (863)534-7160, Fax (863)534-7165

### DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
14-57	Railroad Safety and Clearance Standards, and Public Railroad-Highway Grade Crossings, and Rail Corridor Crossing Management
RULE NO.:	RULE TITLE:
14-57.014	Rail Corridor Crossing Management

**PURPOSE AND EFFECT:** A new rule is being established as Part III of Rule Chapter 14-57, F.A.C. Upon adoption of this rule, the superseded rules in Rule Chapter 14-115, F.A.C., will be repealed.

**SUBJECT AREA TO BE ADDRESSED:** Part III of Rule Chapter 14-57, F.A.C., is to replace Rules 14-115.003 and 14-115.004, F.A.C., pertaining to rail corridor crossing management.

**SPECIFIC AUTHORITY:** 334.044(2) FS.

**LAW IMPLEMENTED:** 334.044(14), 337.242(3) FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

**RAILROAD SAFETY AND CLEARANCE STANDARDS,  
PUBLIC RAILROAD-HIGHWAY GRADE CROSSINGS,  
AND RAIL CORRIDOR CROSSING MANAGEMENT  
PART III RAIL CORRIDOR CROSSING MANAGEMENT**

14-57.014 Rail Corridor Crossing Management.

(1) Definitions for Use in Part III.

(a) “Applicant” means any person or local governmental entity.

(b) “Application” means the Rail Corridor Crossing Permit Application, DOT Form 725-080-86, Rev. 01/06, incorporated herein by reference.

(c) “Corridor” or “Rail Corridor” means Department-owned lineal property acquired from a railroad that is not incorporated into the state highway system.

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

(d) “Local Governmental Entity” means as defined in Section 11.45(1)(e), Florida Statutes.

(e) “Rail Corridor Crossing” means a either a public or private travel way intended to be used for vehicular ingress and egress to and from a state highway way across a rail corridor.

(f) “State Highway” means a component of the State Highway System as defined in Section 334.03(25), Florida Statutes.

(2) Existing Crossings. The Department shall recognize existing public and private rail corridor crossings identified and described by a railroad at the time a rail corridor is transferred from a railroad to the Department. All other rail corridor crossings shall be closed if rail corridor crossing

permits are not obtained by an applicant consistent with this rule chapter within six months following completion of acquisition of the rail corridor by the Department.

(3) Rail Corridor Crossing Permits. The issuance of a rail corridor crossing permit does not create a property right or vested interest in a rail corridor crossing and such permit is revocable in accordance with the provisions of this rule chapter. Prior to submitting an application, potential applicants are encouraged to contact the Department Central Rail Office to inquire as to the feasibility of a proposed rail corridor crossing.

(a) Public Crossing. An application by a local governmental entity for a rail corridor crossing permit for a corridor where rail service has been abandoned will be evaluated and conditioned upon the following criteria:

1. Jurisdiction over the county road or city street at the proposed crossing and acceptance of maintenance responsibility for the county road or city street, including the rail corridor crossing area.

2. A demonstrated transportation need on the part of the public for the crossing.

3. Consistency with any applicable Metropolitan Planning Organization (MPO) long range plans and local governmental entity comprehensive plans.

4. Closure of an existing public crossing for each new public crossing.

5. Construction of the crossing in a way that is compatible with the present use of the rail corridor.

6. Payment of construction and maintenance costs for the new public crossing, as well as any additional costs to modify the corridor to accommodate its planned use.

7. Agreement to indemnify, defend, and hold harmless the Department from all claims arising out of the use of the new public rail corridor crossing.

(b) Private Crossing. An application for a rail corridor crossing permit by a person who owns property abutting a rail corridor where rail service has been abandoned will be evaluated and conditioned upon the following criteria:

1. The private property must have no other legal access, including no access to frontage roads that exist or that could be cost-effectively constructed.

2. The new private crossing must be consistent with applicable MPO long range plans and local governmental entity comprehensive plans.

3. The new private crossing must be constructed in a way that is compatible with the present use of the rail corridor, and the design of the new private crossing shall be signed and sealed by a professional engineer registered in the State of Florida.

4. A corridor crossing permit is revocable, without compensation, upon a Department determination that the crossing is incompatible with the Department's use of the corridor and written notice of not less than 30 days.

5. The owner must indemnify, defend, and hold harmless the Department from all claims arising out of the use of the new private rail corridor crossing.

(4) All construction and maintenance on the Department corridor shall conform to the *Manual on Uniform Traffic Control Devices (MUTCD)*, incorporated by reference under Rule 14-15.010, F.A.C., and the *Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways*, incorporated by reference under Rule 14-15.002, F.A.C.

(a) Disruption of Traffic. For safety and operational purposes, the Department will require or restrict hours of construction if construction will cause disruption of traffic on the State Highway System. When construction activity on a rail corridor crossing causes undue disruption of traffic, or creates safety hazards on a state highway, the District Secretary or designee shall advise the permittee of the need for immediate corrective action by a specified time and will issue a stop work order if the permittee does not comply.

(b) Rail Corridor Crossing Completion Time Limit. Construction shall be completed within one year of the date of issuance of the rail corridor crossing permit. Failure to comply with the one year time limit shall result in an automatic expiration of the rail corridor crossing permit. A stop work order will be issued by the Department if work exceeds the imposed time restrictions. For any rail corridor crossing permit which expires for failure to construct the rail corridor crossing within the one year limit, a new application will be required. The corridor right of way shall be returned to the condition existing prior to the permit being issued, at the permittee's expense, unless a new permit is obtained pursuant to this Rule Chapter.

(c) Assurance of Performance. Assurance of performance conforming to Section 334.187, Florida Statutes, will be required if the rail corridor crossing permit requires extensive work within the right of way, such as relocation of structures or traffic signals.

1. Prior to the issuance of a rail corridor crossing permit, the applicant shall provide a security instrument in the estimated dollar amount of the improvements in the right of way. The Department shall be named as the beneficiary. The security instrument shall be provided to the Department before the rail corridor crossing permit is issued. The security instrument shall be valid for the time of the construction and inspection of the permitted work, but for not less than 18 months.

2. The applicant shall provide the estimated cost of improvements on right of way in a document signed, sealed, and dated by a professional engineer registered in the State of Florida.

3. Security Instrument Receipt, Form 850-040-20, Rev. 04/93, must be used, and is incorporated herein by reference.

4. Such security instruments shall be required except when a performance bond covering the work on the right of way is included as part of the bond necessary for development approval by a local governmental entity and the Department is a named beneficiary.

5. The Department will waive the security instrument requirement when there is an agreement with the local governmental entity to withhold a certificate of occupancy until any problems are corrected and there is no indication that the requirements of this rule will be violated.

6. The security instrument will be returned to the applicant when final inspection by the Department shows that the work has been completed as permitted.

(d) Posting of rail corridor crossing permit. The approved rail corridor crossing permit shall be displayed in a prominent location in the vicinity of the crossing construction.

(e) Traffic Signals and Other Traffic Control Devices. Traffic signals and other traffic control devices, installed by an applicant, shall conform to the MUTCD and Department design and construction standards referenced herein. The applicant is responsible for securing any additional permit or local governmental entity approval needed for traffic signalization and regulatory signing and marking.

(f) Professional Engineer Statement of Construction for Extensive Roadway Construction or Large Developments. If the rail corridor crossing permit requires extensive work within the right of way, such as relocation of structures or traffic signals, a statement from the project's professional engineer will be necessary. The applicant will provide documentation by a professional engineer registered in the State of Florida that construction was accomplished in accordance with the requirements set out in the corridor crossing permit.

(g) Utility and Right of Way User Notification. The applicant has the responsibility to determine, and notify, the users of the right of way of the permitted construction. The applicant shall also resolve any conflicts within the right of way. Before a rail corridor crossing permit is issued, the applicant shall show documentation of this notification and resolution of conflicts.

(h) A rail corridor crossing permit for a crossing that is intended to be used for vehicular ingress and egress to and from a state highway is not a permit for a connection to the state highway under Section 335.182(3)(a), Florida Statutes, and a separate access connection permit must be obtained pursuant to Rule Chapter 14-96, F.A.C., prior to the construction of an access connection.

Specific Authority 334.044(2) FS. Law Implemented 334.044(14), 337.242(3) FS. History—New \_\_\_\_\_

**DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

**Division of Florida Highway Patrol**

RULE CHAPTER NO.: 15B-13  
 RULE CHAPTER TITLE: Operation of Soundmaking Devices in Motor Vehicles

RULE NO.: 15B-13.001  
 RULE TITLE: Operation of Soundmaking Devices in Motor Vehicles

PURPOSE AND EFFECT: The purpose of the proposed rule action is to amend the current rule to reflect the 2005 revision to Section 316.3045, Florida Statutes, making it unlawful for any person operating or occupying a motor vehicle on a street or highway to operate or amplify the sound produced by a radio, tape player, or other mechanical soundmaking device or instrument from within the motor vehicle so that the sound is plainly audible at a distance of 25 feet or more from the motor vehicle instead of 100 feet as previously defined.

SUBJECT AREA TO BE ADDRESSED: The proposed rule action revises the current rule changing the definition of the term “plainly audible” reducing the unlawful range that a mechanical soundmaking device or instrument can be heard coming from within a motor vehicle from 100 feet to 25 feet.

SPECIFIC AUTHORITY: 316.3045 FS.

LAW IMPLEMENTED: 316.3045 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Lt. James D. Wells, Jr., Bureau of Special Operations Command, Division of Florida Highway Patrol, Department of Highway Safety and Motor Vehicles, Room A315, Neil Kirkman Building, Tallahassee, Florida 32399-0500, (850)617-2303

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

15B-13.001 Operation of Soundmaking Devices in Motor Vehicles.

(1) No change.

(2) “Plainly Audible” shall mean any sound produced by a radio, tape player, or other mechanical or electronic soundmaking device, or instrument, from within the interior or exterior of a motor vehicle, including sound produced by a portable soundmaking device, that can be clearly heard outside the vehicle by a person using his normal hearing faculties, at a distance of 25 ~~100~~ feet or more from the motor vehicle.

(3) through (4) No change.

Specific Authority 316.3045 FS. Law Implemented 316.3045 FS. History--New 12-25-90, Amended\_\_\_\_\_.

**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 CITRUS**

RULE CHAPTER NO.: 20-65  
 RULE CHAPTER TITLE: Color Grading – Processed Orange Products  
 RULE NOS.: 20-65.002  
 RULE TITLES: Equipment  
 20-65.004 Procedure  
 20-65.005 Calculation

PURPOSE AND EFFECT: Adding new GretagMacbeth i5 spectrophotometer to list of approved devices for determining OJ color score.

SUMMARY: Adding new spectrophotometer to list of approved devices.

SPECIFIC AUTHORITY: 601.10(7), 601.11, 601.24 FS.

LAW IMPLEMENTED: 601.10(7), 601.11, 601.9905, 601.9909, 601.24 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Alice P. Wiggins, License and Regulation Specialist, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

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

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-501.301  
 RULE TITLE: Law Libraries

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to update technical changes, eliminate starter collection law libraries, change failure to return research books from suspension of library services to disciplinary action, and modify the inmate law clerk training program.

SUBJECT AREA TO BE ADDRESSED: Law Libraries.

SPECIFIC AUTHORITY: 944.09, 944.11 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.11 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Jason M. Hand, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-501.301 Law Libraries.

(1) No change.

(2) Definitions.

(a) Central office library services: refers to library services section in the bureau of institutional programs, ~~office of classification and programs~~, in the department’s central office headquarters.

(b) Deadline: refers to any requirement imposed by law, court rule or court order that imposes a maximum time limit on the filing of legal documents with the court.

(c) Illiterate: refers to inmates who demonstrate academic competence below the 9th grade level, as measured by the Test of Adult Basic Education as provided in Rule 6A-6.014, F.A.C.

(d) Incompetence or incompetent: refers to oral or written statements or conduct that demonstrates to departmental staff that an inmate law clerk does not have ability or knowledge to research and use the law library collection, to provide inmates with accurate information on the law and civil or criminal procedure, or to assist inmates in the preparation of legal documents or legal mail.

(e) Inmate law clerk: refers to any inmate that an institution has assigned to work in a law library in departmental inmate work assignment codes L04 ~~and L09~~. Inmate law clerks have successfully completed the department’s law clerk training program, or have equivalent legal training, and have “LEGAL” or “LAW” certificate entries recorded in the department’s offender database.

(f) Inmate law clerk trainee: refers to any inmate that an institution has assigned to work in a law library in departmental inmate work assignment codes L03 ~~and L08~~. Inmates must meet all of the qualifications established in paragraph (7)(d) to be assigned as a law clerk trainee.

(g) Inmate library clerk: refers to any inmate that an institution has assigned to work in the law library in departmental work assignment codes L01 and L06.

(h) Interstate Corrections Compact: refers to an interstate agreement that permits the State of Florida to transfer custody of Florida inmates to other state correctional systems in accordance with Sections 941.55-.57, F.S.

(i) Law library supervisor: refers to a library program specialist, librarian specialist, library technical assistant, and, whenever these positions are vacant, any other employee that the warden or designee appoints to oversee operation of the institution's law library program.

(j) Legal assistance: refers to those services that the law library program or inmate law clerks provide to the inmate population. They include: providing inmates access to law library materials; assisting inmates in conducting legal research; assisting inmates with the preparation of legal documents and legal mail associated with the filing of post-conviction petitions filed in the state or federal courts, civil rights actions filed in the state or federal courts, and administrative actions filed with the Florida Parole Commission or the Florida Bar; assisting inmates with the preparation of grievances filed with the Department of Corrections; providing inmates with access to grievance and court forms; providing indigent inmates with access to legal writing supplies pursuant to Rule 33-210.102, F.A.C.; and providing copying services to inmates pursuant to Rule 33-501.302, F.A.C.

(k) Library services administrator: refers to departmental employee in the bureau of institutional programs who is responsible for statewide coordination of library and law library services.

(l) Major collection: refers to a law library that includes the following legal publications: an annotated edition of the Florida Statutes; an annotated edition of the U.S. Constitution and federal statutes governing habeas corpus and prisoner's rights; Florida and federal case reporters; Florida and federal Shepard's citation indexes; Florida and federal practice digests; forms manuals; and secondary source materials providing research guidance in the areas of federal habeas corpus, Florida post-conviction and post-sentence remedies, and prisoner's rights. Major collection law libraries also maintain current copies of departmental rules and regulations as provided in paragraph ~~(5)~~(4)(b).

(m) Minor collection: refers to a law library that includes the following legal publications: an annotated edition of the Florida Statutes; Florida case reporters; Shepards Florida Citations; Florida and federal practice digests; an annotated edition of the U.S. Constitution and federal statutes governing habeas corpus and prisoner's rights; forms manuals; and secondary source materials providing research guidance in the areas of federal habeas corpus, Florida post-conviction and post-sentence remedies, and prisoner's rights. Minor collection law libraries also maintain current copies of departmental rules and regulations as provided in paragraph ~~(5)~~(4)(b).

(n) Official state holiday: refers to any day that the governor or the state legislature of the state of Florida designates a state holiday.

(o) Open population inmates: refers to inmates housed in general population at a institution or unit with a major or minor collection law library and any inmates housed at satellite correctional facilities if major or minor collection law libraries are not located there.

(p) Personal legal papers: refers to legal documents, legal correspondence, research notes, and transcripts relating to ongoing civil or criminal litigation where the inmate is a named plaintiff or defendant.

(q) Priority access: refers to the act of providing an inmate with exceptional access to the law library collection, inmate law clerks, interlibrary loan services, or to copying services.

(r) Research items: refers to photocopies of cases and statutes, and tables of contents, sections, or chapters from other reference titles in the institution's law library collection, which are loaned to inmates for legal research purposes. These do not include the inmate's personal legal papers, pleadings, or transcripts.

(s) Satellite correctional facilities: refers to a medium or minimum custody correctional facility, such as an annex, work camp, road prison, forestry camp, or drug treatment center. Satellite correctional facilities do not include work release centers.

~~(t) Starter collection: refers to a law library that includes the following legal publications: an annotated edition of the Florida Statutes; an annotated edition of the Title 42, United States Code, Section 1983; the Florida and federal rules of court; and a legal dictionary.~~

~~(t)~~(u) Working day: refers to any weekday, i.e., Monday to Friday, except when the day is an official state holiday.

(3) Law Library Access – General.

(a) Hours of Operation. Major and minor collection law libraries shall be open for inmate use a minimum of 25 hours per week, except weeks which include official state holidays. The law library's operating schedule shall be designed to permit each inmate access to legal materials consistent with:

1. The inmate's security classification and housing assignment;
2. Staff and space limitations;
3. Scheduled work and other assignments; and
4. Any other limitation based on the interests of security and order of the institution.

(b) Inmates at satellite correctional facilities without law libraries ~~attached to institutions with major or minor law collections~~ shall be provided access to the law library and inmate law clerks by means of correspondence, except as otherwise provided in paragraphs (3)(d), (3)(e) and (3)(f).

(c) Inmates who are temporarily transferred to correctional or medical facilities outside the department may secure legal assistance and/or access to legal research materials by submitting a written request to the library services administrator in the central office, or the law library supervisor at the institution from which they were transferred. Inmates

who are serving sentences imposed by the Florida courts by virtue of the Interstate Corrections Compact may secure legal assistance and access to legal research materials by writing the library services administrator in the central office. Correspondence should be directed to the Florida Department of Corrections, Attention: Library Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(d) Law libraries shall provide interpreters for any language, other than English, native to 5 percent or more of the statewide inmate population. Such inmates at satellite correctional facilities shall be provided an opportunity to visit the law library within 1 week of submitting an oral request or Form DC6-236, Inmate Request, for legal assistance to the law library supervisor or other facility staff. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(e) Inmates who are illiterate or have disabilities that hinder their ability to research the law and prepare legal documents and legal mail, and need research assistance, shall be provided access to the law library and to inmate law clerks. These inmates may request legal assistance by making an oral request for same to the correctional staff working in their housing or confinement units, classification staff, work supervisors, mental health staff, or to the law library supervisor. Staff shall relay oral requests for legal assistance to the law library supervisor. Upon receipt of an oral request or Form DC6-236, Inmate Request, the law library supervisor shall schedule the inmate for a visit to the law library or a visit with an inmate law clerk.

(f) Inmates who must meet deadlines imposed by law, court rule or court order ~~in legal proceedings challenging convictions, sentences or prison conditions~~ shall be given priority in the use of the law library and related legal services. However, the inmate shall be responsible for notifying the department of the deadline in a timely manner. Department staff shall respond to a request for special access to meet a deadline within 3 working days of receipt of the request, not including the day of receipt. This period shall not be shortened due to the failure of the inmate to give timely notice of the deadline.

1. Priority access shall be granted if the maximum time limit is 20 or fewer calendar days.

2. Law library supervisors shall not excuse an inmate in open population at any institution, work camp, road prison, or forestry camp from a work or program assignment to use the law library for more than one-half of the inmate's workweek. The warden or designee is authorized to afford individual inmates in open population additional research time in the law library when the inmate demonstrates an exceptional need for it. The inmate bears sole responsibility for proving why additional research time in the law library should be provided.

3. Upon confirmation of the deadline, the law library supervisor shall contact the classification department and schedule an appointment by call-out to enable excusing an

inmate from his or her work or program assignment, and, where necessary, transportation from a satellite correctional facility.

4. Inmates who only need priority access to law library services, such as copying or interlibrary loan services, shall only be excused for as long as is necessary to request or receive the necessary assistance.

(g) No inmate shall be excused from a work or program assignment solely for the purpose of drafting legal documents and legal mail; such activities shall be performed during off-duty hours. Inmates in open population who do not have deadlines as described in paragraph (3)(f) shall be expected to use the law library or access law library services during off-duty hours.

(h) Inmates who mutilate, deface or pilfer law library materials shall be subject to formal disciplinary action as provided in Rules 33-601.301-.314, F.A.C., and penalties for infraction may include a temporary suspension of the inmate's privilege of on-site use of the law library of up to 30 days. The disciplinary team which presides over the disciplinary hearing shall determine the length of the suspension after considering the inmate's past record of rule infractions while in the law library, assessing the material damage to the legal research collection, and determining whether the damage to the collection was intentional or inadvertent. Inmates who have been suspended from the law library shall conduct business through correspondence or through inmate law clerks rather than through personal visits to the law library. However, steps shall be taken to ensure that the inmate is not denied access to legal material during this suspension.

(4) Law Library Access for Inmates in Administrative Confinement, Disciplinary Confinement, Close Management, Protective Management, on Death Row, and in Medical or Mental Health Units.

(a) Inmates in administrative confinement, disciplinary confinement, and close management shall be permitted to have access to their personal legal papers and law books, to correspond with the law library, to have the law library deliver legal materials to their cells, and, as provided in paragraphs (3)(e) and (3)(f), to visit with inmate law clerks. Efforts shall be made to accommodate the research needs of inmates who have filing deadlines imposed by law, court rule or court order in legal proceedings challenging convictions, sentences or prison conditions.

1. Inmates at Florida State Prison Main Unit who need research assistance from the law library shall submit Form DC6-236, Inmate Request, to the law library supervisor. Inmates shall be permitted to visit the law library if security requirements permit it. If security requirements prevent a personal visit to the law library, the inmate shall be required to secure legal assistance through visits with inmate law clerks or by means of correspondence.

2. At all other institutions, inmate law clerks shall visit the confinement unit at least once per week to provide assistance to inmates. Illiterate and disabled inmates shall be permitted to request a visit with an inmate law clerk by making an oral request for legal assistance to the correctional staff working in the confinement unit. Upon receipt of an oral request, the correctional staff shall permit the inmate to visit with an inmate law clerk at the next scheduled law clerk visit. All other inmates shall request law clerk visits by submitting Form DC6-236, Inmate Request, to the law library supervisor. The law library supervisor shall develop a list of the inmates in confinement who are approved for a law clerk visit, and shall provide a copy of that list to security staff on or before the inmate law clerk's visit to the confinement unit.

(b) Inmates in mental health units shall be provided access to the law library and provided opportunities to visit with inmate law clerks. These inmates shall be permitted to have access to their personal legal papers and law books, to correspond with the law library, and to have the law library deliver legal materials to their cells. These inmates may request legal assistance by submitting Form DC6-236, Inmate Request, to the law library supervisor or by making an oral request for legal assistance to the security or mental health staff working in the unit. Security and mental health staff shall relay oral requests for legal assistance to the law library supervisor. Upon receipt of a request, the law library supervisor shall arrange for an inmate law clerk to visit the inmate. Efforts shall be made to accommodate the research needs of inmates who have filing deadlines imposed by law, court rule or court order in legal proceedings challenging convictions, sentences or prison conditions.

(c) Inmates in protective management shall be permitted to have access to their personal legal papers and law books, to correspond with the law library, and to have the law library deliver legal materials to their cells. Inmates in protective management shall have access to the law library, to include access to at least 1 inmate law clerk, during evening or other hours when general population inmates are not present. If security reasons prevent a visit to the law library, access shall be provided through visits with inmate law clerk or by means of correspondence. Efforts shall be made to accommodate the research needs of inmates who have filing deadlines imposed by law, court rule or court order in legal proceedings challenging convictions, sentences or prison conditions.

(d) Inmates on death row shall be permitted to have access to their personal legal papers and law books, to correspond with the law library, to have the law library deliver legal materials to the inmate's cell, and to visit with inmate law clerks. Inmates on death row who have filing deadlines imposed by law, court rule or court order, in legal proceedings challenging convictions, sentences, or prison conditions, shall be permitted to visit the unit's law library at least once per week for up to two hours if the law library has research cells and if security requirements permit it. If security requirements

prevent a personal visit to the law library, the inmate shall be required to secure legal assistance through visits with inmate law clerks or by means of correspondence.

(e) Inmates who are temporarily housed in institutional infirmaries or hospitals, or who are on medical or dental lay-in, and who are unable to visit the law library due to medical or treatment reasons, shall be permitted to have access to their personal legal papers and law books, to correspond with the law library, to have the law library materials delivered to them, and to visit with inmate law clerks unless medical or security requirements prevent it. These inmates may secure legal assistance by contacting the law library supervisor. Upon receipt of an oral request or Form DC6-236, Inmate Request, or a referral from medical or dormitory staff, the law library supervisor shall assign an inmate law clerk to provide legal assistance to the inmate.

(f) Inmates shall be limited to possession of no more than 15 research items from the law library. Research items shall be loaned for a maximum of 21 days. Inmates who fail to return ~~if~~ research items ~~are not returned to the law library~~ within 21 days, ~~then the inmate's privilege to borrow research items from the law library shall be subject to disciplinary action as provided in Rules 33-601.301-.314, F.A.C. suspended until the material is returned.~~ Institutions shall also limit the accumulation of research materials when possession of same in an inmate's cell creates a safety, sanitation or security hazard.

(5) Major, ~~and~~ minor ~~and starter~~ collection law libraries.

(a) Major or minor collection law libraries shall be established at all institutions and satellite correctional facilities housing more than ~~500~~ 400 inmates. ~~Starter collection law libraries shall be established at institutions and satellite correctional facilities housing less than 400 inmates and located 50 or more miles from the main unit of the institution or other institutions with major or minor law library collections.~~ In determining whether a major collection shall be established at an institution, consideration shall be given to the following factors:

1. Population level;
2. Age of the inmate population;
3. The transitory nature of the institution's inmate population;
4. The institution's proximity to other facilities with major collections;
5. Whether the institution has one or more of the following housing categories:
  - a. Protective management;
  - b. Close management; or
  - c. Death row.

(b) Major and minor collection law libraries shall maintain current copies of the following departmental rules and regulations:

1. Rules of the Florida Department of Corrections;

2. Department of Corrections Procedures ~~and Policy and Procedure Directives~~, except those that the Office of the Secretary has directed be withheld from inspection by inmates for security reasons.;

3. ~~Institutional operating procedures, except those that the Office of the Secretary or the regional director has directed be withheld from inspection by inmates for security reasons.~~ No law library collection shall include departmental or institutional emergency plans, security post orders, or departmental operations manuals.

(c) Major, ~~and~~ minor ~~and starter~~ collections shall be maintained in a current condition by annual subscription service. The library services administrator shall be responsible for ensuring that all legal collections are current and complete.

(d) Law collections shall not be established at work release centers or other community-based facilities. Inmates at those facilities shall secure legal assistance by means of correspondence with a major or minor law collection, by visits with attorneys, or by transportation or temporary transfer to an institution with a major or minor law collection.

(e) The contents of legal collections shall be reviewed annually by the library services administrator to ensure continued compliance with applicable federal and state laws and American Correctional Association standards. When the library services administrator believes that titles need to be added or deleted from the collections, he or she shall make such recommendation to the chief of the bureau of institutional programs. If the recommendation is approved, the material shall be ordered and placed in the appropriate law library collections.

(f) Requests for the addition or deletion of titles in major, ~~and~~ minor, ~~and starter~~ law library collections shall be submitted in writing to the library services administrator in the central office. The library services administrator shall review all requests and make a recommendation to the chief of the bureau of institutional programs. Requests shall be reviewed according to the material's primary research value and whether it substantively provides additional information, or merely duplicates what is in the current collection. If the recommendation is approved, the materials shall be ordered and placed in the appropriate law library collections.

(g) Each minor and major collection law library shall maintain a list of all titles in the collection at the law library's circulation counter and shall make it available to inmates upon request.

(6) Interlibrary loan services for law libraries.

(a) Major collection law libraries shall provide research assistance to minor ~~and starter~~ collection libraries and to inmates housed at satellite correctional facilities without law libraries. On receipt of Form DC5-152, Law Library Interlibrary Loan Request, the law library supervisor shall immediately assign an inmate law clerk to provide legal assistance. Form DC5-152 is incorporated by reference in

subsection (11) of this rule. All assistance that can be provided through use of that institution's major collection shall be completed within 3 working days of receipt, not including the day of receipt, except where the request requires the researching of complex or multiple legal issues or is so broad in scope that work can not be initiated without further information from the requesting inmate.

(b) Inmates at facilities with minor collection law libraries who need access to legal research materials only available in major collection law libraries, shall submit Form DC5-152, Law Library Interlibrary Loan Request, for the material or assistance to the law library supervisor. Within two working days of receipt of Form DC5-152, not including the day of receipt, the law library supervisor shall forward the request to the law library supervisor at a major collection law library for completion.

(c) Inmates at satellite correctional facilities without ~~starter collection~~ law libraries, who need access to legal materials in major or minor collection law libraries, shall submit Form DC5-152, Law Library Interlibrary Loan Request, or Form DC6-236, Inmate Request, to the law library supervisor at the main unit of the institution. ~~The law library supervisor shall review the request to determine whether it can be completed by that institution's law library.~~

1. If the law library has the information that the inmate has requested, the request shall be completed and returned to the inmate within three working days of receipt, not including the day of receipt, except when the request requires the researching of complex or multiple legal issues or is so broad in scope that work cannot be initiated without further information from the requesting inmate. ~~The law library supervisor shall provide a copy of Form DC5-152, Law Library Interlibrary Loan Request, and the requested material to the inmate.~~

2. If the law library does not have the information that the inmate has requested, then within 2 working days of receipt, not including the day of receipt, the law library supervisor shall forward the request to the law library supervisor at a major collection law library for completion.

(d) Inmate requests to secure law materials not in the department's major collection libraries shall be submitted to the library services administrator for review and approval. Only requests for primary source materials, such as statutes, rules, and court decisions, ~~that relate to state post conviction and post-sentence remedies, federal habeas corpus, or the rights of prisoners,~~ shall be approved.

1. Inmates needing such materials are to submit Form DC5-152, Law Library Interlibrary Loan Request, to the institution's law library supervisor. Form DC5-152, Law Library Interlibrary Loan Request, is to include the full and complete citation of the material needed, and a written justification on why the material is needed ~~to litigate any of the above types of actions.~~ If any deadlines apply, the date of the deadline is to be noted on Form DC5-152, Law Library



Interlibrary Loan Request. The law library supervisor is then to forward the request to the library services administrator in the central office. The correct mailing address is: Department of Corrections, Attention: Library Services, 2601 Blair Stone Road, Tallahassee, FL 32399-2500.

2. The library services administrator or designee shall review the request and either approve it or disapprove it. If the request is disapproved, the reason for disapproval will be noted on the request and the request shall be returned to the requesting law library. The law library supervisor will provide a copy of Form DC5-152, Law Library Interlibrary Loan Request, to the inmate. If the request is approved, the request shall be forwarded to the Florida State University law library for completion. When the completed work is received from the Florida State University law library, it shall be mailed to the requesting law library. The law library supervisor will provide a copy of Form DC5-152, Law Library Interlibrary Loan Request, and the requested material to the inmate.

(e) Inmates with deadlines imposed by law, court rule or court order ~~in legal proceedings challenging convictions and sentences or prison conditions~~ shall be given priority in the handling of interlibrary loan requests, and such requests shall be submitted separately from requests not involving deadlines.

(f) Material received pursuant to an interlibrary loan request is the property of the law library and not the personal property of the inmate who requested it. The materials shall not be removed from the law library without the written approval of the law library supervisor.

(g) No limits shall be placed on the number of requests for interlibrary loan service submitted by inmates. However, inmates in confinement and other special management housing shall be limited to possession of no more than 15 items at a time.

(7) Use of inmates as clerks in law libraries.

(a) Inmate library clerks: major and minor collection law libraries shall be assigned inmates as library clerks to perform work of a clerical nature. Duties of library clerks include circulating legal materials, maintaining law library files, keeping the law library clean and orderly, and assisting the law library supervisor in collecting statistics, preparing reports and correspondence, and other job tasks related to program operations. Library clerks who are assigned only such work shall not be required to complete the law clerk training program. Inmates assigned as library clerks shall not assist inmates in the preparation of legal documents and legal mail, and shall not be assigned to conduct confinement visits unless accompanied by an inmate law clerk.

(b) Inmate law clerk trainees: inmates who have no formal training in legal research and who wish to work as inmate law clerks in major and minor collection law libraries shall be assigned as law clerk trainees, and shall be required to attend and successfully complete the law clerk training program. Inmates assigned as law clerk trainees shall not assist inmates in

the preparation of legal documents and legal mail, and shall not be assigned to conduct confinement visits unless accompanied by an inmate law clerk.

(c) Inmate law clerks: major and minor collection law libraries shall be assigned inmates as inmate law clerks to assist inmates in the research and use of the law library collection, and in the drafting of legal documents, and legal mail associated with the filing of post-conviction petitions or civil rights actions filed in the state or federal courts, administrative actions filed with the Florida Parole Commission, the Florida Bar and other administrative bodies, and inmate grievances filed with the Department of Corrections. A minimum of 2 inmate law clerks shall be assigned to major and minor collection law libraries in adult institutions, and a minimum of 1 inmate law clerk shall be assigned to minor collection law libraries in youthful offender institutions. Institutions shall assign additional inmate law clerks to the law library as needed to ensure that illiterate and impaired inmates are provided research assistance.

(d) Qualifications. Inmate law clerks shall:

1. Have a high school diploma, general educational development, or Test of Adult Basic Education total battery scores of grade 9.0 or higher, or otherwise demonstrate that he or she possesses the reading and language skills necessary to read and understand the law, to conduct legal research, and to assist other inmates in legal research and the preparation of legal documents.

2. Have a release date that indicates that he or she has sufficient time remaining on his or her sentence to complete the law clerk training program and to perform work in the law library;

3. Have a satisfactory record of institutional adjustment;

4. Display a willingness to work and cooperate with others and the ability to perform the general duties of an inmate law clerk, including good oral and written communication skills, good comprehension and intelligence.

(e) Law clerk training program. Central office library services shall develop a training program to provide inmates who work in law libraries with knowledge of legal research and writing, use of specific legal research materials, the law and rules of criminal law and post-conviction remedies, prisoners' civil rights, and other subject matter identified as necessary for an inmate law clerk to provide meaningful assistance to inmates.

~~1. Successful completion of the law clerk training program shall be evidenced by attendance at the law clerk training seminar, completion of all writing assignments and practice exercises included as part of the law clerk training seminar, and receipt of a passing score on the law clerk training seminar's final examination.~~

2. Inmates who successfully complete the law clerk training program seminar shall be given a certificate by central office library services documenting successful completion of the program, and a notation shall be recorded in the department's offender database.

~~(f) Central office library services shall be responsible for the scheduling of law clerk training programs. When training programs are scheduled, institutions shall be notified of the upcoming training, and requested to identify inmates in need of training. The library services administrator shall review the requests and verify that the inmates satisfy the minimum qualifications established in paragraph (7)(d); only inmates who meet the minimum qualifications shall be accepted for training. No inmate shall attend the law clerk training program unless his or her participation has been approved by the library services administrator. Central office library services shall arrange for the temporary transfer of the approved inmate participants to the institution where the seminar is to be conducted.~~

~~(f)(g)~~ Inmates, who have prior educational or work experience in the law, or who possess current knowledge of the law, knowledge of legal research materials and how to use them, may be certified by the office of library services without having to complete the attend a law clerk training program seminar. Admissible educational achievements or work experiences include:

1. Receipt of an associate or bachelor's degree in paralegal research or pre-law;
2. Receipt of a juris doctorate degree;
3. One or more years of verifiable work experience as a paralegal working under the direct supervision of an attorney; or
4. Successful completion a written examination developed by the office of library services that verifies that an inmate possesses current knowledge of the law, knowledge of legal research materials and how to use them, and can communicate effectively in writing.

~~(g)(h)~~ At the time of an inmate's assignment to work in the law library, the law library supervisor shall advise the inmate that he or she is not to disclose any information about an inmate's legal case to other inmates.

~~(h)(i)~~ The law library supervisor shall immediately remove an inmate law clerk from his or her work assignment in the law library upon demonstration that the inmate law clerk is incompetent. Central office library services shall also have the authority to order the removal of an inmate law clerk from his or her work assignment in the law library for incompetence.

~~(i)(j)~~ Prohibited conduct: Inmate law clerk. Violation of any of the provisions of this section shall result in the immediate removal of the inmate law clerk from his or her work assignment in the law library, and disciplinary action pursuant to Rules 33-601.301-601.314. The library services

administrator will be informed whenever an institution removes an inmate law clerk from the law library for any of the following reasons.

1. Inmate law clerks shall not act as legal representatives or in any way appear to be engaged in the unauthorized practice of law, to include participation in judicial and administrative hearings or telephonic hearings conducted for other inmates;

2. Inmate law clerks shall not sign or include their names, work assignment title, or a reference to certification as an inmate law clerk or trained paralegal in any legal document, legal mail, privileged mail, routine mail, or grievance prepared on behalf of an inmate;

3. Inmate law clerks shall not include their work assignment title or a reference to certification as an inmate law clerk or trained paralegal in the return address of their outgoing correspondence, or in legal documents, legal mail, privileged mail, routine mail and grievances;

4. Inmate law clerks shall not use department or institution letterhead stationary or memoranda to prepare personal letters or legal documents;

5. Inmate law clerks shall not charge nor shall they receive payment of any kind for providing legal assistance to inmates;

6. Inmate law clerks shall not disclose information about an inmate's legal work to other inmates;

7. Inmate law clerks shall not conduct legal research or prepare legal documents for staff;

8. Inmate law clerks shall not use department-owned typewriters, word processors, personal computers, or like equipment to prepare legal documents and legal mail; and

9. Inmate law clerks shall not display an unwillingness to work and cooperate with others or refuse or fail to perform the general duties of that work assignment. Such conduct shall be defined as a failure to follow departmental rules and procedures relating to law library program operations, or violation of the rules of prohibited conduct, Rule 33-601.314, F.A.C., while in the law library or performing work-related tasks.

~~(j)(k)~~ Upon receipt of notice that an inmate law clerk has been found guilty of a disciplinary infraction concerning violation of any of the provisions of subsection paragraph (7)(j), the library services administrator will review the matter to determine whether the inmate's law clerk certificate should be revoked. The determination as to whether the inmate's certificate shall be revoked shall be based on a consideration of the following factors: the findings of the disciplinary report; discussions with institution staff about the infraction; a record of prior counseling or disciplinary action for violation of the provisions of subsection paragraph (7)(j); a record of multiple violations of the provisions of subsection paragraph (7)(j); and a determination that the violations of subsection paragraph (7)(j) were intentional rather than inadvertent. If the library services administrator determines that revocation is warranted,

the inmate's law clerk training certificate shall be revoked and his or her certificate entry will be deleted from the offender database.

~~(k)(4)~~ No action shall be taken against an inmate law clerk for assisting, preparing, or submitting legal documents to the courts or administrative bodies, to include complaints against the department or staff. Good faith use or good faith participation in the administrative or judicial process shall not result in formal or informal reprisal against the inmate law clerk.

~~(l)(4)~~ An inmate law clerk who wishes to correspond in writing with inmate law clerks at other institutions regarding legal matters shall be required to obtain prior approval from the warden at his or her institution. The approved correspondence shall be mailed through institution mail from law library supervisor to law library supervisor.

~~(m)(4)~~ Inmate law clerks shall give all work files to inmates who are being transferred or released. If the inmate law clerk is unable to give the inmate the file prior to transfer, he or she shall give it to the law library supervisor. As soon as the inmate's destination is known, the law library supervisor shall forward the file to the law library supervisor or other designated employee at the inmate's new location for forwarding to the inmate. Work files for inmates who have escaped, died, or been released shall be handled in accordance with subsection 33-602.201(10), F.A.C.

~~(n)(4)~~ The law library supervisor at the institution from which an inmate is transferred may authorize an inmate law clerk at that institution to continue assistance to the transferred inmate on a pending matter if the inmate's new institution or facility does not have a major or minor collection law library and the inmate requests continued assistance in writing.

~~(o)(4)~~ Central office library services shall suspend the law clerk certificate of an inmate when 4 years have passed since he or she worked in a law library as an inmate law clerk. Whenever a law clerk certificate is suspended, central office library services shall remove the certificate entry from the offender database. Central office library services shall reinstate the law clerk certificate if the inmate demonstrates, through successful completion of a written examination, that he or she still possesses current knowledge of the law, knowledge of legal research materials and how to use them, and can communicate effectively in writing.

~~(p)(4)~~ Inmate law clerks must secure prior, written approval from the law library supervisor, on Form DC5-153, Personal Legal Papers Authorization, to retain their own or another inmate's personal legal papers in the law library. Form DC5-153 is incorporated by reference in subsection (11) of this rule. At a minimum, the following information shall be documented on Form DC5-153: the committed name and DC number of the inmate who owns the papers; a list of all documents and papers to be retained in the law library and the number of pages for each; and, the committed name and DC

number of the inmate law clerk who is assisting the inmate. The inmate shall then sign and date the form and submit it to the law library supervisor for approval. If the law library supervisor approves the request, he or she shall sign the form and enter the date when the personal legal papers must be removed from the law library. Inmates who do not remove their personal legal papers from the law library by that date shall be subject to formal disciplinary action as provided in Rules 33-601.301-314, F.A.C.

1. Only those personal legal papers that are specifically needed for research, or to prepare the necessary legal documents or mail, shall be stored in the law library. The personal legal papers may be retained in the law library for only as long as it takes to prepare the needed legal documents or legal mail or for 20 calendar days, whichever is shorter.

2. Inmates' personal legal papers shall be secured in a locked file cabinet in the law library when the inmate law clerk is not present or using them. Inmate law clerks shall not take another inmate's personal legal papers out of the law library unless approved in writing by the law library supervisor. Approval shall be limited to instances where the inmate law clerk is visiting the inmate in confinement or other special housing units and needs access to the papers during the visit to provide the needed legal assistance. Inmate law clerks who otherwise take another inmate's personal legal papers out of the law library shall be subject to formal disciplinary action as provided in Rules 33-601.301-314, F.A.C.

~~(q)(4)~~ Inmate law clerks shall not be permitted to conduct legal research or prepare legal documents and legal mail on personal legal matters during work hours unless:

1. The inmate law clerk has a legal deadline imposed by law, court rule, or court order to prepare legal documents in legal proceedings challenging convictions, sentences or prison conditions, and qualifies for priority access as provided in paragraph (3)(f); or,

2. The inmate law clerk's work schedule does not afford him or her any off-duty time during which to use the law library.

(8) through (11) No change.

Specific Authority 944.09, 944.11 FS. Law Implemented 20.315, 944.09, 944.11 FS. History—New 4-6-93, Amended 7-3-94, 11-2-94, 4-28-96, 9-30-96, 11-7-97, 12-7-97, Formerly 33-3.0055, Amended 2-15-01, 11-4-01, 12-23-03, \_\_\_\_\_.

## DEPARTMENT OF CORRECTIONS

RULE NO.:

RULE TITLE:

33-601.313

Inmate Discipline – Forms

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to modify Form DC6-112C, Witness Statement, to provide for a use of force number to allow witness statements gathered during investigations to be numbered for tracking purposes.

SUBJECT AREA TO BE ADDRESSED: Inmate discipline.

SPECIFIC AUTHORITY: 944.09 FS.  
 LAW IMPLEMENTED: 20.215, 120.55, 944.09, 944.34, 945.04 FS.  
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Jason Hand, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 33-601.313 Inmate Discipline – Forms.
- (1) The following forms used in implementing the provisions of this chapter are hereby incorporated by reference:
    - (a) through (d) No change.
    - (e) DC6-112C, Witness Statement Form, effective date 5-21-00.
    - (f) through (j) No change.
  - (2) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 120.55, 944.09, 944.34, 945.04 FS. History–New 10-1-95, Formerly 33-22.0117, Amended 5-21-00, 2-11-01, 3-22-05,\_\_\_\_\_.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

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

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to incorporate changes to the Florida Title XIX Long-Term Care Reimbursement Plan payment methodology, effective July 1, 2006, in accordance with the 2006-07 General Appropriations Act, House Bill 5001, Specific Appropriation 243.

1. \$25,853,709 is provided to restore nursing home rate reductions imposed in Fiscal Year 2005-2006.
2. \$65,486,296 is provided to partially re-base the operating and indirect patient care component targets of the Medicaid nursing home per diem rate, effective July 1, 2006. Within the funding provided, the Title XIX Long-Term Care Reimbursement Plan may be modified to eliminate or adjust provider-specific targets for the operating and indirect patient care components of the Medicaid rate, increase or decrease the target rate class ceilings or other components of the Medicaid per diem rate such that the operating and indirect patient care components of the per diem rate shall be limited only by the lower of the cost-based class ceiling or the target rate class ceiling.

SUBJECT AREAS TO BE ADDRESSED: 2006-07 nursing home reimbursement rates.

SPECIFIC AUTHORITY: 409.919 FS.  
 LAW IMPLEMENTED: 409.908 FS.  
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:  
 DATE AND TIME: June 20, 2006, 9:00 a.m.  
 PLACE: 2727 Mahan Drive, Conference Room C, Building 3, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Edwin Stephens, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Tallahassee, Florida 32308, (850)414-2759

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

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE NO.: 59G-6.020                      RULE TITLE: Payment Methodology for Inpatient Hospital Services

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development are to incorporate changes to the Florida Title XIX Inpatient Hospital Reimbursement Plan payment methodology, effective July 1, 2006, in accordance with the 2006-07 General Appropriations Act, House Bill 5001, Specific Appropriations 213, 214, 245, and 246.

**HOSPITAL INPATIENT SERVICES**

1. \$13,997,575 is provided to reimburse hospitals 50 percent of the difference between their current Medicaid inpatient rate and their Medicaid inpatient rate if all ceilings and targets were eliminated. This provision shall only apply to those hospitals not exempt under another section of proviso and whose charity care and Medicaid days, as a percentage of total adjusted hospital days, are less than 11 percent but are equal to or exceed 9.70 percent. The only hospitals that will receive additional Medicaid reimbursement are: Coral Gables Hospital; Manatee Memorial Hospital; Palm Springs General Hospital; Kendall Regional Medical Center; Florida Hospital – Heartland/Walker; South Florida Baptist Hospital; and Naples Community Hospital. The Agency shall use the average of the 2000, 2001 and 2002 audited DSH data available as of March 1, 2006. In the event the agency does not have the prescribed three years of audited DSH data for a hospital, the agency shall use the average of the audited DSH data for 2000, 2001 and 2002 that are available.

2. \$59,233,070 is provided to eliminate the inpatient reimbursement ceilings for hospitals whose charity care and Medicaid days, as a percentage of total adjusted hospital days, equal or exceed 11 percent. For any public hospital that does not qualify for the elimination of the inpatient ceilings under this section, the public hospital shall be exempt from the inpatient reimbursement ceilings contingent on the public hospital or local governmental entity providing the required state match. The agency shall use the average of the 2000, 2001 and 2002 audited DSH data available as of March 1, 2006. In the event the agency does not have the prescribed three years of audited DSH data for a hospital, the agency shall use the average of the audited DSH data for 2000, 2001 and 2002 that are available.
3. \$3,270,205 is provided to eliminate the inpatient reimbursement ceilings for hospitals that have a minimum of ten licensed Level II Neonatal Intensive Care Beds and are located in Trauma Services Area 2.
4. \$86,544,883 is provided to eliminate the inpatient hospital reimbursement ceilings for hospitals whose Medicaid days as a percentage of total hospital days exceed 7.3 percent, and are designated or provisional trauma centers. This provision shall apply to all hospitals that are a designated or provisional trauma centers on July 1, 2005 and any hospitals that become a designated or provisional trauma center during State Fiscal Year 2006-2007. The agency shall use the average of the 2000, 2001 and 2002 audited DSH data available as of March 1, 2006. In the event the agency does not have the prescribed three years of audited DSH data for a hospital, the agency shall use the average of the audited DSH data for 2000, 2001 and 2002 that are available.
5. \$9,932,000 is provided to make Medicaid payments to hospitals. These payments shall be used to pay approved liver transplant facilities a global fee for providing transplant services to Medicaid recipients.
6. \$246,408,972 is provided to eliminate the inpatient reimbursement ceilings for teaching, specialty, Community Hospital Education Program hospitals and Level III Neonatal Intensive Care Units that have a minimum of three of the following designated tertiary services as regulated under the certificate of need program: pediatric bone marrow transplantation, pediatric open heart surgery, pediatric cardiac catheterization and pediatric heart transplantation.
7. \$20,000,000 may be used for State Fiscal Year 2006-2007 to increase the Medicaid per diem payments for any individual hospital that has 120,000 or more Medicaid fee-for-service paid days. The maximum amount paid shall not exceed the amount appropriated under this provision.

8. \$10,914,383 is provided to increase the Medicaid hospital property allowance reimbursement rate from 80 to 85 percent.
9. Effective July 1, 2006, the upper payment limit (UPL) program is terminated.

**REGULAR DISPROPORTIONATE SHARE (DSH)**

1. \$141,124,815 is provided for payments for regular DSH hospitals.
2. \$60,000,000 is provided for payments to General Medical Education (GME) hospitals.
3. \$60,998,691 is provided for payments to mental health DSH hospitals.
4. \$2,444,444 is provided for payments to specialty hospitals.

**SUBJECT AREAS TO BE ADDRESSED:** Florida Medicaid inpatient hospital special Medicaid payments (SMPs), the termination of the Florida Medicaid inpatient hospital upper payment limit (UPL) program, and the 2006-07 disproportionate share (DSH) payments.

**SPECIFIC AUTHORITY:** 409.919 FS.

**LAW IMPLEMENTED:** 409.908 FS.

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

**DATE AND TIME:** June 20, 2006, 10:00 a.m.

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

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

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

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

**RULE NO.:**  
59G-6.030

**RULE TITLE:**  
Payment Methodology for Outpatient Hospital Services

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rule development are to incorporate changes to the Florida Title XIX Outpatient Hospital Reimbursement plan (the Plan) payment methodology effective July 1, 2006 in accordance with the 2006-07 General Appropriations Act, House Bill 5001, Specific Appropriation 217.

1. \$1,704,539 in non-recurring funds is provided to reimburse hospitals 50 percent of the difference between their current Medicaid outpatient rate and their Medicaid outpatient rate if all ceilings and targets were eliminated. This provision

shall only apply to those hospitals not exempt under another section of the Title XIX Outpatient Hospital Reimbursement Plan and whose charity care and Medicaid days as a percentage of total adjusted hospital days are less than 11 percent but equal or exceed 9.70 percent and are listed below. The only hospitals that will receive additional Medicaid reimbursement under this section are: Coral Gables Hospital; Manatee Memorial Hospital; Palm Springs General Hospital; Kendall Regional Medical Center; Florida Hospital – Heartland/Walker; South Florida Baptist Hospital; and Naples Community Hospital. The agency shall use the average of the 2000, 2001 and 2002 audited DSH data available as of March 1, 2006. In the event the agency does not have the prescribed three years of audited DSH data for a hospital, the agency shall use the average of the audited DSH data for 2000, 2001 and 2002 that are available.

2. \$59,135,509 is provided to increase the outpatient cap for adults from \$1,000 to \$1,500 per year and to eliminate the outpatient reimbursement ceilings for teaching, specialty, Community Health Education Program hospitals and Level III Neonatal Intensive Care Units that have a minimum of three of the following designated tertiary services as regulated under the certificate of need program: pediatric bone marrow transplantation, pediatric open heart surgery, pediatric cardiac catheterization and pediatric heart transplantation.
3. \$7,704,802 is provided to eliminate the outpatient reimbursement ceilings for hospitals whose charity care and Medicaid days as a percentage of total adjusted hospital days equals or exceeds 11 percent. For any public hospital that does not qualify for the elimination of the outpatient ceilings under this section, the public hospital shall be exempt from the outpatient reimbursement ceilings contingent on the public hospital or local governmental entity providing the required state match. The Agency shall use the average of the 2000, 2001 and 2002 audited DSH data available as of March 1, 2006. In the event the agency does not have the prescribed three years of audited DSH data for a hospital, the agency shall use the average of the audited DSH data for 2000, 2001 and 2002 that are available.
4. \$387,284 is provided to eliminate the outpatient reimbursement ceilings for hospitals that have a minimum of ten licensed Level II Neonatal Intensive Care Beds and are located in Trauma Services Area 2.
5. \$11,223,355 is provided to eliminate the outpatient reimbursement ceilings for hospitals whose Medicaid days, as a percentage of total hospital days, exceed 7.3 percent, and are designated or provisional trauma centers. This provision shall apply to all hospitals that are designated or provisional trauma centers on July 1, 2006 or become a designated or provisional trauma center during State Fiscal

Year 2006-2007. The agency shall use the average of the 2000, 2001 and 2002 audited DSH data available as of March 1, 2006. In the event the agency does not have the prescribed three years of audited DSH data for a hospital, the agency shall use the average of the audited DSH data for 2000, 2001 and 2002 that are available.

6. \$15,000,000 is appropriated so that the agency may amend its current rules and/or contracts regarding the billing of Medicaid outpatient clinic facility fees and physician services to allow for payments to public hospitals for the cost of providing health care services to Medicaid recipients, when the public hospital assumed the fiscal and operating responsibilities for one or more primary care centers previously operated by the Florida Department of Health or the local county government.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

DATE AND TIME: June 20, 2006, 11:00 a.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Edwin Stephens, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2120B, Tallahassee, Florida 32308, (850)414-2759

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

RULE NO.:

RULE TITLE:

61J1-4.007

Renewal of Inactive Registrations,  
Licenses and Certifications

PURPOSE AND EFFECT: The Florida Real Estate Appraisal Board is revising Rule 61J1-4.007, F.A.C., to update the continuing education requirements for the renewal of inactive appraiser licenses of all licensure categories.

SUBJECT AREA TO BE ADDRESSED: Standards of Appraisal Practice.

SPECIFIC AUTHORITY: 475.614, 475.619 FS.

LAW IMPLEMENTED: 475.618, 475.619 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Michael E. Murphy, Acting Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61J1-4.007 Renewal of Inactive Registrations, Licenses and Certifications.

(1) through (4) No change.

(5) When the inactive status is more than one (1) year but does not exceed two (2) years, the continuing education for all appraiser categories is as follows: thirty (30) hours of Appraisal Board II (ABII) with end of course exam or its equivalent and thirty (30) hours of ACE. ~~When the inactive status is more than 1 year but does not exceed 2 years, the educational requirements are as follows:~~

~~(a) Registered, licensed, and certified appraisers—30 hours of Appraisal Board Course II (ABII) with end of course exam; however, effective January 1, 2008, the Appraisal Board Course I (ABI) with end of course exam shall be 100 hours.~~

~~(b) Certified residential and certified general appraisers—30 hours of ABII with end of course exam and 30 hours of ACE.~~

(6) through (8) No change.

Specific Authority 475.614, 475.619 FS. Law Implemented 475.618, 475.619 FS. History—New 8-8-93, Amended 2-16-04, 3-1-06, \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

RULE NO.: 61J1-9.001 RULE TITLE: Standards of Appraisal Practice

PURPOSE AND EFFECT: The Florida Real Estate Appraisal Board is developing Rule 61J1-9.001, F.A.C., to make real estate appraisers of all licensure categories comply with the 2006 Uniform Standards of Professional Appraisal Practice (USPAP).

SUBJECT AREA TO BE ADDRESSED: Standards of Appraisal Practice.

SPECIFIC AUTHORITY: 475.613(2), 475.628 FS.

LAW IMPLEMENTED: 475.613(2), 475.628 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Michael E. Murphy, Acting Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61J1-9.001 Standards of Appraisal Practice.

All registered, licensed, or certified appraisers shall comply with the 2006 Uniform Standards of Professional Appraisal Practice (USPAP), which is incorporated by reference.

Specific Authority 475.613(2), 475.628 FS. Law Implemented 475.613(2), 475.628 FS. History—New \_\_\_\_\_.

**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**

**Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling**

RULE NO.: 64B4-3.008 RULE TITLE: Supervision Required Until Licensure

PURPOSE AND EFFECT: The Board proposes to update the existing language in this rule to clarify supervision.

SUBJECT AREA TO BE ADDRESSED: Requirements for Licensure.

SPECIFIC AUTHORITY: 491.004(5), 491.014(4)(c), 491.005(6) FS.

LAW IMPLEMENTED: 491.012, 491.014(4)(c), 491.0046(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Sue Foster, Executive

Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B4-3.008 Supervision Required Until Licensure.

(1) ~~All~~ An applicants who practices clinical social work, marriage and family therapy and/or mental health counseling must continue in “supervision” as defined in Rule 64B4-2.002, F.A.C., and use the term “registered clinical social work intern, registered marriage and family therapy intern, or registered mental health counseling intern” until he or she is ~~they are~~ in receipt of a license to practice the profession for which he or she has ~~they have~~ applied or a letter from the Department stating he or she is ~~they are~~ licensed, even if the two (2) year post-masters supervision requirement has been satisfied.

(2) All provisional licensees who practice clinical social work, marriage and family therapy and/or mental health counseling must continue in supervision as defined in Rule 64B4-2.002, F.A.C., until he or she is in receipt of a license or a letter from the Department stating he or she is licensed as a clinical social worker, marriage and family therapist, or mental health counselor.

Specific Authority 491.004(5), 491.014(4)(c), 491.005(6) FS. Law Implemented 491.012, 491.014(4)(c), 491.0046(3) FS. History—New 3-14-94, Formerly 61F4-3.008, 59P-3.008, Amended 10-28-98,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Massage Therapy**

RULE NO.:                   RULE TITLE:  
64B7-33.001                Advertisement  
PURPOSE AND EFFECT: To address advertising requirements.  
SUBJECT AREA TO BE ADDRESSED: Advertisement.  
SPECIFIC AUTHORITY: 480.035(7) FS.  
LAW IMPLEMENTED: 480.046(1)(d), (f), 480.0465 FS.  
IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Pamela E. King, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin C06, Tallahassee, Florida 32399  
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE NO.:                   RULE TITLE:  
64B8-55.002                Citations  
PURPOSE AND EFFECT: The Council proposes the development of rule amendments to address those violations appropriate for issuance of a citation.  
SUBJECT AREA TO BE ADDRESSED: Citation violations.  
SPECIFIC AUTHORITY: 456.077(1), (2) FS.  
LAW IMPLEMENTED: 456.072(3)(b), 456.077(1), (2), 478.51, 478.52 FS.  
IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Susan Love, Executive Director, Electrolysis Council, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255  
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**DEPARTMENT OF HEALTH**

**Board of Occupational Therapy Practice**

RULE NO.:                   RULE TITLE:  
64B11-5.001                Requirements for License Renewal of an Active License; Continuing Education  
PURPOSE AND EFFECT: The Board proposes to amend the existing rule to make language changes for clarification purposes.  
SUBJECT AREA TO BE ADDRESSED: Requirements for License Renewal of an Active License; Continuing Education.  
SPECIFIC AUTHORITY: 456.036, 468.219 FS.  
LAW IMPLEMENTED: 456.013, 456.033, 456.036, 468.219 FS.  
IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Susan Love, Executive Director, Board of Occupational Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255  
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:



64B11-5.001 Requirements for License Renewal of an Active License; Continuing Education.

Continuing education includes attendance and participation as required at a live presentation such as workshop, seminar, conference, or in-service educational programs. It may also include participation in other continuing education activities that require a formal assessment of learning. Examples include, but are not limited to, electronic or web-based courses, formalized self-study courses and continuing education articles. An active license shall be renewed upon demonstration that the licensee has paid the renewal fee set forth in Rule 64B11-2.009 or 64B11-3.007, F.A.C., respectively, and has complied with the following requirements:

- (1) through (11) No change.
- (12) Fieldwork Experience – A licensee may earn up to 6 continuing education hours per biennium for supervision of a Level II Occupational Therapy or Occupational Therapy Assistant fieldwork student at the rate of no more than 3 hours per student. To be eligible for the credit, the licensee must participate as the primary clinical fieldworker educator for the student. Documentation shall include verification provided by the school to the fieldwork educator with the name of the student, school, and dates of fieldwork or the signature page of the completed student evaluation form. Evaluation scores and comments shall be deleted or blocked out.
- (13) through (15) No change.

Specific Authority 456.036, 468.219 FS. Law Implemented 456.013, 456.033, 456.036, 468.219 FS. History–New 4-17-95, Amended 10-30-95, 3-11-96, Formerly 59R-64.060, Amended 9-23-99, 10-18-01, 6-25-02, 5-7-03, 3-28-04, 10-24-04, \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Orthotists and Prosthetists**

RULE NOS.:	RULE TITLES:
64B14-4.001	Approved Examinations
64B14-4.003	Documentation of Eligibility for Licensure
64B14-4.110	Requirements for Orthotic Fitter, Orthotic Fitter Assistant and Pedorthic

PURPOSE AND EFFECT: The purpose of this rule development is to update the corporate name of the education providers approved to meet licensure requirements.

SUBJECT AREA TO BE ADDRESSED: Approved Examinations; Documentation of Eligibility for Licensure; Requirements for Orthotic Fitter, Orthotic Fitter Assistant and Pedorthic

SPECIFIC AUTHORITY: 456.017(1)(c), 468.802, 468.803, 468.805(3) FS.

LAW IMPLEMENTED: 456.013(1), (7), 456.017(1)(c), 468.803, 468.805(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B14-4.001 Approved Examinations.

(1) The board accepts the examination results of the following nations standards organization in lieu of administering a state examination:

- (a) through (b) No change.
- (c) Orthotic Fitter, Orthotic Fitter Assistant – Surgical Appliance Institute and Trulife Healthcare ~~CAMP Institute of Applied Technology~~ examinations.

(2) No change.

Specific Authority 456.017(1)(c), 468.802, 468.803(2), 468.805(3) FS. Law Implemented 456.017(1)(c), 468.803(2), 468.805(3) FS. History–New 11-1-99, Amended \_\_\_\_\_.

64B14-4.003 Documentation of Eligibility for Licensure.

(1) No change.

(2) In order to establish eligibility for licensure as an orthotic fitter under Section 468.803(3)(c), F.S., the applicant must provide at a minimum:

- (a) No change.
- (b) An original or certified copy of a certificate of completion of the Trulife Healthcare ~~CAMP Institute of Applied Technology~~ or the Surgical Appliance Industries orthotics course and examination.

(c) through (d) No change.

(3) In order to establish eligibility for licensure as an orthotic fitter assistant under Section 468.803(3)(d), F.S., the applicant must provide at a minimum:

- (a) No change.
- (b) An original or certified copy of a certificate of completion of the Trulife Healthcare ~~CAMP Institute of Applied Technology~~ or the Surgical Appliance Industries orthotics course and examination.

(c) No change.

(4) through (5) No change.

Specific Authority 468.802 FS. Law Implemented 456.013(1), (7), 468.803 FS. History–New 12-10-98, Amended 11-11-02, 11-1-05, \_\_\_\_\_.

64B14-4.110 Requirements for Orthotic Fitter, Orthotic Fitter Assistant and Pedorthic.

(1) Requirements for Licensure as an Orthotic Fitter. The applicant must demonstrate:

(a) Successful completion of the 32-hour Trulife Healthcare ~~CAMP Institute of Applied Technology~~ or the 32-hour Surgical Appliance Industries orthotics course and examination, and completion of an approved eight hour course in custom-molded shoes.

(b) No change.

(2) Requirements for Licensure as an Orthotic Fitter Assistant. The applicant must demonstrate successful completion of the 32-hour Trulife Healthcare ~~CAMP Institute of Applied Technology~~ or the 32-hour Surgical Appliance Industries orthotics course and examination, and completion of an approved eight hour course in custom-molded shoes.

(3) No change.

Specific Authority 468.802, 468.803 FS. Law Implemented 468.803 FS. History–New 11-1-99, Amended 1-16-06,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Physical Therapy Practice**

RULE NO.: RULE TITLE:  
64B17-3.001 Licensure as a Physical Therapist by Examination

PURPOSE AND EFFECT: The Board proposes the rule amendment to change the scores required for passing the reading comprehension and listening comprehension components of the Test of English as a Foreign Language (TOEFL).

SUBJECT AREA TO BE ADDRESSED: Licensure as a Physical Therapist by Examination.

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

LAW IMPLEMENTED: 456.017, 486.031, 486.051 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Susan Love, Executive Director, Board of Physical Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

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

Every physical therapist who applies for licensure by examination shall satisfy and demonstrate to the Board that the applicant:

(1) through (4) No change.

(5) Has attained and submitted to the Board the following:

(a) through (c) No change.

(d) Effective January 1, 2007, evidence of successful completion of a Board approved English proficiency examination if English was not the language of instruction as evidence by a minimum total score of 89 of the TOEFL as well as accompanying minimum scores in the test’s four components of: 24 in writing; 26 in speaking; 21 ~~18~~ in reading comprehension; and 18 ~~24~~ in listening comprehension.

(e) through (f) No change.

Specific Authority 486.025(1), 486.031(3) FS. Law Implemented 456.017, 486.031, 486.051 FS. History–New 8-6-84, Amended 6-2-85, Formerly 21M-7.20, Amended 5-18-86, Formerly 21M-7.020, 21MM-3.001, Amended 3-1-94, Formerly 61F11-3.001, Amended 12-22-94, 4-10-96, Formerly 59Y-3.001, Amended 12-30-98, 1-23-03, 4-9-06,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Physical Therapy Practice**

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

PURPOSE AND EFFECT: The Board proposes the rule amendment to change the scores required for passing the reading comprehension and listening comprehension components of the Test of English as a Foreign Language (TOEFL).

SUBJECT AREA TO BE ADDRESSED: Licensure as a Physical Therapist by Examination.

SPECIFIC AUTHORITY: 486.025, 486.102 FS.

LAW IMPLEMENTED: 456.017, 486.102(3), 486.104 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Susan Love, Executive Director, Board of Physical Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

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

Every physical therapist who applies for licensure by examination shall satisfy and demonstrate to the Board that the applicant:

(1) through (4) No change.

(5) Has attained and submitted to the Board the following:

(a) No change.

(b) Effective January 1, 2007, evidence of successful completion of a Board approved English proficiency examination if English was not the language of instruction as evidence by a minimum total score of 89 of the TOEFL as well as accompanying minimum scores in the test's four components of: 24 in writing; 26 in speaking; 21 ~~18~~ in reading comprehension; and 18 ~~21~~ in listening comprehension.

(c) through (d) No change.

Specific Authority 486.025, 486.102 FS. Law Implemented 456.017, 486.102(3), 486.104 FS. History—New 8-6-84, Amended 6-2-85, Formerly 21M-10.20, Amended 5-18-86, Formerly 21M-10.020, 21MM-4.001, Amended 3-1-94, Formerly 61F11-4.001, Amended 12-22-94, 4-10-96, Formerly 59Y-4.001, Amended 1-23-03, 4-9-06, \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Respiratory Care**

RULE NO.: 64B32-6.004  
 RULE TITLE: Procedures for Approval of Attendance at Continuing Education Courses

PURPOSE AND EFFECT: The Board proposes to amend the rule for continuing education courses.

SUBJECT AREA TO BE ADDRESSED: Procedures for approval of attendance at continuing education courses.

SPECIFIC AUTHORITY: 468.353(1), 468.361(2) FS.

LAW IMPLEMENTED: 468.361(2) FS.

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

DATE AND TIME: July 14, 2006, 8:30 a.m.

PLACE: Renaissance Ft. Lauderdale Hotel, 1617 Southeast Street, Ft. Lauderdale, Florida 33316

Pursuant to the provisions of the Americans with Disabilities Act, persons requiring special accommodations to participate in this meeting are asked to advise the Board at least five business days prior to the meeting by contacting the Board's Call Center at (850)488-0595. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Susie Love, Executive Director, Board of Respiratory Care, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B32-6.004 Procedures for Approval of Attendance at Continuing Education Courses.

(1) During the license renewal period of each biennium, an application for renewal will be mailed to each licensee at the last address provided to the Board. Failure to receive any notification during this period does not relieve the licensee of the responsibility of meeting the continuing education requirements. The licensee must retain such receipts, vouchers, certificates, or other papers as may be necessary to document completion of the appropriate continuing education offerings listed on the renewal form for a period of not less than 4 years from the date the offering was taken. The Board will audit at random a number of licensees as is necessary to assure that the continuing education requirements are met. Failure to document compliance with the continuing education requirements or the furnishing of false or misleading information regarding compliance shall be grounds for disciplinary action pursuant to Section 468.365(1)(a), Florida Statutes.

(2) Excluding any recertification, review, refresher, or preparatory courses, all licensees shall be awarded contact hours for:

(a) Attendance at offerings that are approved by:

1. The American Association for Respiratory Care (AARC) as Category I or III,
2. The Florida Society for Respiratory Care, and -460.
3. The Accreditation Council for Continuing Medical Education (ACCME), the American and Florida Thoracic Societies, the American College of Cardiology, the American College of Chest Physicians, the American and Florida Societies of Anesthesiologists, the American and Florida Lung Association, the National Society for Cardiopulmonary Technologists, the American Heart Association, the American Nurses Association, and the Florida Nurses Association; ~~provided that they are related to respiratory care services:~~

(b) Attendance at all offerings that are conducted by institutions approved by the Committee on Accreditation for Respiratory Care (CoARC);

(c) Successful completion, for the first time, of any college or university course, but only if such course is part of the curriculum within an AMA accredited respiratory therapy program and is provided by that AMA accredited respiratory therapy program, up to the maximum hours permitted by subsection (3) of this rule.

(d) Successful completion of the following certification classes, up to a maximum total of 16 hours per biennium;

1. Advanced cardiac life support;
2. Neonatal resuscitation program;
3. Pediatric advanced life support.

(e) Successful completion of the following recertification classes, up to a maximum of 8 hours per biennium;

1. Advanced cardiac life support;

- 2. Neonatal resuscitation program;
- 3. Pediatric advanced life support.

(f) Successful passage, one time per biennium, of the following recredentialing examinations given by the National Board for Respiratory Care (NBRC);

- 1. Clinical Simulation Recertification Examination-maximum 4 hours;
- 2. Registry Recredentialing Examination (written portion) – maximum of 2 hours;
- 3. Certified Respiratory Therapist Recredentialing Examination – maximum of 3 hours;
- 4. Perinatal Pediatrics Recredentialing Examination – maximum of 3 hours;
- 5. Pulmonary Function: Certified pulmonary function technologist and registered pulmonary function technologist recredentialing examinations – maximum of 2 hours.

(g) Attendance at scheduled public meetings of the Board of Respiratory Care, up to a maximum of 8 hours per biennium.

(3) A minimum of 16 hours each biennium must be obtained by each licensee in approved offerings related to the direct delivery of respiratory care services. No more than 8 hours of non direct patient care appropriate continuing education in the areas of management, risk management, personal growth, and education techniques will be acceptable for the purpose of biennial renewal of a license. Up to 12 hours per biennium may be home study courses.

(4) Each licensee who is presenting a continuing education course as either the lecturer of the offering or as author of the course materials may earn a maximum 12 contact hours of continuing education credit per biennium. Each licensee who is either participating as a lecturer of a continuing education course or an author of a continuing education program may receive credit for the portion of the offering he/she presented or authored to the total hours awarded for the offering.

(a) Continuing education credit may be awarded to a lecturer or author for the initial presentation of each program only; repeat presentations of the same continuing education course shall not be granted credit.

(b) In order for a continuing education credit to be awarded to each licensee participating as either faculty, or author, the format of the continuing education program must conform with all applicable sections of this rule chapter.

(c) Continuing education credit for publications is limited to continuing education offerings.

(d) The number of contact hours to be awarded to each licensee who participates in a continuing education program as either a lecturer or author is based on the 50 minute contact hour employed within this rule chapter.

Specific Authority 468.353(1), 468.361(2) FS. Law Implemented 468.361(2) FS. History–New 4-29-85, Formerly 21M-38.04, Amended 9-29-86, 11-29-88, 9-24-92, 10-15-92, Formerly 21M-38.004, Amended 1-2-94, 7-10-94, Formerly 61F6-38.004, Amended 11-1-94, 3-14-95, 7-18-95, 4-24-96, 8-27-96, Formerly 59R-78.004, 64B8-75.004, Amended 6-8-00, 5-7-01, 1-22-03, 7-29-03, 5-31-04,\_\_\_\_\_.

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE NO.:                      RULE TITLE:  
69O-207.002                    Electronic Filing

PURPOSE AND EFFECT: To require electronic filing of financial reports and associated filings for specialty insurers regulated by Specialty Product Administration.

SUBJECT AREA TO BE ADDRESSED: Electronic Filing.

SPECIFIC AUTHORITY: 624.308, 624.424, 626.89, 626.9913, 626.99175, 627.836, 634.137, 634.313(5), 634.415, 651.026 FS.

LAW IMPLEMENTED: 626.89, 626.9913, 626.99175, 627.828, 627.838, 634.137, 634.313, 634.415, 642.0301, 651.026 FS.

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

DATE AND TIME: June 19, 2006, 1:30 p.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sandra DuPont, Specialty Product Administration, Office of Insurance Regulation, E-mail: sandra.dupont@fldfs.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed above.

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

**Section II  
Proposed Rules**

**DEPARTMENT OF LEGAL AFFAIRS**

**Division of Victim Services and Criminal Justice Programs**

RULE NO.:                      RULE TITLE:  
2A-8.005                        Adjustments to Reflect Consumer  
  Price Index

PURPOSE AND EFFECT: The proposed rule amendments reflect changes to the Consumer Price Index for payment of benefits.